

CENTRAL BIRMINGHAM COLLEGE



Commercial & Community
Education, Training & Development

**Transfer of Undertakings (Protection) of
Employment & Collective Redundancies Agreement**

Regulations 2006 – 2014

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Foreword

Welcome to Central Birmingham College, Commercial and Community Education, Training and Development Training Programme guide. Our three circles of ambitions logo underpin the philosophical mantra of CBC which represents: education, training and development. Each though distinct, mushrooms into individualised yet functional challenging roles enmeshed by factors such as need and knowledge acquisition. Our mission is to increase educational, training and development successes; delivered through a combination of research led, learning and training methods and approaches, with the help of technologies in furtherance to individual and group based competencies that elevates and benefits the modern day work environment. Simply put, our aim is to leverage:

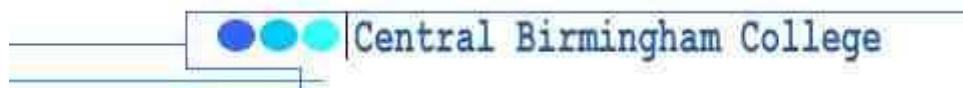
‘... impacted skills and knowledge development in a transformational and forward thinking climate of training and development with added value to both industry and community cocooned by exemplar procedural best practices...’

Thus the ethos of CBC is built upon and around adding individualised and group strength; much of which is apparent at the point of delivery through our dedicated research based and professionally trained team of developers and trainers. In addition to this and one that scopes the training programme is the post operative training follow-up after-care pastoral services that is available to all that attend specified training programmes as a measure to further aid on the job training transfer. Hence our strengths and differences from other training providers presents clear waters much of which is reflected throughout our training and development programmes.

Finally, can I take the time in thanking all that attend one of the many training programmes we have on offer and wish success in furtherance to achieving personal development, job competencies, knowledge and skill acquisition. All education, training and development programmes are accredited through CPD or standardised accreditation unless otherwise stated. We remain strong supporters of community based education and training programmes and apportion fifty per cent of profits to charitable causes.

Bertram A Richards LLB (Hons) M.A.,

Central Birmingham College



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The Transfer of Undertaking Protection of Employment Regulation 2006 – Collective Redundancies and Transfer of Undertaking (Protection of Employment) (Amendment) Regulation 2014

Introduction

The prohibitions and penalties of the Transfer of Undertaking (Protection) of Employment Regulations 2006 and the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 amass numerous complexities in protection to the rights of the employee in matters of business sale or merger transfer. It is insufficient to note a business or merger transfer from A to B without added conundrums and puzzles such as insolvency, pension rights, unionism, collective rights and representations, warranties, covenants, liabilities, due diligence and the main ingredient - the employee to the TUPE melting pot etc. The conundrums goes still further often meted out by the courts through judicial interpretations centred on prohibited rights such as dismissal, what constitutes undertakings, groupings and activities, economic, technical or organisational to reasoning entailing 'changes in the workforce' flavoured with international formalities.

The EC Directive (2001/23) EU UK Transfer of Undertakings Protection of Employment Regulation 2006 and the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014

The Transfer of Undertakings and Protection of Employment Regulations came into force on 6 April 2006 superseding the 1981 regulations which evolved and implemented from the Acquired Rights Directive (2001/23) EU. The regulations apply to any relevant business transfer or undertakings whether in part or otherwise as a means of safeguarding the rights of employees. The Transfer of Undertakings and Protection of Employment Regulations introduced three concepts into UK Employment Law:

- Inherited employee rights, liabilities, obligations from the transferor to the transferee
- Prohibition against dismissal in connection to a transfer – with exceptions
- Informative consultative and affected employee representation

Various changes to the Transfer of Undertakings Protection of Employment Regulation 2006 were made by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 subject to transitional and saving provisions in reducing the scope to gold plating. As such, the amendment revoked a provision for example that addressed variation connected with a transfer which seems contrary to the spirit of the EU Directive.

When does Transfer of Undertakings Protection of Employment Regulation 2006 apply?

The Transfer of Undertakings Protection of Employment Regulation 2006 applies to a relevant transfer being interpreted either or both of the following:

- A transfer of an undertaking, business or part of an undertaking or business situated immediately before the transfer in the United Kingdom to another person where there is a transfer of an economic entity which retains its identity (reg. 3(1)(a).
- A service provision change involving outsourcing, reassignment and insourcing (reg. 3(1)(b).

As noted above, the Transfer of Undertakings Protection of Employment Regulation 2006 throws up numerous issues of debate. Many of which entails issues such what constitute an organised grouping of resources to what is meant by objectively pursuing an 'economic activity' or organisational matters such as operating for gain, transactions, time or operating outside of territorial jurisdiction.

N.B: Some aspects of the Transfer of Undertakings and Protection of Employment Regulations 2006 and the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 do not apply in Northern Ireland except where otherwise provided.

Given the above, the main aim and objectives of attending the CBC training and development programme is to unravel the above maze from the inception of the Acquired Rights Directive 2001/ 23/EC and to un-puzzle the complexities brought forward by the Transfer of Undertakings Protection of Employment Regulation 2006 (TUPE) and the Collective Redundancies and the Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 in the mode of everyday bite size language usage; acronyms and jargon free from terms usually associated with the legal profession and expert legal drafters etc. In short the programme is structured around how the Transfer of Undertakings and Protection of Employment Regulations 2006 and the Collective Redundancies and the Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 affects mergers and acquisitions.

The programme is delivered over two-days. It is important that the delegates attend with a view to fully participating in this highly interactive programme. CBC has employed and consolidates a number of learning and training methods and approaches in programme delivery much of which is exercised based. As the programme contains numerous references to UK and EU Legislation, case law will form the backbone of course delivery as case law best illustrates the operations of the regulations. As well as having a spacious environment for programme delivery, group interaction is encouraged throughout.

Further, although social media and technology is made use of throughout the programme, this is minimised as understandings of legal concepts are best suited to group work interaction. Near the end of the programme delegates are given a group based summative test to undertake – which will be individually marked and forwarded to all delegates as a means of pastoral after- care and follow-up feedback etc.

Objectives/ Outcomes: By the end of this course you will be able to:

- Understand the various stages of a business and service provision transfer
- To interpret the requirement of the Transfer of Undertakings Protection of Employment Regulation 2006 and the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014
- Understand both the rights of employees and the obligations of employers
- Apply the principles to your own organisations

This programme is suitable for HR Line Managers, Owners with little or no prior knowledge of the Transfer of Undertakings Protection of Employment Regulation 2006 (TUPE) and the Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.

PROGRAMME TRAINING COURSE: Transfer of Undertakings Protection of Employment Regulation 2006 (TUPE) and the Collective Redundancies Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014

Duration: 09.30am – 16.30pm

Introduction & Background: EU and UK Law (Directives, Regulations, Primary and Secondary UK Legislation) Tribunals, Remedies.

- Overview of Transfer of Undertakings Protection of Employment Regulations 2006 – Provisions, Concepts and Terms
- Overview Collective redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 – provision/ changes, concepts and terms

Transfer of Undertakings Protection of Employment Regulation 2006 & 2014

Part 1

- What makes a Transfer: Business
- Obstacles & Concepts/ Case studies:
- Service Provision Change
- Obstacles & Concepts/ Case studies
- Summary

Part 2

Individual Contractual Rights

- Who and what transfers
- Obstacles & Concepts/ Case studies
- Refusal
- Obstacles & Concepts/ Case studies
- Summary

Part 3

Conditional Terms

- Insolvency
- Redundancies
- Pensions
- Obstacles & Concepts/ Case studies
- Summary

Part 4

Informative Rights, Consultations & Representations

- Informative Rights
- Unionism & Collective Rights
- Consultation
- Representation
- Remedies
- Obstacles & Concepts/ Case studies
- Summary

Part 6

Dismissal

- Automatically unfair dismissal
- Constructive dismissal
- Implications
- Defence
- Obstacles & Concepts/ Case studies
- Summary

Programme End Summary/ Conclusion and Feedback

BUFFET AND LIGHT REFRESHMENT SERVED

THROUGHOUT THE PROGRAMME



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