STATUTORY INSTRUMENTS

1969 No. 1118 (S.91)

SOCIAL WORK, SCOTLAND

The Social Work (Transfer of Staff) (Scotland) Regulations 1969

Made - - -	31*st July* 1969
Laid before Parliament	14*th August* 1969
Coming into Operation	18*th August* 1969

In exercise of the powers conferred on me by section 85 of the Social Work (Scotland) Act 1968 and of all other powers enabling me in that behalf I hereby make the following regulations:-

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Social Work (Transfer of Staff) (Scotland) Regulations 1969 and shall come into operation on 18th August 1969.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"the Act" means the Social Work (Scotland) Act 1968(**a**);

"the appointed day" means the date on which Part II of the Act comes into operation and this, for the purpose of section 85(8) of the Act, is the specified date;

"an approved school after-care welfare officer" means an officer employed by the managers of an approved school (including Glasgow Corporation in their capacity as such) to assist them in the performance of their duties under section 18(2) and(3) of the Criminal Justice (Scotland) Act 1963(**b**) in respect of the supervision of persons released from the approved school;

"local authority" means the local authority within the meaning of section 1(2) of the Act, and, where appropriate, includes a joint social work committee appointed by any two or more local authorities who have exercised their power to combine for any of the purposes of the Act by virtue of section 119 of the Local Government (Scotland) Act 1947(**c**) and section 1(6) of the Act;

"probation committee" means the probation committee constituted under Schedule 3 to the Criminal Justice (Scotland) Act 1949(**d**);

(**a**) 1968 c.49.
(**b**) 1963 c.39.
(**c**) 1947 c.43.
(**d**) 1949 c.94.

"probation officer" means a salaried probation officer within the meaning of the Criminal Justice (Scotland) Act 1949 who is not a temporary probation officer under the Probation (Scotland) Rules 1967(a);

"single probation area" means the area of any large burgh or county inclusive of every small burgh;

"combined probation area" means any two or more single probation areas which have been combined in whole or in part to form one probation area; and

"tribunal" means a tribunal established under section 12 of the Industrial Training Act 1964(b).

(2) Unless the context otherwise requires, expressions used in Parts I and II of these regulations shall have the same meaning as in the Act.

(3) Unless the context otherwise requires, references in these regulations to the provisions of any enactment shall be construed as references to those provisions as amended, re-enacted or modified by any subsequent enactment.

(4) References in these regulations to a numbered regulation shall, unless the reference is to a regulation of specified regulations, be construed as references to the regulation bearing that number in these regulations.

(5) References in any regulation of these regulations to a numbered paragraph shall, unless the reference is to a paragraph of a specified regulation, be construed as references to the paragraph bearing that number in the first mentioned regulation.

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

PART II

TRANSFER OF STAFF

Primary transfers

3.—(1)(*a*) Any probation officer who, on the commencement of the appointed day, is employed by a probation committee for a single probation area, shall, on that day, be transferred to the employment of the local authority for the area which was or which includes what was the said single probation area, and the Secretary of State shall notify those concerned of the application of this provision to any such officer:

Provided that any probation officer who on the commencement of the appointed day is employed by the probation committee for an area specified in column (1) of the following Table I (being a probation committee which shares the services of the probation officers employed by it with the probation committee for the area specified opposite to it in column (2)) or is employed jointly by the probation committee for an area specified in the said column (1) and the probation committee for the area specified opposite to it in column (2) shall, on that day, be transferred to the employment of such local authority within whose area is situated the area either of such probation committee or of the probation committee with whom it shares the services of that officer as the Secretary of State shall determine after consultation with those concerned.

(a) S.I. 1967/65 (1967 I, p.129). (b) 1964 c. 16.
(c) 1889 c.63.

TABLE I

Column (1)	*Column* (2)
County of Angus	Burgh of Arbroath
Burgh of Inverness	County of Inverness (in respect only of the districts of Inverness Aird, and Badenoch)
Counties of Perth and Kinross	Perth Burgh

(*b*) Any probation officer who, on the commencement of the appointed day, is employed by the combined probation committee for a combined probation area specified in Table II shall on that day be transferred to the employment of such local authority within whose area the combined probation area is wholly or partly situated as the Secretary of State shall determine after consultation with those concerned.

TABLE II

County of Ayr and the Burghs of Ayr and Kilmarnock

County of Dumfries and the Burgh of Dumfries

County of Dunbarton and the Burghs of Dumbarton and Clydebank

City of Edinburgh and the Counties of East Lothian, Midlothian and Peebles

County of Fife and the Burgh of Dunfermline

County of Lanark and the Burghs of Airdrie, Coatbridge, East Kilbride, Hamilton, Motherwell and Wishaw, and Rutherglen

County of Renfrew and the Burghs of Greenock, Paisley and Port Glasgow

Counties of Roxburgh, Berwick and Selkirk

Counties of Stirling and Clackmannan and the Burghs of Falkirk and Stirling

(*c*) Any officer who on the commencement of the appointed day is employed for the purposes of providing clerical assistance for the probation officers of a combined probation committee for a combined probation area specified in the said Table II and who is not so employed by any of the local authorities (being the local authorities by whom members of the probation committee other than *ex officio* members are appointed for that area) shall, on that day, be transferred to the employment of such local authority within whose area the combined probation area is wholly or partly situated as the Secretary of State shall determine after consultation with those concerned.

(2) All the officers, other than probation officers (who come within paragraph (1)) and any registered medical practitioner, who on the commencement of the appointed day are employed within the area comprising the counties of Midlothian, East Lothian and Peebles wholly or mainly on duties in connection with those of the functions of local authorities which on that day under the Act and the agreement constituting the Midlothian, East Lothian and Peebles Social Work Committee made by the county councils for the said counties in March 1969 become the functions of the joint committee constituted under the said agreement shall on the commencement of the appointed day be transferred, to the extent of the said duties, to the employment of the said joint committee. The officers to whom this paragraph applies shall be notified

by the clerks of their employing authorities that they are to be so transferred. Any question as to the application of this paragraph may be referred to the Secretary of State for determination.

(3) Any approved school after-care welfare officer who, on the commencement of the appointed day, is employed on duties which on the date on which Part III of the Act comes into operation will become the responsibility of a local authority, shall on the appointed day be transferred to the employment of such local authority as the Secretary of State shall determine after consultation with those concerned.

(4)(a) Before making any determination which he is required to make in respect of any officer under paragraph (1) the Secretary of State shall send by recorded delivery to those concerned a statement containing a scheme of transfers showing to which local authorities he is proposing to allocate that officer and all the officers who are employed by the same committee as that officer and who may be affected by the application of the provisions of the same sub-paragraph of paragraph (1) as that officer, and he shall have regard to any representations made by those concerned not later than the expiry of one month from the date on which the statement is received. Thereafter he shall make his determinations which may be by confirming or altering the allocation he proposed in relation to any officer in the scheme of transfer, and he shall notify those concerned of his determination :

Provided that all the statements to be sent by the Secretary of State in respect of the allocation of officers who are employed by the same committee shall be sent on the same day.

(*b*) Before making any determination in respect of an officer to whom paragraph (3) applies, the Secretary of State shall send by recorded delivery to those concerned a statement containing a draft determination and shall have regard to any representations by those concerned made not later than the expiry of one month from the date on which the statement is received. Thereafter he shall make his determination which may be by confirming or altering the draft and which shall be notified to those concerned.

(5) Any officer who on the commencement of the appointed day has not received notification of the determination in respect of his transfer by the Secretary of State, shall, on that day, be transferred temporarily to the employment of such local authority as may be specified in the scheme of transfers or in the draft determination as the local authority to which it was proposed that that officer should be transferred, and that officer shall continue in such temporary employment until the date of the said notification whereupon he shall be transferred to the employment of such local authority as is determined by the Secretary of State.

(6) In this regulation "those concerned" means—

(i) in the case of an officer to whom paragraph (1)(*a*) or (3) applies, the officer concerned, his present employers and the local authority to which he is to be transferred, and also, in the case of an officer to whom the proviso to paragraph (1)(*a*) applies, the local authority to which that officer has not been allocated for transfer in the scheme of transfers sent under paragraph (4) ;

(ii) in the case of an officer to whom paragraph (1)(*b*) or (1)(*c*) applies, the officer concerned, the probation committee by whom he is employed, and the local authorities by whom members of that committee other than *ex officio* members are appointed.

Secondary transfers

4. An officer who is to be or has been transferred under regulation 3 to the employment of a local authority may within three months of the date of notification to him of the determination in respect of his transfer be assigned for transfer or transferred by the said local authority to the employment of another local authority, provided the officer concerned, the local authority to whose employment he was to be or had been transferred under regulation 3 and the local authority to whose employment he is to be transferred under this regulation agree, and regulation 5(1) shall then apply to such officer as it applies to officers transferred under regulation 3.

Protection of staff transferred

5.—(1) Every officer transferred under regulation 3 or regulation 4 shall so long as he continues in employment by virtue of the transfer and until he has been served with a statement in writing of new terms and conditions of employment by the local authority to whose employment he has been transferred enjoy terms and conditions of employment not less favourable than those he enjoyed before the appointed day. The said new terms and conditions shall be such that—

(i) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day the scale of his salary or remuneration, and

(ii) so far as practicable the other terms and conditions of his employment—

are not less favourable than those he enjoyed immediately before the appointed day.

(2) A statement of new terms and conditions of employment may be served upon any officer under paragraph (1) before the appointed day provided that in a case where the Secretary of State is required to make a determination under regulation 3, the statement shall not be served until notification of the determination has been given to those concerned.

(3) Any statement served on an officer under paragraph (1) shall come into effect on the first day of the next month or the first such day following the appointed day if later:

Provided that—

(i) any adjustment of such a statement that may be agreed between the authority by and the officer on whom it was served shall have effect from the date on which the statement came into effect;

(ii) if an officer on whom such a statement has been served institutes under paragraph (4) proceedings before a tribunal, or otherwise a question has been raised, and the effect of the decision on the question, subject to any modification that may be required in consequence of any appeal from that decision on a point of law, so requires, the statement shall be amended with effect from the date on which it came into effect.

(4)(*a*) Any officer who has been served with a statement of new terms and conditions of employment under paragraph (1) may within twenty-six weeks after the appointed day or the date of receipt of the said statement, whichever

is the later, institute proceedings for the determination of the question as to whether he is engaged in duties which are reasonably comparable to those in which he was engaged immediately before the appointed day by a tribunal in accordance with the Industrial Tribunals (Employment and Compensation) (Scotland) Regulations 1967(**a**): and the tribunal shall determine accordingly.

(*b*) For the purpose of any such proceedings, a person or persons may be appointed under the said regulations to sit with the tribunal as assessor or assessors.

(5) For the purposes of regulations 6(1)(*f*) and 12(1)(*e*)(ii) of the Social Work (Compensation) (Scotland) Regulations 1969(**b**) any statement served on an officer under paragraph (1) or any such statement as adjusted or amended under paragraph (3) shall be regarded as an offer of employment to the officer to whom it is addressed and any determination by a tribunal of a question referred to it under paragraph (4) shall be relevant for the purposes of the said Compensation Regulations.

(6) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1963(**c**) shall not be regarded as a statement of new terms and conditions of employment for the purpose of this regulation unless the statement so indicates.

Part-time staff

6. Any provision in these regulations for the transfer of officers shall apply, in the case of a person employed as a part-time officer, as if the transfer effected by such provision in its application to the employment of that person is limited in extent to that of the said employment.

Supplementary provisions

7. In the case of an officer who on the appointed day is employed but is absent from what have been or would have become the normal duties of his employment he shall be deemed, in the application of regulation 3, to be employed on the commencement of that day as he would have been if he had not been absent from his normal duties.

Disturbance allowances

8. A scheme of disturbance (including removal) and travelling allowances recommended by the National Joint Council for Local Authorities Services (Scottish Council) shall be applied by local authorities to officers whose place of work is changed as a result of transfer under regulation 3 or regulation 4.

PART III

SUPERANNUATION

Interpretation

9.—(1) In this Part the following expressions have the meanings hereby respectively assigned to them, that is to say—

"the Act of 1937" means the Local Government Superannuation (Scotland) Act 1937(**d**);

(**a**) S.I. 1967/362 (1967 I, p.1220).
(**b**) S.I. 1969/1117 (1969 II, p. 3275).
(**c**) 1963 c.49.
(**d**) 1937 c.69.

"the Act of 1953" means the Local Government Superannuation Act 1953(a);

"the Benefits Regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations 1954(b);

"the Edinburgh Modification Scheme" means the Edinburgh Corporation Superannuation Modification Scheme 1955.

(2) Unless the context otherwise requires, expressions used in this Part shall have the same meaning as in the Local Government Superannuation (Scotland) Acts 1937 to 1953(c).

Provisions affecting contributory employees transferred from one employing authority to another

10.—(1) This regulation shall apply to a person who on the commencement of the appointed day is, or is treated as, a contributory employee and who is transferred under these regulations to another employing authority.

(2) Every such person who is a servant or part-time officer shall be deemed to belong to a class or description in respect of which the new employing authority shall for the purposes of section 3(2)(*b*) of the Act of 1937, be deemed to have by a statutory resolution specified as a class or description, the members of, or persons falling within, which are to be contributory employees.

(3) Where a person mentioned in paragraph (1) is entitled to reckon years added to his service as years of contributing service under regulation 12 of the Benefits Regulations proviso (*a*)(ii) to paragraph (7) of the said regulation 12 shall not apply in relation to that person.

(4) Where, on a benefit becoming payable to a person mentioned in paragraph (1), it is the practice of the authority by whom he was formerly employed, or their statutory successor, to exercise beneficially in relation to employees of a similar description the power contained in section 2(2) of the Act of 1953, it shall b the duty of the new employing authority to exercise in relation to him that power in a way which is no less beneficial than that practice.

(5) Section 30 of the Act of 1937 shall apply to any questions arising under this regulation.

Provisions affecting contributory employees transferred to Edinburgh local Act scheme

11.—(1) This regulation shall apply to a person who, on the commencement of the appointed day, is, or is treated as, a contributory employee and is transferred under these regulations to employment with Edinburgh Corporation.

(2) Every such person who is a part-time officer or part-time servant shall be superannuable to the like extent under the Edinburgh Corporation local Act scheme.

(3) Every person mentioned in paragraph (1) who exercised any option which may have been open to him under regulation 17 of the Benefits Regulations shall continue to enjoy his rights under that regulation notwithstanding that he becomes a local Act contributor.

(a) 1953 c.25.
(b) S.I. 1954/1059 (1954 II, p.1632).
(c) 1937 c.69; 1939 c.18; 1953 c.25.

(4) Where a person mentioned in paragraph (1) is entitled to reckon years added to his service as years of contributing service under regulation 12 of the Benefits Regulations, proviso (*a*)(ii) to paragraph (7) of the said regulation 12 shall not apply in relation to that employee.

(5) The Edinburgh Corporation local Act scheme shall be deemed to contain provisions requiring the Corporation to treat the persons mentioned in paragraphs (2) and (3) in the manner required by those paragraphs.

(6) Section 567 of the Edinburgh Corporation Order 1967 shall apply to any questions arising under this regulation.

Provisions affecting contributory employees transferred to Glasgow local Act scheme

12.—(1) This regulation shall apply to a person who, on the commencement of the appointed day, is, or is treated as, a contributory employee and is transferred under these regulations to employment with Glasgow Corporation.

(2) Every such person who is a part-time officer or part-time servant shall be superannuable to the like extent under the Glasgow Corporation Superannuation Scheme 1955.

(3) Every person mentioned in paragraph (1) who exercised any option which may have been open to him under regulation 17 of the Benefits Regulations shall continue to enjoy his rights under that regulation notwithstanding that he becomes a local Act contributor.

(4) Where a person mentioned in paragraph (1) is entitled to reckon years added to his service as years of contributing service under regulation 12 of the Benefits Regulations, proviso (*a*)(ii) to paragraph (7) of the said regulation 12 shall not apply in relation to that employee.

(5) The Glasgow Corporation Superannuation Scheme 1955 shall be deemed to contain provisions requiring the Corporation to treat the persons mentioned in paragraphs (2) and (3) in the manner required by those paragraphs.

(6) Article 37 of the Glasgow Corporation Superannuation Scheme 1955 shall apply to any question arising under this regulation.

Provisions affecting transfer of Edinburgh local Act contributors to an employing authority

13.—(1) This regulation shall apply to a person who on the commencement of the appointed day is, or is treated as, a local Act contributor covered by the Edinburgh Corporation local Act scheme and is transferred under these regulations to an employing authority.

(2) Every such person who is a servant shall be deemed to belong to a class or description in respect of which the employing authority shall, for the purposes of section 3(2)(*b*) of the Act of 1937, be deemed to have by a statutory resolution specified as a class or description, the members of, or persons falling within, which are to be contributory employees.

(3) Where a person mentioned in paragraph (1) exercised any option which may have been open to him under article 26 of the Edinburgh Modification Scheme, he shall continue to enjoy his rights under that article notwithstanding that he becomes a contributory employee.

(4) Where a person mentioned in paragraph (1) did not exercise any option which may have been open to him under article 26 of the Edinburgh Modification Scheme, he shall be entitled to receive a retirement pension and retirement grant under sub-paragraph (*b*) of regulation 5(1) and sub-paragraph (*b*) of regulation 6(1) respectively of the Benefits Regulations as though the words "ten years' service" were substituted for the words "forty years' service" in each of those sub-paragraphs.

(5) Where a person mentioned in paragraph (1) was entitled to contribute to the Edinburgh superannuation fund at the special rates laid down in section 12(1)(*a*), section 12(1)(*b*)(i) and the First Schedule of the Edinburgh Corporation Order 1962 he shall continue to pay contributions at the same rate to the appropriate superannuation fund.

(6) Where a person mentioned in paragraph (1) is entitled to reckon years added to his service as years of contributing service under regulation 12 of the Benefits Regulations as applied by article 20 of the Edinburgh Modification Scheme proviso (*a*)(ii) to paragraph (7) of the said regulation 12 shall not apply in relation to that person.

(7) The Local Government Superannuation (Scotland) Acts 1937 to 1953 shall be deemed to contain provisions requiring any authority concerned to treat the persons mentioned in paragraphs (2) to (5) in the manner required by those paragraphs.

Reckoning of certain service of approved school after-care welfare officers

14.—(1) An approved school after-care welfare officer who is transferred under these regulations and who was employed in an approved school before he was admitted to the benefits of a superannuation fund under section 15 of the Act of 1953 or regulation 46 of the National Health Service (Scotland) (Superannuation) Regulations 1950(**a**) shall, provided he has not had at any time a break in his employment of 12 months or more, be entitled to reckon as contributing service, or as service or a period of contribution for the purposes of a local Act scheme, as the case may be, any period of employment, which he is not already entitled to count as such, with an approved school prior to the date of his admission to the benefits of the aforesaid fund and the managers of the approved school by whom he was employed on the commencement of the appointed day shall pay to the authority maintaining the fund to which the officer is required to contribute after his transfer, an amount to meet the burden, as certified by an actuary, which will be imposed on that fund at the appointed day by reason of this regulation.

(2) Where an officer to whom this regulation applies—

(*a*) leaves local government employment in the circumstances mentioned in section 10(1) of the Act of 1937; or

(*b*) dies in the circumstances mentioned in section 10(3) thereof; or

(*c*) ceases by reason of permanent ill-health or infirmity of mind or body to be in local government employment, or dies, in circumstances in which there is payable to or in respect of him a benefit which falls to be calculated by reference to the amount of his contributions (with or without interest),

he shall be deemed to have made to the first mentioned fund, on becoming a contributor to that fund, contributions in respect of the period of his employment before the date of admission to that fund of an aggregate amount equal

(**a**) S.I. 1950/498 (1950 I, p.1458).

to three-eightieths of the annual salary and emoluments of his office multiplied by the number of completed years of his service in that employment prior to the date of his admission to that fund.

(3) In this regulation "the annual salary and emoluments of his office" means the average annual amount of the salary and emoluments of his office during the three years ending with the date of his admission to the fund or where his service during that period is less than three years the average annual amount of his salary and emoluments during the actual period of his said service.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
31st July 1969.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations make general provision consequential on the Social Work (Scotland) Act 1968 for the transfer, and protection of interests, of probation officers and some other persons affected by the Act.