
STATUTORY INSTRUMENTS

2022 No. 1012

The Transfer of Undertakings (Protection of Employment) (Transfer of Staff to the Scottish Courts and Tribunals Service) Regulations 2022

Dismissal of employee because of relevant transfer

4.—(1) Subject to the following provisions of this regulation, where, either before or after a relevant transfer, any person employed (“the employee”) by the Transferor is dismissed, the 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 of the employee by the Transferor is an economic, technical or organisational reason entailing changes in the workforce of the Transferor before or after a relevant transfer.

(3) Where paragraph (2) applies—

(a) paragraph (1) does not apply; and

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

(i) for redundancy where section 98(2)(c) of that Act applies; or

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

(4) In paragraph (2), the expression “changes in the workforce” includes a change to the place where employees are employed by the Transferor to carry on the business of the Transferor or to carry out work of a particular kind for the Transferor (and the reference to such a place has the same meaning as in section 139 of the 1996 Act).

(5) The provisions of this regulation apply irrespective of whether the employee is a person to whom these Regulations apply.

(6) Paragraph (1) does not apply in relation to the dismissal of any employee if the application of section 94 of the 1996 Act is excluded by or under any provision of the 1996 Act, the Employment Tribunals Act 1996⁽²⁾ or the Trade Union and Labour Relations (Consolidation) Act 1992⁽³⁾.

⁽¹⁾ Section 98(4) is amended by [S.I. 2011/1069](#).

⁽²⁾ 1996 c. 17.

⁽³⁾ 1992 c. 52.