
STATUTORY INSTRUMENTS

2006 No. 246

The Transfer of Undertakings (Protection of Employment) Regulations 2006

Dismissal of employee because of relevant transfer

[^{F1}(1) Where either before or after a relevant transfer, any employee of the transferor or transferee is dismissed, that employee is to be treated for the purposes of Part 10 of the 1996 Act (unfair dismissal) as unfairly dismissed if the sole or principal reason for the dismissal is the transfer.

(2) This paragraph applies where the sole or principal reason for the dismissal is an economic, technical or organisational reason entailing changes in the workforce of either the transferor or the transferee before or after a relevant transfer.

(3) Where paragraph (2) applies—

(a) paragraph (1) does not apply;

(b) without prejudice to the application of section 98(4) of the 1996 Act (test of fair dismissal), for the purposes of sections 98(1) and 135 of that Act (reason for dismissal)—

(i) the dismissal is regarded as having been for redundancy where section 98(2)(c) of that Act applies; or

(ii) in any other case, the dismissal is regarded as having been for a substantial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held.

(3A) In paragraph (2), 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.)]

(4) The provisions of this regulation apply irrespective of whether the employee in question is assigned to the organised grouping of resources or employees that is, or will be, transferred.

(5) Paragraph (1) shall not apply in relation to the dismissal of any employee which was required by reason of the application of section 5 of the Aliens Restriction (Amendment) Act 1919⁽¹⁾ to his employment.

(6) Paragraph (1) shall not apply in relation to a dismissal of an employee if the application of section 94 of the 1996 Act to the dismissal of the employee is excluded by or under any provision of the 1996 Act, the 1996 Tribunals Act or the 1992 Act.

F1 Reg. 7(1)-(3A) substituted for reg. 7(1)-(3) (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), **8(1)** (with reg. 8(2))

(1) 1919 c. 92; section 5 was amended by the Former Enemy Aliens (Disabilities Removal) Act 1925 section 1 and Schedule 2, the Merchant Shipping Act 1970 section 100(3) and Schedule 5 and the Merchant Shipping Act 1995 section 314 and Schedule 12.

Changes to legislation: *The Transfer of Undertakings (Protection of Employment) Regulations 2006, Section 7 is up to date with all changes known to be in force on or before 27 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](#)*

Commencement Information

II [Reg. 7](#) in force at 6.4.2006, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to :

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