



Prosecution of Offences Act 1985

1985 CHAPTER 23

PART I

THE CROWN PROSECUTION SERVICE

Transfer of staff, etc.

11 Transfer of staff

- (1) The Attorney General may, with the approval of the Treasury, by regulations make such provision as he considers appropriate in relation to the transfer to the staff of the Director of such persons employed by any authority wholly or mainly in connection with the discharge of prosecution functions as may be specified in the regulations.
- (2) The regulations may, in particular, make provision—
 - (a) as to the method by which any staff or group of staff are transferred;
 - (b) as to the terms and conditions of the transfer; and
 - (c) for the termination of the employment with the authorities concerned of persons to whom the regulations apply (whether or not they are transferred in accordance with the regulations) and as to the consequences of that termination;and (without prejudice to section 29(2) of this Act) may make different provision with respect to staff employed in different areas.
- (3) The regulations may include provision for the determination of questions arising under them and may make such modifications in the application of any enactment as the Attorney General considers appropriate in connection with any provision of the regulations of a kind mentioned in subsection (2)(c) above.
- (4) Staff transferred in accordance with the regulations shall be exempt from any requirement to the effect that before a person is appointed to Her Majesty's Home Civil Service a certificate of qualification must be issued in respect of him by the Civil Service Commissioners.

Status: This is the original version (as it was originally enacted).

- (5) For the purposes of Schedule 13 to the Employment Protection (Consolidation) Act 1978 (as it applies for the purposes of computing an employee's period and continuity of employment for the purposes of that Act and any other enactment) in its application to a person who is transferred to the staff of the Director as a result of this Part to the period of his employment in the employment from which he is transferred shall count as a period of Crown employment; and (b) the change of employment shall not break the continuity of his employment.
- (6) Where a person ceases to be a member of the staff of an authority—
- (a) on becoming a member of the staff of the Service in consequence of any regulations made under this section ; or
 - (b) having unreasonably refused to be transferred in pursuance of the regulations;
- he shall not, on ceasing to be a member of the staff of the authority, be treated for the purposes of any regulations or scheme made under the Superannuation Act 1972 as having ceased to hold his employment by reason of redundancy.
- (7) In this section " authority " means any police authority or other authority or body mentioned in section 17(6)(c) or (d) of this Act; and " police authority ", in relation to the metropolitan police district, means the Commissioner of Police of the Metropolis.

12 Staff commission

- (1) The Attorney General, after consulting such bodies representing authorities or persons employed by authorities as appear to him to be concerned, shall not later than three months after the passing of this Act, establish a staff commission for the purpose of—
- (a) considering the general effect of this Part on staff employed by any authority wholly or mainly in connection with the discharge of prosecution functions; and
 - (b) advising the Attorney General and Director on the arrangements necessary to safeguard the interests of such staff.
- (2) The functions of the staff commission shall not extend to the giving of advice with respect to recruitment to, or the terms and conditions of service in, Her Majesty's Home Civil Service.
- (3) The Attorney General may give directions to the staff commission as to their procedure; and it shall be the duty of the commission to comply with the directions.
- (4) Any expenses incurred by the staff commission under this section shall be paid by the Director.
- (5) The Attorney General may give to any authority employing staff in connection with the discharge of prosecution functions, directions with respect to—
- (a) the furnishing of information to the staff commission;
 - (b) the implementation of any advice given by the commission ; or
 - (c) any other matters connected with the employment of such staff;
- and it shall be the duty of the authority to comply with the directions.
- (6) In this section " authority " means any police authority or other authority or body mentioned in section 17(6)(c) or (d) of this Act; and " police authority ", in relation to the metropolitan police district, means the Commissioner of Police of the Metropolis.

13 Premises formerly used in connection with Director's new functions

- (1) This section shall have effect—
- (a) as respects any premises which were, up to the transfer date, being used to any extent in connection with the discharge of prosecution functions; and
 - (b) as respects the local authority or police authority who were providing the premises ;
- and shall have effect in particular to ensure that prosecutions, including proceedings in cases in the course of hearing on the transfer date, can be conducted without any interruption or interference in the transition to the arrangements for prosecuting offences established by this Part.
- (2) On and after the transfer date it shall be the duty of the authority, to the extent to which the premises were being used in connection with the discharge of prosecution functions—
- (a) to make the premises available for the Service ; or
 - (b) where it is not reasonably practicable to make them so available, to make available for the Service premises which, in the opinion of the Director, are a suitable alternative.
- (3) It shall also be the duty of the authority to—
- (a) make available for the Service—
 - (i) all fittings, furniture, equipment and other chattels previously made available for use in connection with the discharge of prosecution functions ; or
 - (ii) in a case falling within subsection (2)(b) above, those items or items which, in the opinion of the Director, are suitable alternatives ;
 - (b) provide such services and facilities as were previously provided by them in connection with the discharge of those functions;
 - (c) heat any accommodation made available for the Service ;
 - (d) clean, light and maintain the premises and maintain any thing else made available for the Service under this section; and
 - (e) pay all outgoings in respect of the premises so made available.
- (4) The Secretary of State shall pay to an authority making premises available under this section—
- (a) such amount as is a reasonable payment for the use of the premises;
 - (b) the reasonable and necessary charges for heating, lighting and cleaning the premises ; and
 - (c) a fair contribution—
 - (i) to the cost of any services or facilities provided by the authority in accordance with subsection (3) (b) above; and
 - (ii) in respect of the maintenance of the premises and of anything else made available for the Service under this section.
- (5) Where, immediately before the transfer date, the premises were occupied by the authority under a tenancy—
- (a) the obligations imposed on the authority by this section in relation to those premises shall, if they have not ended by virtue of subsection (6) or (7) below, come to an end—

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- (i) with the termination of the tenancy by the landlord in accordance with the provisions of Part II of the Landlord and Tenant Act 1954; or
 - (ii) where the provisions of sections 24 to 28 of that Act have been excluded in relation to the tenancy, on the date on which the term for which the tenancy is granted is due to expire by effluxion of time; and
 - (b) for the purposes of Part II of the Act of 1954, the authority shall, while complying with those obligations, be taken to be occupying the premises for the purposes of a business carried on by them.
- (6) The obligations imposed by this section on any authority in relation to any premises shall end with—
 - (a) the expiry of the period of five years beginning with the transfer date; or
 - (b) where the Secretary of State is of the opinion, in relation to those premises, that no suitable alternative premises will be available to the Service within that period, the expiry of such longer period (beginning with the transfer date and not exceeding ten years) as he may specify in a written notice given to the authority concerned before the expiry of the period of four years beginning with the transfer date.
- (7) Where the Secretary of State—
 - (a) is of the opinion that the obligations imposed by this section in relation to any premises can be brought to an end on a date earlier than that determined in accordance with subsection (6) above ; and
 - (b) has given the authority concerned such notice as he considers reasonable of his intention to bring those obligations to an end on the date specified in the notice;they shall end on the date so specified.
- (8) While the obligations imposed by this section are in force in relation to any premises, members of the Service shall, to the extent necessary to enable them to carry out their functions, enjoy the same rights and privileges in relation to the premises as were previously enjoyed by those occupying the premises in connection with the discharge of prosecution functions,
- (9) In a case falling within subsection (2)(b) above, subsection (8) above shall not apply but the premises offered by the authority shall not be regarded as a suitable alternative unless the Director is satisfied that the members of the Service who will occupy the premises will have such rights and privileges in relation to them as will be necessary to enable those members to carry out their functions.
- (10) An authority shall not be taken to have acted in breach of any covenant, condition, term or other provision by reason of their complying with any obligation imposed on them by this section.
- (11) Any question arising under this section shall, in the event of disagreement between the Secretary of State and the authority, be determined by such person as may be appointed for the purpose—
 - (a) by the Secretary of State, with the agreement of the authority; or
 - (b) failing that agreement, by the Lord Chancellor.
- (12) Where the premises were provided jointly by two or more authorities, the obligations imposed by this section shall be shared among them in a way corresponding to that

in which they provided the premises in connection with the discharge of prosecution functions.

(13) In this section—

" police authority ", in relation to the metropolitan police district, means the Receiver for the Metropolitan Police District; and

" transfer date ", in relation to any prosecution functions, means the date on which the staff in question were transferred to the staff of the Director.