

**2009 No. 592**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Transfer of Undertakings (Protection of Employment)  
(Amendment) Regulations 2009**

<i>Made</i> - - - -	<i>10th March 2009</i>
<i>Laid before Parliament</i>	<i>12th March 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) (being a Minister designated for the purposes of that section in relation to rights and obligations relating to employers and employees on the transfer or merger of undertakings, businesses or parts of businesses(b)).

**Citation and commencement**

1.—(1) These Regulations may be cited as the Transfer of Undertakings (Protection of Employment)(Amendment) Regulations 2009.

(2) These Regulations shall come into force on 6th April 2009.

**Amendment of the Transfer of Undertakings (Protection of Employment) Regulations 2006**

2.—(1) The Transfer of Undertakings (Protection of Employment) Regulations 2006(c) are amended in accordance with paragraphs 2 and 3.

(2) In regulation 11(2)(c) replace “the Employment Act 2002 (Dispute Resolution) Regulations 2004 apply” with “a Code of Practice issued under Part IV of the Trade Union and Labour Relations Act 1992(d) which relates exclusively or primarily to the resolution of disputes applies”.

(3) In paragraph 10(2) of Schedule 1 replace “the Employment Act 2002 (Dispute Resolution) Regulations 2004” with “a Code of Practice issued under Part IV of the Trade Union and Labour Relations Act 1992 which relates exclusively or primarily to the resolution of disputes”.

10th March 2009

*Pat McFadden*  
Minister of State for Employment Relations and Postal Affairs  
Department for Business, Enterprise & Regulatory Reform

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(a) 1972 c.68.  
(b) See the European Communities (Designation) (No.2) Order 1977 (S.I. 1977/1718).  
(c) S.I. 2006/246.  
(d) 1992 c.52. Relevant amendments made by the Employment Act 2002 (c 22), the Employment Rights (Dispute Resolution) Act 1998 (c. 8) and the Employment Act 2008 (c. 24).

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) to take account of changes made by the Employment Act 2008 (c. 24). That Act repealed the statutory dispute resolution procedure and provided instead for ACAS to issue a Code of Practice relating exclusively or primarily to procedure for the resolution of disputes. Regulation 11 of TUPE requires the notification of disciplinary or grievance procedures taken against or by an employee in circumstances where the statutory dispute resolution procedures apply. Regulation 2 of these regulations amends regulation 11 of TUPE so that notification is required instead where a relevant Code of Practice applies. Regulation 3 of these Regulations makes a consequential amendment to Schedule 1 of TUPE.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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