



Transport (Scotland) Act 2005

2005 asp 12

PART 1

REGIONAL TRANSPORT

CHAPTER 3

SUPPLEMENTARY AND CONSEQUENTIAL PROVISION

15 Transfer of staff, property, rights and liabilities

- (1) The TUPE regulations apply in relation to any function transferred by virtue of section 2, 10 or 13 above whether or not those regulations would so apply apart from this subsection.
- (2) Where, by virtue of the TUPE regulations, whether as applied by subsection (1) above or not, a member of staff (the “employee”) of a body, authority or other person (the “former employer”) becomes an employee of another body, authority or other person (the “new employer”) in consequence of the transfer of a function by virtue of section 2, 10 or 13 above, the employee’s period of employment by the former employer counts, for the purposes of the Employment Rights Act 1996 (c. 18), as a period of employment by the new employer and the change of employment does not break the continuity of the period of employment.
- (3) For the purposes of subsections (1) and (2) above, a function is to be regarded as transferred by virtue of section 2, 10 or 13 above irrespective of how the transfer is described in that section or in the order made under it.
- (4) For the purposes of subsection (2) above, a function is to be regarded as transferred irrespective of whether arrangements relating to it are made under section 14 above.
- (5) Where, by virtue of section 2, 10 or 13 above, a function of one body, authority or other person (the “original”)—
 - (a) becomes that of another; or
 - (b) falls to be no longer carried out,

Status: This is the original version (as it was originally enacted).

the Scottish Ministers may, by order, provide for the transfer to that other body, authority or other person or, as the case may be, to such body, authority or other person as they think fit of such of the original's property, rights and liabilities as are specified in or otherwise identified by the order.

- (6) Subsection (5) above has effect in relation to property, rights and liabilities specified in or identified by an order made under it despite any provision (of whatever nature) which would otherwise prevent or restrict its operation or that of the order; and any provision which would penalise that operation is disappplied.
- (7) In this section, the "TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 1981 ([S.I. 1981/1794](#)) (or any regulations replacing those regulations) as from time to time amended.