STATUTORY INSTRUMENTS

1977 No. 1411

NEW TOWNS

The New Town Transfer Schemes (Staff Protection) Regulations 1977

Made - - - -	12*th August* 1977
Laid before Parliament	17*th August* 1977
Coming into Operation	7*th September* 1977

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred on them by section 13(1), (3) and (7) of the New Towns (Amendment) Act 1976(a), and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and Commencement

1. These regulations may be cited as the New Town Transfer Schemes (Staff Protection) Regulations 1977 and shall come into operation on 7th September 1977.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Act" means the New Towns (Amendment) Act 1976;

"new employment" has the meaning assigned to that expression by regulation 6 below;

"old employment" has the meaning assigned to that expression by regulation 3 below;

"terms and conditions of employment" includes any restriction arising under any Act or any instrument made under any Act on the termination of the employment of any person.

(2) For the purpose of these regulations a thing shall be deemed to happen as a result of a transfer scheme if it is shown that that thing would have been unlikely to happen had the scheme not been made by the new town corporation and district council and approved or made by the Secretary of State as the case may be, but this provision shall not prevent a thing being regarded as happening as a result of a transfer scheme if it would have been so regarded in the absence of this provision.

(3) References in these regulations to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended or extended by or under any other enactment.

(4) The Interpretation Act 1889(b) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(a) 1976 c. 68.

(b) 1889 c. 63.

Application

3. These regulations apply for the protection of the interests of any person who, on or after the approval or, as the case may be, making of a transfer scheme by the Secretary of State, is in any employment with the new town corporation or district council concerned (the old employment) and is affected by the scheme.

Notice of transfer schemes

4.—(1) As soon as practicable after a new town corporation and a district council have submitted a transfer scheme to the Secretary of State in pursuance of directions under section 3 of the Act, the new town corporation and the district council shall notify every person employed by them at that time to whom these regulations are likely to apply and every body which it appears to them is representative of such persons of such submission, shall inform every such person and body of a place where a copy of the scheme as submitted can be inspected, and shall transmit to every such body a copy of that part of the scheme which contains the information and proposals required to be contained and stated therein by section 3(6)(*d*) of the Act.

(2) As soon as practicable after a new town corporation and a district council are notified by the Secretary of State that he has approved without modification a scheme submitted to him or receive from him a copy of a scheme as finally approved by him with modifications or, as the case may be, as finally made by him, the new town corporation and the district council shall notify every person employed by them at that time to whom these regulations are likely to apply and every body which it appears to them is representative of such persons of such approval or making, shall inform every such person and body of a place where a copy of the scheme as approved or made can be inspected and of the date on which the scheme comes into force, and unless the Secretary of State has approved the scheme without modifying that part of the scheme which contains the information and proposals required to be contained and stated therein by section 3(6)(*d*) of the Act, shall transmit to every such body a copy of that part of the scheme.

Protection of employees

5. A notice to terminate the contract of employment of any person, given by reason of the fact that that person has become redundant as a result of a transfer scheme, shall not, unless such person otherwise agrees—

(*a*) be given earlier than 31st December immediately following the date on which the Secretary of State approves or makes the transfer scheme concerned, and

(*b*) come into operation earlier than the expiration of 6 months from the service thereof.

6. Every person who as a result of a transfer scheme is, whether before or after the scheme comes into force, in new employment, that is to say employment (whether with another of the parties to the scheme or the same employer) which is different from his old employment, shall, so long as he continues in the new employment and until he is served with a statement in writing referring to these regulations and specifying new terms and conditions of employment, enjoy terms and conditions of employment which are not less favourable, taken as a whole, than those which he enjoyed immediately before the termination of the old employment.

7. A statement of new terms and conditions of employment may be served on the person concerned before the commencement of his new employment but shall in any event be so served not later than the expiration of 3 months from the date on which his new employment commenced.

8.—(1) If the person concerned is engaged in duties reasonably comparable to those in which he was engaged immediately before the termination of the old employment, the new terms and conditions of employment shall be such that—

(*a*) the scale of his salary or remuneration, and

(*b*) the other terms and conditions of his employment

are not less favourable, taken together, than those which he enjoyed immediately before the termination of the old employment.

(2) If the person concerned is engaged in duties which are not reasonably comparable to those in which he was engaged immediately before the termination of the old employment, the new terms and conditions of employment shall be such that the terms and conditions of his employment (other than any relating to the scale of his salary or remuneration) are not less favourable, taken together, than those which he enjoyed immediately before the termination of the old employment.

9. Where between the commencement of the new employment and the service of new terms and conditions of employment the scale of the salary or remuneration which the person concerned enjoyed immediately before the termination of the old employment is improved, regulation 8(1) above shall have effect as if the scale as improved had been so enjoyed.

10. Where the new terms and conditions of employment involve any diminution of the scale of the salary or remuneration of the person concerned they shall not come into effect until the date, not earlier than the expiration of 3 months from the service of the statement thereof, specified in that statement.

Determination of disputes

11.—(1) Any question by a person employed by a new town corporation or district council as to whether—

(*a*) he is a person to whom these regulations apply,

(*b*) any thing that has happened to him has happened as a result of a transfer scheme,

(*c*) the terms and conditions of his employment are in accordance with regulation 6 or, as the case may be, 8 above,

(*d*) any duties are reasonably comparable within the meaning of regulation 8 above, or

(*e*) the terms and conditions of the new employment (other than the scale of salary or remuneration) specified in a statement of such terms and conditions served on him would give rise to hardship if applied to him, or have given rise to hardship by being so applied,

shall be determined in accordance with Circular NTSC 7/77 of the New Towns Staff Commission.

(2) If a question in relation to new terms and conditions of employment specified in a statement of such terms and conditions served on a person is submitted for determination by that person under any of the provisions of paragraph (1) above, such new terms and conditions of employment shall not have effect (and shall be deemed never to have had effect) until the determination of such question, and until such determination regulation 6 above shall continue to apply as if no such statement specifying the new terms and conditions had been served.

Hardship

12.—(1) Where it is determined that a person would or has sustained hardship as mentioned in regulation 11(1)(*e*) above the employer as respects the new employment shall, in consultation with that person and representatives of their employees seek a remedy and, not later than the expiration of 2 months (or such longer period as may be agreed by the person concerned) following the notification of the determination, notify that person of any remedy which they are able to offer him or that they are unable to offer him any remedy but that an allowance will be paid to him in respect of the hardship.

(2) In either event, the person concerned shall be informed—

(*a*) that he may, subject to paragraph (5) below, request that his employment be terminated, and

(*b*) of his entitlements if it is so terminated.

(3) Any remedy offered under paragraph (1) above may be accepted by the person concerned within the 2 months following the notification thereof or within such longer period as may be agreed by the employer.

(4) An allowance in respect of hardship shall be by periodic payments of such amount as may be determined by agreement between the person concerned and the employer or failing such agreement in accordance with Circular NTSC 7/77 of the New Towns Staff Commission.

In the event of any change of circumstances the payment of the allowance or the amount thereof may be reviewed by such agreement or failing an agreement determined in accordance with such Circular.

(5) No such request as is described in paragraph (2) above shall be made after the expiration of 2 months (or such longer period as may be agreed by the employer) from the determination of the amount of the periodic payments of the allowance.

(6) Regulation 16 below shall not apply to any person to whom an allowance is payable under this regulation.

(7) If the remedy offered is, with the agreement of the employer as respects the old employment, transfer back to the employment of that employer, and that remedy is accepted by the person concerned and he is so transferred, these regulations shall cease to apply to him.

Statements of new terms and conditions

13. A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1972(**a**) shall not be regarded as a statement of new terms and conditions of employment within the meaning of these regulations unless the statement refers to these regulations.

(**a**) 1972 c. 53.

Apprenticeships

14. Any contract of apprenticeship entered into between any person who as a result of a transfer scheme is, whether before or after the scheme comes into force, in new employment with a different employer (being another of the parties to the scheme) shall have effect as a contract entered into between such person and that employer.

Saving for training arrangements

15. Where any person who as a result of a transfer scheme is, whether before or after the scheme comes into force, in new employment with a different employer (being another of the parties of the scheme) undergoing training under arrangements which have not been discharged before the date the new employment commences, those arrangements shall continue to apply with the substitution for the employer as respects the old employment of the employer as respects the new employment.

Travelling and removal expenses

16. Any additional travelling expenses and any removal or incidental expenses reasonably incurred by any person in consequence of his entering into new employment as a result of a transfer scheme shall be reimbursed by the employer as respects the new employment for a period not exceeding four years from the date of commencement of such employment.

Commencing points on scales

17. Where in relation to any person who as a result of a transfer scheme is, whether before or after the scheme comes into force, in new employment—

(*a*) on the scale of salary or remuneration applicable to him immediately before the commencement of such new employment he would have become entitled to an increment on the date of such commencement, and

(*b*) by reason of such commencement any other scale of salary or remuneration becomes applicable to him as from such date,

any term of his employment as to his commencing point on such other scale shall be applicable as if his employment before, and on and after, such date were one continuous employment under one authority.

Savings for extensions of service

18. Any extension of service under regulation L15 of the Local Government Superannuation Regulations 1974(**a**) effective immediately before the person concerned commences new employment shall continue to have effect as if it had been made by the employer as respects the new employment.

Peter Shore,
Secretary of State for the Environment.

11th August 1977.

Signed by authority of the
Secretary of State for Wales
12th August 1977.

T. Alec Jones,
Parliamentary Under Secretary of State,
Welsh Office.

(**a**) S.I. 1974/520 (1974 I, p. 1986).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Section 13(1) of the New Towns (Amendment) Act 1976 requires the Secretary of State to make regulations containing such provisions as appear to him to be appropriate for the protection of the interests of any person who, on or after the approval or, as the case may be, making of a transfer scheme under that Act is in any employment with the new town corporation or district council concerned and is affected by the scheme.

These Regulations contain such provisions.

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