

# REGULATION OF CARE (SCOTLAND) ACT 2001

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on sections*

#### **Part 1: the Commission and Care Services**

#### **Transfer of staff**

#### *Section 30: Transfer of staff*

114. This section provides that schemes must be made for the transfer of staff to the Commission bodies, provided that prescribed requirements for consultation have been met in respect of every individual to be transferred.
115. All transfers made under the Act will reflect the [Transfer of Undertakings \(Protection of Employment\) Regulations 1981 \(SI 1981 No 1794\)](#) (TUPE) principle that staff transferred will do so on their existing terms and conditions. In addition, the new bodies may make provision for occupational pensions and compensation for loss of employment.
116. Subsection (4) provides that under a scheme an employee's existing contract of employment would not be terminated, but would transfer to the new employer and be treated as having effect from the date it was originally made.
117. Subsections (6) and (7) provide that an employee may object to transferring to a new employer, and that their contract of employment can be terminated before the date of transfer. This would not be treated as a dismissal.
118. Subsection (8) provides that these arrangements will not affect the right of an employee to terminate his or her contract if their working conditions were to suffer a significant change which was to their detriment.