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## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations relate to the treatment of employees, and related matters, in relation to a service provision change, and are made under Article 37(2) of the Employment Relations (Northern Ireland) Order 1999 (“the 1999 Order”).

These Regulations apply to Northern Ireland only. They should be read in conjunction with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“the 2006 Regulations”) (S.I. 2006/246) which make provision, in respect of Northern Ireland, for the treatment of employees, and related matters on the transfer of an undertaking or business. The principal provisions of the Regulations provide as follows—

Regulation 3 defines a service provision change.

Regulation 4 provides that a service provision change shall not operate to terminate the contract of employment of a person employed by the transferor and assigned to the organised grouping of resources or employees subject to a service provision change but that any such contract shall have effect after the transfer as if originally made between the person so employed and the transferee. The transferor’s powers, duties, rights and liabilities under or in connection with that employment contract shall transfer to the transferee. A variation to that employment contract by reason of the transfer is prohibited but that shall not prevent the employer and his employee from agreeing a variation to the contract for a reason unconnected with the transfer or a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce.

Regulation 5 provides that a collective agreement made by a transferor with a recognised trade union shall, after the change, have effect as if made by the transferee with that trade union.

Regulation 6 provides for the transfer of recognition of an independent trade union.

Regulation 7 provides that the dismissal of an employee by reason of the transfer is unlawful but that a dismissal for a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce is potentially lawful.

Regulation 8 applies where, at the time of the transfer, the transferor is subject to relevant insolvency proceedings, as defined in regulation 8(6). It provides that certain of an employer’s pre-existing debts to employees do not pass to the transferee but are instead met by the National Insurance Fund.

Regulation 9 provides greater scope for the transferee to vary, subject to certain requirements, the terms and conditions of employment of transferring employees in circumstances where the transferor is subject to relevant insolvency proceedings.

Regulation 10 provides that regulations 4 and 5 shall not apply to so much of a contract of employment or collective agreement as relates to any provision of an occupational pension scheme relating to old age, survivors or invalidity benefits.

Regulation 11 provides that the transferor shall provide employee liability information in respect of employees assigned to the organised grouping of resources or employees that is subject to a service provision change to the transferee in advance of a service provision change.

Regulation 12 provides a remedy to a transferee for the failure of a transferor to comply with regulation 11.

Regulation 13 imposes a duty on an employer to provide information to appropriate representatives of affected employees about a service provision change and measures he envisages taking in respect

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

of it, long enough before a service provision change to enable the employer to consult those representatives with a view to seeking their agreement to the intended measures.

Regulation 14 makes provision for the election of employee representatives where there is no recognised independent trade union.

Regulations 15 and 16 provide a remedy for a failure of an employer to comply with regulations 13 or 14.

Regulation 20 provides amendments consequential on these Regulations and corrects the 2006 Regulations insofar as they apply to Northern Ireland.

Regulation 21 provides that these Regulations shall apply to a service provision change that takes place on or after 6 April 2006.