



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART IV

INDUSTRIAL RELATIONS

CHAPTER II

PROCEDURE FOR HANDLING REDUNDANCIES

Supplementary provisions

[^{F1}198A. Employees being transferred to the employer from another undertaking

- (1) This section applies where the following conditions are met—
 - (a) there is to be, or is likely to be, a relevant transfer,
 - (b) the transferee is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, and
 - (c) the individuals who work for the transferor and who are to be (or are likely to be) transferred to the transferee's employment under the transfer ("transferring individuals") include one or more individuals who may be affected by the proposed dismissals or by measures taken in connection with the proposed dismissals.
- (2) Where this section applies, the transferee may elect to consult, or to start to consult, representatives of affected transferring individuals about the proposed dismissals before the transfer takes place ("pre-transfer consultation").
- (3) Any such election—
 - (a) may be made only if the transferor agrees to it, and
 - (b) must be made by way of written notice to the transferor.

Status: Point in time view as at 31/01/2014.

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Section 198A is up to date with all changes known to be in force on or before 17 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) If the transferee elects to carry out pre-transfer consultation—
- (a) sections 188 to 198 apply from the time of the election (and continue to apply after the transfer) as if the transferee were already the transferring individuals' employer and as if any transferring individuals who may be affected by the proposed dismissals were already employed at the establishment mentioned in subsection (1)(b) (but this is subject to section 198B), and
 - (b) the transferor may provide information or other assistance to the transferee to help the transferee meet the requirements of this Chapter.
- (5) A transferee who elects to carry out pre-transfer consultation may cancel that election at any time by written notice to the transferor.
- (6) If the transferee cancels an election to carry out pre-transfer consultation—
- (a) sections 188 to 198 no longer apply as mentioned in subsection (4)(a),
 - (b) anything done under those sections has no effect so far as it was done in reliance on the election,
 - (c) if the transferee notified an appropriate representative, a transferring individual or the Secretary of State of the election or the proposed dismissals, the transferee must notify him or her of the cancellation as soon as reasonably practicable, and
 - (d) the transferee may not make another election under subsection (2) in relation to the proposed dismissals.
- (7) For the purposes of this section and section 198B—
- “affected transferring individual” means a transferring individual who may be affected by the proposed dismissals or who may be affected by measures taken in connection with the proposed dismissals;
- “pre-transfer consultation” has the meaning given in subsection (2);
- “relevant transfer” means—
- (a) a relevant transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006,
 - (b) anything else regarded, by virtue of an enactment, as a relevant transfer for the purposes of those Regulations, or
 - (c) where an enactment provides a power to make provision which is the same as or similar to those Regulations, any other novation of a contract of employment effected in the exercise of that power,
- and “transferor” and “transferee” are to be construed accordingly;
- “transferring individual” has the meaning given in subsection (1)(c).]

Textual Amendments

- F1** Ss. 198A, 198B inserted (31.1.2014) by [The Collective Redundancies and Transfer of Undertakings \(Protection of Employment\) \(Amendment\) Regulations 2014 \(S.I. 2014/16\)](#), regs. 1(2), **3(1)**

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