

STATUTORY INSTRUMENTS

1991 No. 194

**The Health and Personal Social
Services (Northern Ireland) Order 1991**

[^{F1}Health and Social Care trusts]

Supplementary provisions as to transfer of staff

12.—(1) In the case of a person who falls within Article 11(1)(b), a scheme under that Article may provide that, with effect from the [^{F1}HSC trust's] operational date, his contract of employment (in this Article referred to as “his original contract”) shall be treated in accordance with the scheme as divided so as to constitute—

- (a) a contract of employment with the [^{F2}HSC trust]; and
 - (b) a contract of employment with the relevant body by which he was employed before that date.
- (2) Where a scheme makes provision as mentioned in paragraph (1),—
- (a) the scheme shall secure that the benefits to the employee under the two contracts referred to in that paragraph, when taken together, are not less favourable than the benefits under his original contract;
 - (b) Article 11 shall apply in relation to the contract referred to in paragraph (1)(a) as if it were a contract transferred under that Article from the relevant body mentioned in paragraph (1)(b) to the [^{F2}HSC trust];
 - (c) so far as necessary to preserve any rights and obligations, the contract referred to in paragraph (1)(b) shall be regarded as a continuation of the employee's original contract; and

Sub#para. (d) rep. by 1996 NI 16

Para. (3) rep. by 1996 NI 16

(4) Where, as a result of the provisions of Article 11, by virtue of his employment during any period after the operational date of the [^{F2}HSC trust],—

- (a) an employee has contractual rights against an [^{F2}HSC trust] to benefits in the event of his redundancy, and
- (b) he also has statutory rights against the trust under [^{F3} Part XII of the Employment Rights (Northern Ireland) Order 1996] (redundancy payments),

any benefits provided to him by virtue of the contractual rights referred to in sub-paragraph (a) shall be taken as satisfying his entitlement to benefits under the said [^{F3} Part].

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| F1 | Words in Order substituted (1.4.2009) by virtue of Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(d) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2 |
| F2 | Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(d) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2 |
| F3 | 1996 NI 16 |

Changes to legislation:

There are currently no known outstanding effects for the The Health and Personal Social Services (Northern Ireland) Order 1991, Section 12.