
STATUTORY INSTRUMENTS

2010 No. 630

**The Marine and Coastal Access Act 2009 (Commencement
No. 1, Consequential, Transitional and Savings
Provisions) (England and Wales) Order 2010**

PART 2

South Wales Sea Fisheries Committee

Transfer of employees

5.—(1) Subject to the provisions of this article, all relevant employees transfer to and become, on the transfer date, members of the staff of the Welsh Assembly Government.

(2) The contract of employment of a relevant employee whose employment is transferred under paragraph (1)—

- (a) is not terminated by the transfer; and
- (b) has effect on and after the transfer date as if that employee had become a member of the staff of the Welsh Assembly Government on the date that that employee's employment by or on behalf of the South Wales Sea Fisheries Committee began.

(3) Without prejudice to paragraph (2)—

- (a) all the rights, powers, duties and liabilities under, or in connection with, the contract of employment of a relevant employee whose employment is transferred under paragraph (1), transfer to and vest in the Welsh Ministers on the transfer date; and
- (b) anything done before that date by, or in relation to, the South Wales Sea Fisheries Committee in respect of that contract of employment or that employee, is deemed on and after the transfer date to have been done by, or in relation to, the Welsh Ministers.

(4) Notwithstanding regulation 3(5) of the 2006 Regulations, the transfer effected by articles 5 and 6(1) is to be treated for all purposes as a relevant transfer within the meaning of the 2006 Regulations.

(5) Where a relevant employee becomes a member of the staff of the Welsh Assembly Government pursuant to paragraph (1), the period of employment with that employee's employer immediately before the transfer date—

- (a) counts as a period of employment as a member of the staff of the Welsh Assembly Government; and
- (b) is to be treated as continuous employment as a member of the staff of the Welsh Assembly Government for the purposes of section 218(3) of the Employment Rights Act 1996(1).

(6) Nothing in this article affects any right a person has to terminate a contract of employment if (apart from the change of employer) a substantial detrimental change is made in that person's working conditions.

(7) Notwithstanding regulation 4(7) of the 2006 Regulations, paragraphs (1) to (5) do not transfer a relevant employee's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if that employee objected to that transfer of that employee's contract of employment and had informed the Welsh Ministers in writing of that objection on or before 31st March 2010.

(8) Notwithstanding regulation 4(8) of the 2006 Regulations, where an employee has objected in accordance with paragraph (7)—

- (a) that employee's contract of employment is terminated on the transfer date; and
- (b) that employee is not to be treated for any purposes as having been dismissed.