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## STATUTORY INSTRUMENTS

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# 2006 No. 246

## The Transfer of Undertakings (Protection of Employment) Regulations 2006

### Pensions

10.—(1) Regulations 4 and 5 shall not apply—

- (a) to so much of a contract of employment or collective agreement as relates to an occupational pension scheme within the meaning of the Pension Schemes Act 1993(1); or
- (b) to any rights, powers, duties or liabilities under or in connection with any such contract or subsisting by virtue of any such agreement and relating to such a scheme or otherwise arising in connection with that person's employment and relating to such a scheme.

(2) For the purposes of paragraphs (1) and (3), any provisions of an occupational pension scheme which do not relate to benefits for old age, invalidity or survivors shall not be treated as being part of the scheme.

(3) An employee whose contract of employment is transferred in the circumstances described in regulation 4(1) shall not be entitled to bring a claim against the transferor for—

- (a) breach of contract; or
- (b) constructive unfair dismissal under section 95(1)(c) of the 1996 Act,

arising out of a loss or reduction in his rights under an occupational pension scheme in consequence of the transfer, save insofar as the alleged breach of contract or dismissal (as the case may be) occurred prior to the date on which these Regulations took effect.

#### Modifications etc. (not altering text)

- C1** Reg. 10 applied (with modifications) (1.4.2013) by [The Transfer of Undertakings \(Protection of Employment\) \(Transfers of Public Health Staff\) Regulations 2013 \(S.I. 2013/278\)](#), regs. 1(1), **4**
- C2** Reg. 10 applied (with modifications) (11.6.2021) by [The Transfer of Undertakings \(Protection of Employment\) \(Transfer of Staff to the Civil Aviation Authority\) Regulations 2021 \(S.I. 2021/595\)](#), regs. 1(2), **4(1)** (with reg. 2)
- C3** Reg. 10 applied (with modifications) (1.10.2021) by [The Transfer of Undertakings \(Protection of Employment\) \(Transfer of Public Health England Staff\) Regulations 2021 \(S.I. 2021/975\)](#), regs. 1(1), **4** (with reg. 2)
- C4** Reg. 10 applied (with modifications) (24.12.2021) by [The Transfer of Undertakings \(Protection of Employment\) \(Transfer of Staff to the Office for Environmental Protection\) Regulations 2021 \(S.I. 2021/1353\)](#), regs. 1(2), **4** (with reg. 2)
- C5** Reg. 10 applied (with modifications) (21.10.2022) by [The Transfer of Undertakings \(Protection of Employment\) \(Transfer of Staff to the Scottish Courts and Tribunals Service\) Regulations 2022 \(S.I. 2022/1012\)](#), regs. 1(1), **5** (with reg. 2)

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(1) 1993 c. 48; section 1, which defines occupational pension scheme, was amended by the Welfare Reform & Pensions Act 1999 (c. 30) section 18 and Schedule 2, the Pensions Act 2004 (c. 35) section 239 and S.I. 1999/1820.

**Status:** Point in time view as at 21/10/2022.

**Changes to legislation:** The Transfer of Undertakings (Protection of Employment) Regulations 2006, Section 10 is up to date with all changes known to be in force on or before 24 June 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)

### Commencement Information

**II** [Reg. 10](#) in force at 6.4.2006, see [reg. 1\(2\)](#)

**Status:**

Point in time view as at 21/10/2022.

**Changes to legislation:**

The Transfer of Undertakings (Protection of Employment) Regulations 2006, Section 10 is up to date with all changes known to be in force on or before 24 June 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.