
STATUTORY INSTRUMENTS

2006 No. 246

The Transfer of Undertakings (Protection of Employment) Regulations 2006

Effect of relevant transfer on contracts of employment

4.—(1) Except where objection is made under paragraph (7), a relevant transfer shall not operate so as to terminate the contract of employment of any person employed by the transferor and assigned to the organised grouping of resources or employees that is subject to the relevant transfer, which would otherwise be terminated by the transfer, but any such contract shall have effect after the transfer as if originally made between the person so employed and the transferee.

(2) Without prejudice to paragraph (1), but subject to paragraph (6), and regulations 8 and 15(9), on the completion of a relevant transfer—

- (a) all the transferor's rights, powers, duties and liabilities under or in connection with any such contract shall be transferred by virtue of this regulation to the transferee; and
- (b) any act or omission before the transfer is completed, of or in relation to the transferor in respect of that contract or a person assigned to that organised grouping of resources or employees, shall be deemed to have been an act or omission of or in relation to the transferee.

(3) Any reference in paragraph (1) to a person employed by the transferor and assigned to the organised grouping of resources or employees that is subject to a relevant transfer, is a reference to a person so employed immediately before the transfer, or who would have been so employed if he had not been dismissed in the circumstances described in regulation 7(1), including, where the transfer is effected by a series of two or more transactions, a person so employed and assigned or who would have been so employed and assigned immediately before any of those transactions.

[^{F1}(4) Subject to regulation 9, any purported variation of a contract of employment that is, or will be, transferred by paragraph (1), is void if the sole or principal reason for the variation is the transfer.

(5) Paragraph (4) does not prevent a variation of the contract of employment if—

- (a) the sole or principal reason for the variation is an economic, technical, or organisational reason entailing changes in the workforce, provided that the employer and employee agree that variation; or
- (b) the terms of that contract permit the employer to make such a variation.

(5A) In paragraph (5), the expression “changes in the workforce” includes a change to the place where employees are employed by the employer to carry on the business of the employer or to carry out work of a particular kind for the employer (and the reference to such a place has the same meaning as in section 139 of the 1996 Act).

(5B) Paragraph (4) does not apply in respect of a variation of the contract of employment in so far as it varies a term or condition incorporated from a collective agreement, provided that—

- (a) the variation of the contract takes effect on a date more than one year after the date of the transfer; and

Changes to legislation: *The Transfer of Undertakings (Protection of Employment) Regulations 2006, Section 4 is up to date with all changes known to be in force on or before 28 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) following that variation, the rights and obligations in the employee's contract, when considered together, are no less favourable to the employee than those which applied immediately before the variation.

(5C) Paragraphs (5) and (5B) do not affect any rule of law as to whether a contract of employment is effectively varied.]

(6) Paragraph (2) shall not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of and sentenced for any offence.

(7) Paragraphs (1) and (2) shall not operate to transfer the contract of employment and the rights, powers, duties and liabilities under or in connection with it of an employee who informs the transferor or the transferee that he objects to becoming employed by the transferee.

(8) Subject to paragraphs (9) and (11), where an employee so objects, the relevant transfer shall operate so as to terminate his contract of employment with the transferor but he shall not be treated, for any purpose, as having been dismissed by the transferor.

(9) Subject to regulation 9, where a relevant transfer involves or would involve a substantial change in working conditions to the material detriment of a person whose contract of employment is or would be transferred under paragraph (1), such an employee may treat the contract of employment as having been terminated, and the employee shall be treated for any purpose as having been dismissed by the employer.

(10) No damages shall be payable by an employer as a result of a dismissal falling within paragraph (9) in respect of any failure by the employer to pay wages to an employee in respect of a notice period which the employee has failed to work.

(11) Paragraphs (1), (7), (8) and (9) are without prejudice to any right of an employee arising apart from these Regulations to terminate his contract of employment without notice in acceptance of a repudiatory breach of contract by his employer.

F1 Reg. 4(4)-(5C) substituted for reg. 4(4)(5) (E.W.S.) (31.1.2014) by [The Collective Redundancies and Transfer of Undertakings \(Protection of Employment\) \(Amendment\) Regulations 2014 \(S.I. 2014/16\)](#), regs. 1(2), **6(1)** (with reg. 6(2))

Modifications etc. (not altering text)

C1 Reg. 4(7)(8) excluded (E.) (1.4.2010) by [The Marine and Coastal Access Act 2009 \(Commencement No. 1, Consequential, Transitional and Savings Provisions\) \(England and Wales\) Order 2010 \(S.I. 2010/630\)](#), arts. 1(2), **9(7)(8)** (with arts. 9(6), 12)

C2 Reg. 4(7)(8) excluded (W.) (1.4.2010) by [The Marine and Coastal Access Act 2009 \(Commencement No. 1, Consequential, Transitional and Savings Provisions\) \(England and Wales\) Order 2010 \(S.I. 2010/630\)](#), arts. 1(2), **5(7)(8)** (with arts. 5(6), 8)

Commencement Information

I1 Reg. 4 in force at 6.4.2006, see [reg. 1\(2\)](#)

Changes to legislation:

The Transfer of Undertakings (Protection of Employment) Regulations 2006, Section 4 is up to date with all changes known to be in force on or before 28 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations applied (with modifications) by [2014 c. 20 s. 9](#)