
STATUTORY INSTRUMENTS

2014 No. 16

**The Collective Redundancies and Transfer of Undertakings
(Protection of Employment) (Amendment) Regulations 2014**

Dismissal of employee because of relevant transfer

8.—(1) In regulation 7 (dismissal of employee because of relevant transfer), for paragraphs (1) to (3) substitute—

“(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⁽¹⁾ (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)⁽²⁾ 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).”.

(2) The amendment made by paragraph (1) applies in relation to any case where—

(a) the TUPE transfer takes place on or after 31st January 2014, and

(b) the date when any notice of termination is given by an employer or an employee in respect of any dismissal is 31st January 2014 or later, or, in a case where no notice is given, the date on which the termination takes effect is 31st January 2014 or later.

(1) Part 10 has been amended on a number of occasions. The main relevant amendment to Part 10 was made by the Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order 2012 (S.I. 2012/989), article 3.

(2) Section 98(4) has been amended by the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 (S.I. 2011/1069), regulation 3(1) and (2)(b).