
STATUTORY INSTRUMENTS

2006 No. 246

**The Transfer of Undertakings (Protection
of Employment) Regulations 2006**

Insolvency

8.—(1) If at the time of a relevant transfer the transferor is subject to relevant insolvency proceedings paragraphs (2) to (6) apply.

(2) In this regulation “relevant employee” means an employee of the transferor—

- (a) whose contract of employment transfers to the transferee by virtue of the operation of these Regulations; or
- (b) whose employment with the transferor is terminated before the time of the relevant transfer in the circumstances described in regulation 7(1).

(3) The relevant statutory scheme specified in paragraph (4)(b) (including that sub-paragraph as applied by paragraph 5 of Schedule 1) shall apply in the case of a relevant employee irrespective of the fact that the qualifying requirement that the employee’s employment has been terminated is not met and for those purposes the date of the transfer shall be treated as the date of the termination and the transferor shall be treated as the employer.

(4) In this regulation the “relevant statutory schemes” are—

- (a) Chapter VI of Part XI of the 1996 Act;
- (b) Part XII of the 1996 Act.

(5) Regulation 4 shall not operate to transfer liability for the sums payable to the relevant employee under the relevant statutory schemes.

(6) In this regulation “relevant insolvency proceedings” means insolvency proceedings which have been opened in relation to the transferor not with a view to the liquidation of the assets of the transferor and which are under the supervision of an insolvency practitioner.

(7) Regulations 4 and 7 do not apply to any relevant transfer where the transferor is the subject of bankruptcy proceedings or any analogous insolvency proceedings which have been instituted with a view to the liquidation of the assets of the transferor and are under the supervision of an insolvency practitioner.