
STATUTORY INSTRUMENTS

1985 No. 1846

CRIMINAL LAW, ENGLAND AND WALES

**The Crown Prosecution Service (Transfer of Staff)
Regulations 1985**

Made - - - 29th November 1985

Laid before Parliament 29th November 1985

Coming into Operation 21st December 1985

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The Attorney General, in exercise of the powers conferred upon him by section 11(1), (2) and (3) and section 29(2) of the Prosecution of Offences Act 1985 (a), and with the approval of the Treasury, hereby makes the following Regulations:—

(a) 1985 c.23.

Citation and commencement

1. These Regulations may be cited as the Crown Prosecution Service (Transfer of Staff) Regulations 1985 and shall come into operation on 21st December 1985.

Interpretation

2. In these Regulations, unless the context otherwise requires—
- “the Act” means the Prosecution of Offences Act 1985;
 - “authority” has the same meaning as it has in section 11 of the Act;
 - “appointed day” means, in relation to a particular authority, the day on which, by virtue of section 3(2)(a) of the Act and an order made under section 31(2) of the Act, it becomes the duty of the Director to take over from that authority the conduct of criminal proceedings instituted on behalf of a police force;
 - “Civil Service” means Her Majesty’s Home Civil Service; and “civil servant” shall be construed accordingly;
 - “Director” has the same meaning as it has in Part I of the Act;
 - “fixed salary” means a salary which is not subject to any incremental scale;
 - “notice of intended transfer” means a notice sent by the Director to the effect that it is intended to transfer the recipient to his staff and includes an amended notice which has been substituted for such a notice under Regulation 4(6)(b) or (c) below or Regulation 9(10) or (13) below;
 - “prosecution functions” has the same meaning as it has in Part I of the Act;
 - “relevant day” means, in relation to a particular authority, the day four months before the appointed day appropriate to that authority;
 - “salary” means the basic salary or wage payable to a person by virtue of his employment and includes any discretionary increment awarded to him on a permanent basis on account of the standard of his work (a merit increment) but does not include any other emoluments, allowances, expenses or supplemental payments to which he may be entitled on account of the area in which he works or for any other reason whatsoever;
 - “Staff Commission” means the staff commission established under section 12 of the Act;
 - “to be transferred to the staff of the Director” and “to join the staff of the Director” mean to be transferred to employment in the Civil Service on the staff of the Director; and cognate expressions shall be construed accordingly.

Test of eligibility for transfer to staff of Director

3.—(1) In any of these Regulations a reference to a person being or having been eligible on a day specified or referred to in that Regulation to be transferred to the staff of the Director shall, subject to paragraph (3) below, be a reference to a person who on that day is or was —

- (a) employed by an authority which is responsible for the discharge of prosecution functions, being so employed wholly or mainly in connection with the discharge of such functions; and
- (b) either—
 - (i) a barrister, solicitor or clerk articled to a solicitor; or
 - (ii) a person assigned to one or more of the duties specified in Schedule 1 to these Regulations.

(2) For the purposes of paragraph (1) above a person who is being trained to undertake any duty specified in Schedule 1 to these Regulations is deemed to be assigned to that duty.

(3) No person who is an alien for the purposes of section 6 of the Aliens Restriction (Amendment) Act 1919(a) shall be eligible to be transferred to the staff of the Director unless his employment on the staff of the Director is permitted by virtue of a certificate issued under section 1 of the Aliens' Employment Act 1955(b).

Service of notice of intended transfer and procedure for dealing with objections

4.—(1) Not less than three months before the appointed day appropriate to an authority the Director shall serve a notice of intended transfer on every person employed by that authority who was, on the relevant day appropriate to that authority, eligible to be transferred to his staff.

- (2) A notice served under paragraph (1) above shall—
 - (a) inform the person on whom it is served of the grade at which, in accordance with Regulation 5(3) below and Schedule 2 to these Regulations, he will join the staff of the Director and the salary (expressed either as a fixed salary or by reference to a salary scale and a point on that scale) to which, in accordance with Regulation 5(3) below and Schedule 3 to these Regulations, he will then become entitled;
 - (b) inform that person of the post on the staff of the Director in which the Director proposes first to employ him when he joins that staff; the established grade for that post; and the fixed salary or salary scale appropriate to that established grade;
 - (c) inform that person of the effect in relation to him of Regulation 5(3) below as regards the following matters:
 - (i) any requirement of mobility;
 - (ii) seniority;
 - (iii) conditioned hours and any entitlement to payment for overtime;
 - (iv) retirement;
 - (v) leave entitlement; and
 - (vi) any other allowances (including the availability of finance for car purchase); and
 - (d) be accompanied by a summary of the provisions of the principal civil service pension scheme made under section 1 of the Superannuation Act 1972(c) which will be applicable to him as a civil servant.

(a) 1919 c.92.

(b) 1955 c.18 (4 & 5 Eliz.2).

(c) 1972 c.11.

(3) For the purposes of paragraph (1) above, a person who would otherwise be eligible to be transferred to the staff of the Director shall be so eligible on the relevant day appropriate to the authority by which he is employed notwithstanding that on that day he was temporarily carrying out duties which were not wholly or mainly connected with the discharge of the prosecution functions of that authority.

(4) A person who has been served with a notice under paragraph (1) above may object to the proposed transfer on either or both of the following grounds:

- (a) that he is not a person who on the relevant day appropriate to the authority by which he is employed was eligible to be transferred to the staff of the Director; or
- (b) that the arrangements as to salary set out in the notice do not reflect his proper entitlement under Regulation 5(3) below and Schedule 3 to these Regulations.

(5) Any objection under paragraph (4) above shall—

- (a) be made in writing;
- (b) state the grounds of objection together with the matters relied upon in support of it; and
- (c) be served on the Director within twenty-one days of the service of the notice or fourteen days of its receipt, whichever is the later, but in any event not less than two months before the appointed day appropriate to the authority by which the objector is employed.

(6) The Director shall consider any objection made under paragraph (4) above and, subject to paragraph (7) below, within twenty-one days of its receipt determine it in one of the following ways:

- (a) in the case of an objection made under paragraph (4)(a) above, he may rescind or confirm the notice;
- (b) in the case of an objection made under paragraph (4)(b) above, he may confirm the notice or substitute an amended notice;
- (c) in the case of an objection made under both sub-paragraphs (a) and (b) of paragraph (4) above, he may—
 - (i) rescind the notice; or
 - (ii) confirm the notice; or
 - (iii) substitute an amended notice.

(7) The following provisions shall apply to any determination made under paragraph (6) above:

- (a) written notice of the determination, stating the reasons, shall be served on the objector;
- (b) the arrangements as to salary set out in an amended notice given by virtue of sub-paragraph (b) or (c) of that paragraph shall be no less favourable than those specified in the original notice but may not be the subject of an objection under paragraph (4) above;

- (c) the Director shall not confirm any notice unless he has first consulted the Staff Commission in relation to the objection.
- (8) Where—
 - (a) a person who has been served with a notice under paragraph (1) above has objected under paragraph (4) above; and
 - (b) the Director has either confirmed the notice or substituted an amended notice under paragraph (6) above,

the objector may by written notice require the Director to refer the objection to the adjudicator appointed under Regulation 9 below; and any such notice shall be served on the Director within seven days of the receipt by the objector of the notice of determination.

Block transfer and provisions as to terms and conditions of transferred staff

5.—(1) Where a person has been served with a notice of intended transfer and he is, on the appointed day appropriate to the authority by which he is employed, still a person who is eligible to be transferred to the staff of the Director, on that day he shall cease to be so employed and shall join the staff of the Director unless he has previously served on the Director a written notice of refusal.

(2) Paragraph (1) above shall not apply to a person if, on the appointed day appropriate to the authority by which he is employed, that authority (hereinafter referred to as his current employing authority) is not the authority by which he was employed on the relevant day appropriate to his current employing authority.

(3) Where, by virtue of paragraph (1) above, a person joins the staff of the Director, he shall do so in the grade specified as corresponding to his fixed salary or salary scale maximum point in accordance with Schedule 2 to these Regulations and shall thereafter hold that grade but be entitled to a salary determined in accordance with Schedule 3 to these Regulations and, subject to paragraphs (7) and (8) below, his employment shall be governed by the other terms and conditions of employment which, in accordance with the Civil Service Pay and Conditions of Service Code or other instruction or regulation given or made from time to time by the Minister for the Civil Service or by the Treasury, are appropriate to that grade:

Provided that if he at any time makes an election under paragraph 4(2) or paragraph 6(2) of the said Schedule 3, he shall, when that election takes effect, be transferred to his working grade (as defined in paragraph 2 of that Schedule for the purposes of the Schedule) and, where appropriate, to the point on the salary scale specified in that paragraph, and the provisions of that Schedule (other than the provisions of paragraphs 4(4) and 6(5) relating to the irrevocability of the election) shall cease to apply to him.

(4) Where a person ceases by virtue of paragraph (1) above to be employed by an authority, the rights and obligations of each party to the other shall, subject to paragraph (5) below, be the same as if the authority had terminated the contract by proper notice.

(5) Section 95 of the Employment Protection (Consolidation) Act 1978 (a) (transfer to Crown employment) shall have effect in relation to the transfer to the Director of prosecution functions as if any contract of employment terminated by the operation of paragraph (4) above had been terminated by a transferor within the meaning of that section; and, for the purposes of sections 94(3) and 82(3) of that Act (renewal of contract of employment or re-engagement), a notice of intended transfer is to be treated as an offer to re-engage the person on whom it is served and a refusal to join the staff of the Director is to be treated as a refusal of such an offer.

(6) For the purposes of section 59 of the Local Government Act 1985(b) (redundancy and compensation payments), the contract of employment of any person who —

- (a) immediately before section 1(1) of that Act comes into force is in the service of an authority to which that section applies; and
- (b) either —
 - (i) by virtue of paragraph (1) above joins the staff of the Director on the date that section 1(1) of that Act comes into force; or
 - (ii) refuses in accordance with paragraph (1) above to join the staff of the Director,

shall not be regarded as one which would have continued but for the abolition of that authority.

(7) Save as provided by paragraph (8) below, a person who joins the staff of the Director by virtue of paragraph (1) above shall not be subject to any condition requiring satisfactory completion of a probationary period.

(8) Where a person who was employed by an authority immediately prior to his transfer in accordance with paragraph (1) above was then subject to a condition such as is mentioned in paragraph (7) above, he shall continue, when on the staff of the Director, to be subject to such a condition until the date on which the probationary period would have expired if he had not been so transferred.

(9) Where, by virtue of paragraph (1) above, a person ceases to be employed by an authority and joins the staff of the Director, the Director shall, for the purposes of section 45 of the Employment Protection (Consolidation) Act 1978 (return to work after pregnancy or confinement), be the successor of that authority.

Duty of Director to take steps to bring provisions of these Regulations to the notice of persons who may be affected

6.—(1) It shall be the duty of the Director to take reasonable steps to bring the provisions of these Regulations to the notice of any person employed by an authority in connection with the discharge of prosecution functions.

(2) Without prejudice to the generality of paragraph (1) above, the Director shall so far as practicable ensure that any person referred to in that paragraph upon whom no notice of intended transfer is served under Regulation 4(1) above is informed of his rights under Regulation 7 below.

(a) 1978 c.44.

(b) 1985 c.51.

(3) The Director shall consult the Staff Commission as to the manner of the discharge of his duty under this Regulation.

Right of person who does not receive notice of intended transfer to object, and procedure for dealing with objection

7.—(1) Any person who—

(a) is employed by an authority which is responsible for the discharge of prosecution functions; and

(b) has not received a notice of intended transfer in accordance with Regulation 4(1) above,

may object to the Director on the ground that he considers that he was entitled to receive such a notice and the Director shall as soon as practicable after receipt of that objection determine it by either —

(i) disallowing the objection; or

(ii) serving upon him a notice of intended transfer;

but he shall not disallow an objection without first consulting the Staff Commission.

(2) Any objection under paragraph (1) above shall be made in writing and shall be served on the Director not less than two months before the appointed day appropriate to the authority employing the objector.

(3) Where he determines an objection made under paragraph (1) above by disallowing it, the Director shall as soon as practicable serve on the objector a written notice to that effect containing a statement of his reasons.

(4) Where a person has —

(a) objected to the Director in accordance with paragraph (1) above; and

(b) the Director has served on him a notice of disallowance of that objection, the objector may by written notice require the Director to refer the objection to the adjudicator appointed under Regulation 9 below, and any such notice shall be served on the Director within seven days of the receipt by the objector of the notice of determination.

(5) Paragraphs (2) and (4) to (8) of Regulation 4 above shall apply in relation to any notice of intended transfer served by the Director under paragraph (1) above as they apply in relation to a notice under paragraph (1) of that Regulation:

Provided that —

(a) the only ground of objection shall be that specified in sub-paragraph (b) of paragraph (4);

(b) a period of one month shall be substituted in paragraph (5) for the reference to a period of two months; and

(c) a period of seven days shall be substituted in paragraph (6) for the reference to a period of twenty-one days.

Arrangements for persons who become eligible for transfer to staff of Director after relevant day

8.—(1) This paragraph applies to any person who, on a day after the relevant day appropriate to the authority by which he is employed—

(a) is eligible to be transferred to the staff of the Director; and

(b) is so eligible by virtue of a contract of employment which—

- (i) is or was made before the day on which these Regulations come into operation; and
- (ii) provides for him to take up his employment after the said relevant day.

(2) A person who considers that he is a person to whom paragraph (1) above applies may, subject to paragraph (3) below, apply to the Director for the grant of a certificate that he is entitled to be transferred to the staff of the Director and the Director shall grant such a certificate unless he is of the view that the applicant is not a person to whom paragraph (1) above applies in which case he shall refuse it.

(3) Any application to the Director under paragraph (2) above shall be in writing and shall be served on the Director not less than two months before the appointed day appropriate to the authority by which the applicant claims to be employed.

(4) If the Director refuses an application under paragraph (2) above, he shall as soon as practicable serve on the applicant a written notice stating the reason for his view that the applicant is not a person to whom paragraph (1) above applies.

(5) Paragraphs (2) and (4) to (8) of Regulation 4 above shall apply in relation to a certificate granted by the Director in accordance with paragraph (2) above as they apply in relation to a notice of intended transfer under paragraph (1) of that Regulation:

Provided that —

- (a) the only ground of objection shall be that specified in sub-paragraph (b) of paragraph (4);
 - (b) a period of one month shall be substituted in paragraph (5) for the reference to a period of two months; and
 - (c) a period of seven days shall be substituted in paragraph (6) for the reference to a period of twenty-one days.
- (6) Where a person has—
- (a) made an application to the Director in accordance with paragraph (2) above; and
 - (b) either the Director has refused to grant a certificate or that that person has in any event not received such a certificate within fourteen days of the day on which he served his application on the Director,

he may by a written notice require the Director to refer the application to the adjudicator appointed under Regulation 9 below.

(7) A notice under paragraph (6) above shall be served on the Director within seven days of the expiry of the period of fourteen days referred to in paragraph (6)(b) above.

(8) Where —

- (a) an authority, after the relevant day appropriate to it, either—
 - (i) takes a person into employment by virtue of a contract of

employment made after these Regulations come into operation;
or

(ii) has offered a contract of employment to him, and

(b) the Director is satisfied that the duties or proposed duties of that person are such that, if that person had been employed on those duties on the relevant day, Regulation 4(1) above would have required him to send to that person a notice of intended transfer,

the Director may, on the application of that person, grant a certificate to him that he is entitled to be transferred to his staff.

(9) Regulation 4(2) above shall apply to a certificate granted by the Director in accordance with paragraph (8) above as though it were a notice under Regulation 4(1) above.

(10) The following provisions of this paragraph shall apply to any application under paragraph (8) above:

(a) it shall be in writing;

(b) the applicant shall furnish the Director with such information as he may reasonably require as to the nature of the employment or proposed employment;

(c) the Director may, without prejudice to the generality of sub-paragraph (b) above, require the applicant to provide him with a job description in respect of his employment or proposed employment, as the case may be.

(11) Where the Director has granted to any person a certificate in accordance with either paragraph (2) or (8) above or in accordance with a direction given by the adjudicator under Regulation 9(10) (c)(ii) below and that person is, on the appointed day appropriate to the authority by which he is employed, a person who is eligible to be transferred to the staff of the Director, on that day he shall cease to be so employed and shall join the staff of the Director unless he has previously served on the Director a written notice of refusal.

(12) Where, by virtue of paragraph (11) above, a person joins the staff of the Director, he shall do so in the grade specified as corresponding to his fixed salary or salary scale maximum point in accordance with Schedule 2 to these Regulations and shall thereafter hold that grade but be entitled to a salary determined in accordance with Schedule 3 to these Regulations and, subject to paragraph (13) below, his employment shall be governed by the other terms and conditions of employment which, in accordance with the Civil Service Pay and Conditions of Service Code or other instruction or regulation given or made from time to time by the Minister for the Civil Service or by the Treasury, are appropriate to that grade:

Provided that if he at any time makes an election under paragraph 4(2) or paragraph 6(2) of the said Schedule 3, he shall be transferred to his working grade (as defined in paragraph 2 of that Schedule for the purposes of the Schedule) and, where appropriate, to the point on the salary scale specified in that paragraph, and the provisions of that Schedule (other than the provisions of paragraphs 4(4) and 6(5) relating to the irrevocability of the election) shall cease to apply to him.

(13) Paragraphs (4) to (9) of Regulation 5 above shall apply in relation to a person who joins the staff of the Director by virtue of paragraph (11) above as they do in relation to a person joining the staff of the Director by virtue of paragraph (1) of that Regulation.

(14) The reference in paragraph (11) above to a certificate includes an amended certificate substituted under Regulation 4(6)(b) above or in pursuance of either paragraph (10) or (13) of Regulation 9 below.

Determination of questions arising under these Regulations

9.—(1) The Attorney General shall, after consultation with the Lord Chancellor, appoint an adjudicator, and such number of assistant adjudicators as he considers appropriate, for the determination of objections or applications which are the subject of a reference in accordance with Regulations 4(8), 7(4), or 8(6) above.

(2) An assistant adjudicator appointed under paragraph (1) above may deal with such cases as are allocated to him by the adjudicator and for this purpose shall have the same powers and duties as the adjudicator; and references in these Regulations to the adjudicator shall be construed accordingly.

(3) On receipt of a written notice requiring him to refer an objection or an application, as the case may be, to the adjudicator, the Director shall do so as soon as practicable and shall forward the said notice to the adjudicator together with the relevant documents and, in any case in respect of which the Staff Commission has tendered advice to him, a statement giving the effect of that advice.

(4) In any case arising under Regulation 4(8) above, the relevant documents for the purposes of paragraph (3) above are:

- (a) a copy of the notice of intended transfer;
- (b) a copy of the objection made under Regulation 4(4) above;
- (c) a copy of the notice of determination sent by the Director in accordance with Regulation 4(7)(a) above; and
- (d) where the Director has substituted an amended notice of intended transfer under Regulation 4(6) above, a copy of that notice.

(5) In any case arising under Regulation 7(4) above, the relevant documents for the purposes of paragraph (3) above are:

- (a) a copy of the objection made under Regulation 7(1) above; and
- (b) a copy of the notice of determination sent under Regulation 7(3) above.

(6) In any case arising under Regulation 8(6) above, the relevant documents for the purposes of paragraph (3) above are:

- (a) a copy of the application made under Regulation 8(2) above; and
- (b) a copy of any notice of refusal sent by the Director under Regulation 8(4) above.

(7) Each of the parties to an adjudication (that is to say, the Director and the applicant or objector, as the case may be) may—

- (a) submit written representations to the adjudicator; and
- (b) submit written comments to the adjudicator on the representations submitted by the other party, for which purpose each party shall supply to the other a copy of his own written representations;

and the adjudicator shall in each case prescribe the respective periods during which such representations or comments may be submitted to him, being such periods as he determines to be reasonable in the circumstances of the case, having regard to the proximity of the appointed day appropriate to the authority by which the applicant or objector is or claims to be employed.

(8) Each party to an adjudication may make oral representations and adduce evidence but the adjudicator may dispense with a hearing in any case where both parties consent.

(9) A person who has required the Director to refer an application or objection to the adjudicator shall be entitled to be represented or accompanied at any hearing, and the Director may also be so represented.

(10) The adjudicator shall, after receiving such representations, evidence and comments as may be submitted under paragraphs (7) and (8) above, determine the case in one of the following ways:

- (a) in relation to a case arising under Regulation 4(8) above, either—
 - (i) confirm or rescind the notice of intended transfer; or
 - (ii) direct the Director to substitute an amended notice of intended transfer (or, where the reference relates, by virtue of paragraph (5) of Regulation 8 above, to a certificate granted under paragraph (2) of that Regulation, an amended certificate) setting out such arrangements as to salary as appear to the adjudicator to reflect the proper entitlement under Regulation 5(3) above; or
- (b) in relation to a case arising under Regulation 7(4) above, either confirm the determination of the Director or direct him to send to the person seeking the reference a notice of intended transfer; or
- (c) in relation to a case arising under Regulation 8(6) above, either—
 - (i) approve the non-issue of a certificate under Regulation 8(2) above; or
 - (ii) direct that the Director should grant such a certificate.

(11) Regulation 4(2) above shall apply to any notice served or certificate granted by the Director in compliance with a direction by an adjudicator under paragraph (10) above as though it were a notice served under Regulation 4(1) above.

(12) Where the Director is required to serve any notice or grant any certificate in compliance with a direction by an adjudicator under paragraph (10) above, the adjudicator shall fix—

- (a) the period within which the notice or certificate is to be served or granted, as the case may be; and

- (b) except in a case where it was served or granted in pursuance of paragraph (10)(a)(ii) above, a further period within which the person to whom the notice or certificate relates may serve on the Director a written notice of objection (which the Director shall forward to the adjudicator within a further period fixed by the adjudicator) on the ground that any arrangements as to salary set out therein do not reflect his proper entitlement under Regulation 5(3) above,

being in each case such period as the adjudicator determines to be reasonable in the circumstances, having regard to the proximity of the appointed day appropriate to the authority by which the person to whom the notice or certificate relates is employed.

(13) Any objection made under paragraph (12)(b) above shall be determined by the adjudicator who may either—

- (a) confirm the notice served or certificate granted by the Director; or
(b) direct the Director to substitute an amended notice or certificate setting out such arrangements as to salary as appear to the adjudicator to reflect the proper entitlement of the objector under Regulation 5(3) above.

(14) Paragraphs (7) to (9) above shall apply to an adjudication under paragraph (13) above.

Informal resolution of questions arising under these Regulations

10.—(1) Nothing in these Regulations shall preclude the informal resolution, at any stage, of any dispute arising between the Director and any person as to whether—

- (a) that person is eligible to be transferred to the staff of the Director; or
(b) the arrangements as to salary set out in a notice of intended transfer reflect his proper entitlement under Regulation 5(3) above;

and any rescission of a notice of intended transfer effected by the Director, or any notice or amended notice of intended transfer served by him, pursuant to such informal resolution shall have effect as though effected or served, as the case may be, in accordance with the foregoing provisions of these Regulations.

(2) Without prejudice to the generality of paragraph (1) above, the Director may, with the consent of the person to whom a notice of intended transfer relates, rescind it or serve an amended notice in substitution for it without an objection having been made under the relevant provision of these Regulations.

Early transfer of persons to staff of Director

11. Where a person—

- (a) either—
(i) has received a notice of intended transfer; or
(ii) has received a notice from the Director containing the information specified in Regulation 4(2) above; and

- (b) has consented in writing to a proposal made to him by the Director that he should be transferred on a date earlier than that on which he would be transferred by virtue of Regulation 5(1) above; and
- (c) is eligible on that earlier date to be transferred to the staff of the Director,

that person on that earlier date shall cease to be employed by the authority by which he has until then been employed and shall join the staff of the Director and paragraphs (3), (4) and (7) to (9) of Regulation 5 above shall apply in his case as they do in the case of a person transferred under paragraph (1) of that Regulation.

Service, etc. of documents

12.—(1) Where, under these Regulations, a notice, certificate or other document is to be served on or granted to any person, such service or grant may be effected by sending it to him by post—

- (a) in the case of the Director, at the following address: 4/12 Queen Anne's Gate, London SW1H 9AZ; and
- (b) in the case of any other person, at his normal place of employment or his home address as last notified to his employer.

29th November 1985.

We approve.

29th November 1985.

M. Havers,
Her Majesty's Attorney General.

Tristan Garel-Jones,
Ian Lang,
Two of the Lords Commissioners
of Her Majesty's Treasury.

Regulation 3

SCHEDULE 1

DUTIES SPECIFIED FOR THE PURPOSES OF REGULATION 3

The preparation of notices and documents to be served upon or lodged with parties to proceedings or courts or required upon the trial or hearing of proceedings.

The preparation of briefs and instructions to counsel.

Attendance at court upon the trial or hearing of proceedings.

The allocation of cases to barristers and solicitors who are either eligible for transfer to the staff of the Director by virtue of these Regulations or are private practitioners instructed for the conduct of prosecutions.

The assessment and payment of the fees of solicitors and barristers instructed for the conduct of prosecutions and the costs and expenses of witnesses attending the trial or hearing of proceedings.

The assessment, taxation and collection of costs payable by parties to proceedings pursuant to orders of courts.

Correspondence and liaison with police forces, courts, parties to proceedings, solicitors and barristers.

The operation of telephones and the reception of visitors.

The typing, photocopying and microfilming of the briefs, instructions, notices, documents and correspondence mentioned above, save for the typing of copies of statements of witnesses, and the conveyance of such material by vehicle or otherwise between persons eligible to transfer to the staff of the Director by virtue of these Regulations, solicitors and barristers engaged in private practice, parties to proceedings and courts.

The tracking and maintenance of files, diaries, accounts and other records directly related to the functions mentioned above or to staff engaged in those functions and the general and financial administration of the department of the authority in which those functions are performed.

Regulations 4(2) and 5(3)

SCHEDULE 2

GRADES OF TRANSFERRED STAFF

1. The provisions of this Schedule shall have effect for determining the grades at which persons transferred to the staff of the Director under these Regulations shall join that staff.

2. Without prejudice to the maintenance on the staff of the Director of other grades, there shall be such grades on his staff as correspond to the respective fixed salaries or maximum points on the salary scales to which the persons who are transferred to the staff of the Director under these Regulations would, on the day on which they are so transferred, have been entitled if they had continued in the employment of the authorities by which they were employed immediately before they were so transferred; and each such grade shall be specified by reference to that fixed salary or salary scale maximum point.

3. For the purposes of paragraph 2 above, the fixed salary or maximum point on the salary scale to which, on the day on which a person is transferred to the staff of the Director, he would have been entitled if he had continued in the employment referred to in that paragraph shall—

- (a) in the case of a person who was immediately before that day employed by an authority to which section 1(1) of the Local Government Act 1985 applies, be the fixed salary or maximum point on the salary scale to which he would have been entitled on that day if that authority had not been abolished and he had continued in its employment; and
- (b) in the case of a person who was, immediately before that day, employed otherwise than as a full-time employee, be the fixed salary or maximum point on the salary scale to which he would have been entitled on that day if, without any other variation of the terms and conditions of his employment, he had been a full-time employee.

4. References in this Schedule to the fixed salary or the maximum point on the salary scale to which a person would have been entitled, if he had continued in the employment of an authority, are references to that salary or salary scale maximum point, as the case may be, after abatement in accordance with the provisions of paragraph 5 below:

Provided that, in relation to a person who, immediately before he was transferred to the staff of the Director, was employed as a full-time employee and was required, under the terms and

conditions of employment then applicable to him, to work less than 37 hours per week (or 36 hours per week in the case of a person then employed in the London weighting area, as defined by paragraph 1333 of the Civil Service Pay and Conditions of Service Code, hereinafter referred to as "London staff"), his salary or salary scale maximum point, as the case may be, shall be enhanced before abatement by multiplying it by $\frac{37}{x}$ (or $\frac{36}{x}$ in the case of London staff) where x represents the number of hours per week which he was so required to work.

5.—(1) Any abatement required by paragraph 4 above shall, in relation to a person in a category specified in the left-hand column of the Table below, be by the percentage specified in the corresponding entry in the right-hand column:

TABLE

Males	a percentage which is 1% less than the percentage of his salary which he was required to contribute to any pension scheme operated by the authority by which he was employed immediately prior to transfer.
Females to whom sub-paragraph (2) applies	a percentage which is 1% less than the percentage of her salary which she was required to contribute to any pension scheme operated by the authority by which she was employed immediately prior to transfer.
Other females	a percentage which is the same as the percentage of her salary which she was required to contribute to any pension scheme operated by the authority by which she was employed immediately prior to transfer.

(2) This sub-paragraph applies to any female who, before joining the staff of the Director, had informed the appropriate administering authority of any pension scheme operated by the authority by which she was employed immediately before she joined the staff of the Director that she wished to have the provisions of Regulation E.12 of the Local Government Superannuation Scheme applied to her.

SCHEDULE 3 *Regulations 4(2) and 5(3)*

ASSIMILATION OF PAY AND PAY PROTECTION

1.—(1) The provisions of this Schedule shall have effect in the cases mentioned below to determine the arrangements as to salary for the persons mentioned in those cases:

CASE A: any person (not being a person to whom CASE B applies) whose fixed salary or salary scale maximum point, as the case may be, would, if he had continued in the employment of the authority by which he was employed immediately before he was transferred to the staff of the Director, have been higher, on the appointed day appropriate to that authority, than his comparison salary.

CASE B: any person whose fixed salary or salary scale maximum point, immediately before he is transferred to the staff of the Director, is—

- (i) determined by reference to a salary scale or grade or post which, on the appointed day appropriate to the authority by which he was employed, ceases to exist whether as a consequence of the abolition of certain authorities under section 1(1) of the Local Government Act 1985 or for any other reason; and
- (ii) higher than his comparison salary.

CASE C: any person whose fixed salary or salary scale maximum point, as the case may be, would, if he had continued in the employment of the authority by which he was employed immediately before he was transferred to the staff of the Director, have been, on the appointed day appropriate to that authority, the same as or lower than his comparison salary.

(2) For the purposes of sub-paragraph (1) above, the fixed salary or salary scale maximum point which a person would have had on the appointed day appropriate to the authority by which he was employed immediately before he was transferred to the staff of the Director shall, if that authority was one to which section 1(1) of the Local Government Act 1985 applies, be that which he would have had on that day if that authority had not been abolished and he had continued in its employment.

(3) References in this paragraph to a person's salary or to his salary scale maximum point if he had continued in the employment of the authority by which he was employed immediately before he was transferred to the staff of the Director are references to that salary or salary scale maximum point, as the case may be, after abatement:

Provided that, in relation to a person who, immediately before he was transferred to the staff of the Director, was employed as a full-time employee and was required, under the terms and conditions of employment then applicable to him, to work less than 37 hours per week (or 36 hours per week in the case of a person then employed in the London weighting area, as defined by paragraph 1333 of the Civil Service Pay and Conditions of Service Code, hereinafter referred to as "London staff"), his salary or salary scale maximum point, as the case may be, shall be enhanced before abatement by multiplying it by $\frac{37}{x}$ (or $\frac{36}{x}$ in the case of London staff) where x represents the number of hours per week which he was so required to work.

(4) References in this paragraph to the fixed salary of a person who, on the day immediately before he is transferred to the staff of the Director, was employed otherwise than as a full-time employee shall be references to the fixed salary to which he would have been entitled on that day if, without any other variation of the terms and conditions of his employment, he had been a full-time employee.

2. In this Schedule—

"abatement" means a reduction of salary or salary scale made in accordance with paragraph 3 below;

"comparison salary", in relation to any person, means the fixed salary or salary scale maximum point, as the case may be, appropriate to his working grade when he first joins the staff of the Director; and

"working grade", in relation to any person, means the grade on the staff of the Director that is the established grade for the post on that staff in which that person is employed otherwise than in an acting capacity.

3.—(1) Any abatement required by this Schedule shall, in relation to a person in a category specified in the left-hand column of the Table below, be by the percentage specified in the corresponding entry in the right-hand column:

TABLE

Males	a percentage which is 1½% less than the percentage of his salary which he was required to contribute to any pension scheme operated by the authority by which he was employed immediately prior to transfer.
Females to whom sub-paragraph (2) applies	a percentage which is 1½% less than the percentage of her salary which she was required to contribute to any pension scheme operated by the authority by which she was employed immediately prior to transfer.
Other females	a percentage which is the same as the percentage of her salary which she was required to contribute to any pension scheme operated by the authority by which she was employed immediately prior to transfer.

(2) This sub-paragraph applies to any female who, before joining the staff of the Director, had informed the appropriate administering authority of any pension scheme operated by the authority by which she was employed immediately before she joined the staff of the Director that she wished to have the provisions of Regulation E.12 of the Local Government Superannuation Scheme applied to her.

4.—(1) Subject to sub-paragraph (5) below, a person coming within CASE A or CASE B of paragraph 1 above shall, for a period of ten years beginning with the date on which he first joins the staff of the Director, be entitled to be paid a salary determined in accordance with the Table below:

TABLE

Case	Mode of determining salary
A	The person shall be entitled to receive the salary (including any additional amount resulting from an increase in a fixed salary or a salary scale applicable to him immediately before his transfer) which he would have received if he had continued in the employment of the authority by which he was employed immediately before he was transferred to the staff of the Director, but subject to abatement. Any increments shall become payable at the same time and be subject to the same conditions as if the person had continued in that employment. If the post or grade by reference to which his salary was fixed immediately before he was transferred or the salary scale applicable to him at that time shall cease to exist, the amount which he would have received if he had continued in such employment shall thereafter be calculated by increasing his fixed salary or the salary scale applicable to him by the percentage or fixed amount, as the case may be, of any increase in the fixed salary or the maximum point of the salary scale appropriate to his working grade for the time being. Where the increase is of a fixed amount, and not a percentage, it shall not be subject to abatement.

TABLE

Case	Mode of determining salary
B	The person shall be entitled to receive the salary which he would have received if he had continued in the employment aforesaid, but subject to abatement. The amount which he would have received if he had continued in that employment shall be calculated by increasing his fixed salary or the salary scale applicable to him by the percentage or fixed amount, as the case may be, of any increase in the fixed salary or the maximum point of the salary scale appropriate to his working grade for the time being. Where the increase is of a fixed amount, and not a percentage, it shall not be subject to abatement. Any increments shall become payable at the same time and be subject to the same conditions as if he had continued in the said employment.

(2) Any person to whom sub-paragraph (1) above applies may elect to be paid a salary determined in accordance with the fixed salary or salary scale appropriate to his working grade for the time being and the scale point, if any, applicable to him.

(3) The scale point applicable to a person for the purpose of sub-paragraph (2) above and his entitlement to increments shall be determined in accordance with paragraphs 6(3) and (4) below as though he had made an election under paragraph 6(2) below.

(4) An election under sub-paragraph (2) above must be in writing and shall be irrevocable; and any person who is transferred by virtue of these regulations to the staff of the Director on or after 1st July 1986 and makes an election on or before 31st March 1987 may require the Director to give effect to it as though it had been made on any day between those dates which is specified in the notice of election.

(5) For the purposes of CASE A in sub-paragraph (1) above, a salary scale or a post or grade by reference to which a salary is fixed shall be treated as ceasing to exist if it is subject to any restructuring arrangement.

(6) Paragraph 1(2) above shall apply for the purpose of interpreting references in paragraph (1) above to a person's salary as it applies for the purpose of interpreting references in paragraph 1(1) above to a person's fixed salary or salary scale maximum point.

(7) Sub-paragraph (1) above shall have effect in relation to any person who, before he joined the staff of the Director, was employed by the Commissioner of Police of the Metropolis as if there were substituted for the period of 10 years there specified any unexpired portion (if it be greater than the said period of 10 years) of the period which, before he joined the staff of the Director, had become applicable to him, for a corresponding purpose, under and for the purposes of a scheme which had been authorised by the Treasury for the protection of pay of staff of the

Government Legal Service affected by restructuring arrangements and which the Commissioner had applied to his staff.

5.—(1) Where, immediately before the expiry of the period of 10 years mentioned in paragraph 4(1) above, any person continues to be paid a protected salary, his salary thereafter shall be determined in accordance with the following rules:

- (a) his gross salary shall be the aggregate of the following:
 - (i) the fixed salary or salary scale maximum point appropriate to his working grade (hereinafter referred to as “his basic salary”) for the time being; and
 - (ii) the difference (hereinafter referred to as “the lead”) between his basic salary at the expiry of the said period of 10 years and his protected salary at that point of time;
- (b) his gross salary shall be reduced by five equal annual reductions, the first being made on the tenth anniversary of the day on which he first joins the staff of the Director and each being equivalent to one-fifth of the lead and, subject to sub-paragraph (c) below, he shall be entitled to receive the net salary so determined; and
- (c) if at any time the result of the reduction made in accordance with sub-paragraph (b) above, coupled with any increase in his basic salary for the time being, would be that the net salary to which he would be entitled is less than his previous net salary, he shall be entitled (until the next reduction, if any, falls to be made) to receive that previous net salary.

(2) For the purposes of sub-paragraph (1) above a protected salary is one determined in accordance with paragraph 4(1) above.

6.—(1) A person to whom CASE C of paragraph 1 above applies shall, until such time as he makes an election in accordance with sub-paragraph (2) below, continue to be paid the salary (including any additional amount resulting from an increase in a fixed salary or salary scale applicable to him immediately before his transfer) which he would have received if he had continued in the employment of the authority by which he was employed immediately before he was transferred to the staff of the Director, but subject to abatement; and any increments shall become payable at the same time and be subject to the same conditions as if he had continued in that employment.

(2) A person to whom CASE C of paragraph 1 above applies may elect to receive a salary determined in accordance with the fixed salary or salary scale appropriate to his working grade for the time being and any scale point applicable to him by virtue of sub-paragraph (3) below.

(3) The scale point applicable to a person who makes an election under sub-paragraph (2) above shall be:

- (a) any age point on the salary scale corresponding to his own age; or
- (b) where the salary scale has age points but not one corresponding to his own age, the highest age point; or
- (c) where the salary scale has no age points, its minimum point; or
- (d) where either sub-paragraph (b) or sub-paragraph (c) above applies but his existing abated salary is greater than that which he would receive under either sub-paragraph (b) or (c) above, a point corresponding with his actual abated salary at the time of his election. (If this falls between two points on the salary scale, it shall constitute an “off-scale point”.)

(4) The entitlement of a person who makes an election under sub-paragraph (2) above to increments shall be determined in accordance with the entry in column 2 of the Table below corresponding with the provision specified in column 1 which determines the scale point applicable to him.

TABLE

1 Provision determining scale point	2 Entitlement to increment
Sub-paragraph (3)(a) above	His first increment shall be payable on his next birthday and subsequent increments annually thereafter.
Sub-paragraph (3)(b) or (c) above	His first increment shall be payable one year after his election and subsequent increments annually thereafter.
Sub-paragraph (3)(d) above	His first increment on the scale shall be payable on the day on which he would have been entitled to an increment if he had not been transferred to the staff of the Director, and subsequent increments annually thereafter. Where, for a period of one year or more prior to his transfer, a person has received a salary in accordance with the maximum point of his salary scale, the next increment shall be payable on the next anniversary of his receiving his last increment. In the case of an "off-scale point", the increment shall be so calculated that his new "off-scale point" is in the same position relative to the scale points immediately above and below it as his previous "off-scale point" was relative to the scale points immediately above and below that.

(5) An election under sub-paragraph (2) above must be in writing and shall be irrevocable; and any person who is transferred by virtue of these Regulations to the staff of the Director on or after 1 July 1986 and makes an election on or before 31 March 1987 may require the Director to give effect to it as though it had been made on any day between those dates specified in the notice of election.

(6) Paragraph 1(2) above shall apply for the purpose of interpreting references in paragraph (1) above to a person's salary as it applies for the purpose of interpreting references in paragraph 1(1) above to a person's fixed salary or salary scale maximum point.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide for the transfer to the staff of the Director of Public Prosecutions, who is to be the head of the Crown Prosecution Service, of persons employed in prosecution work by local or police authorities or certain other authorities or bodies.

Regulation 3 describes the persons eligible for transfer. They are persons employed wholly or mainly in connection with the discharge of prosecution functions, (ie, functions which, when the Prosecution of Offences Act 1985 comes into force, become functions of the Director) who are barristers, solicitors, articled clerks, and others assigned to one or more of the duties specified in Schedule 1 to the Regulations.

Regulation 4 provides the ordinary machinery for transfer. The Director is required to send to each person who appears to him to have been eligible for transfer on the "relevant day" (ie, the day 4 months before the day on which his employing authority's functions are transferred to the Director) a notice of intended transfer which will also inform him of certain matters relating to his grade, salary and other terms and conditions of employment if he is transferred. A person may object to the notice, or to certain of its contents, in the first instance to the Director and, if necessary, thereafter to an adjudicator appointed under Regulation 9.

Regulation 5 effects the transfer to the staff of the Director of persons to whom a notice of intended transfer has been sent and specifies the consequences of transfer. Such persons on transfer become civil servants who are governed by the Civil Service Pay and Conditions of Service Code and other instructions or regulations given or made from time to time by the Minister for the Civil Service or by the Treasury together with the principal civil service pension scheme. (Copies of these documents are held by the Director of Public Prosecutions at 4/12 Queen Anne's Gate, London SW1H 9AZ, and may be inspected there.) Schedule 2 has effect to determine the grade at which a person enters the Civil Service and Schedule 3 has effect to determine his salary and, where necessary, safeguards the salary level of a person who is earning before transfer more than the normal salary of the post to which he is to be transferred.

Regulation 6 imposes a duty on the Director to take reasonable steps to bring the Regulations to the notice of persons employed on prosecution functions.

Regulation 7 provides a procedure whereby a person who does not receive a notice of intended transfer may object to the Director (and thereafter to the adjudicator) on the ground that, on the relevant day, he was eligible to be transferred.

Regulation 8 governs the position where a person becomes eligible for transfer only after the relevant day. Such a person may not transfer unless the Director grants him a certificate of entitlement. The Director may, on application, grant such a certificate in any case and shall do so where the applicant's existing contract of employment was made before the date on which these Regulations come into operation.

Regulation 9 provides for the appointment by the Attorney General, after consultation with the Lord Chancellor, of an adjudicator and assistant adjudicators to determine matters referred for adjudication under the Regulations and establishes the associated procedural framework. Regulation 10 provides for informal resolution of questions arising under the Regulations. Regulation 11 allows staff to be transferred early if they consent and Regulation 12 specifies the manner in which notices required or authorised by the Regulations may be served.

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