



# TUPE – An introduction

Transfer of undertakings (Protection of Employment)  
Regulations 2006 (as amended)

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# What is a TUPE Transfer?

A 'TUPE transfer' happens when:

- an organisation, or part of it, is transferred from one employer to another
- a service is transferred to a new provider for the same client (service provision change)
  - A service performed in-house is contracted out
  - An already contracted out service is moved to a new contractor
  - A contracted out service is taken back in-house


## Protection of Employees

- Employees automatically transfer to a new employer
- Transfer is on existing terms and conditions
- Treated as if an employee of the new employer since their contracts of employment started (retaining continuity of service)
- Transfer of accrued rights
- Pension rights – additional protection under separate legislative provisions
  
- Employees can object to a transfer in which case they will be treated as resigning and will not transfer.
- Employer cannot choose who transfers


# Preparing for Transfer

- Identify who will transfer
- Inform and consult with recognised trade unions or elected representatives about the transfer and any measures
  - Measures are changes to working practices
  - Compensation of up to 13 weeks gross pay for each employee for failures
- Provision of Employee Liability Information
- New Employer needs to plan for incoming employees to minimise disruption
- Good practice considerations –
  - Induction and orienteering
  - Equipment and working areas check
  - Training needs

## Employee Liability Information

- Identities of the transferring employees
  - Terms and Conditions of Employment
  - Information on any disciplinary procedure or grievance procedure within the previous two years
  - Information on any legal action
  - Information about any collective agreement
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## Changing Terms of Employment

- TUPE protects against changes to terms and conditions and harmonisation unless improves terms and conditions.
  - Cannot amend terms of employment to the detriment of employees if the sole or principal reason is the transfer.
  - Cannot dismiss employees where the sole or principal reason is the transfer
  - There is limited scope to vary terms of employment or dismiss transferring employees where there is a Economical, technical or organisational change in the workforce.
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## Changing Terms of Employment cont.

- Economic, technical or organisational (ETO) reasons –
- Must be a change in the workforce, for example a restructure or redundancies.
- Examples –
  - essential cost-saving requirements (economic reasons)
  - using new processes or equipment (technical reasons)
  - making changes to the structure of an organisation (organisational reasons)