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STATUTORY INSTRUMENTS

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**2014 No. 16**

**The Collective Redundancies and Transfer of Undertakings  
(Protection of Employment) (Amendment) Regulations 2014**

**Restrictions on varying contracts**

**6.—(1)** In regulation 4 (effect of relevant transfer on contracts of employment), for paragraphs (4) and (5) substitute—

“(4) Subject to regulation 9, any purported variation of a contract of employment that is, or will be, transferred by paragraph (1), is void if the sole or principal reason for the variation is the transfer.

(5) Paragraph (4) does not prevent a variation of the contract of employment if—

- (a) the sole or principal reason for the variation is an economic, technical, or organisational reason entailing changes in the workforce, provided that the employer and employee agree that variation; or
- (b) the terms of that contract permit the employer to make such a variation.

(5A) In paragraph (5), the expression “changes in the workforce” includes a change to the place where employees are employed by the employer to carry on the business of the employer or to carry out work of a particular kind for the employer (and the reference to such a place has the same meaning as in section 139 of the 1996 Act<sup>(1)</sup>).

(5B) Paragraph (4) does not apply in respect of a variation of the contract of employment in so far as it varies a term or condition incorporated from a collective agreement, provided that—

- (a) the variation of the contract takes effect on a date more than one year after the date of the transfer; and
- (b) following that variation, the rights and obligations in the employee’s contract, when considered together, are no less favourable to the employee than those which applied immediately before the variation.

(5C) Paragraphs (5) and (5B) do not affect any rule of law as to whether a contract of employment is effectively varied.”.

(2) The amendment made by paragraph (1) applies in relation to any purported variation of a contract of employment that is transferred by a TUPE transfer if—

- (a) the TUPE transfer takes place on or after 31st January 2014, and
- (b) that purported variation is agreed on or after 31st January 2014, or, in a case where the variation is not agreed, it starts to have effect on or after that date.

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<sup>(1)</sup> Regulation 2(1) of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) defines “the 1996 Act” to mean the Employment Rights Act 1996 (c.18). There are amendments to section 139 which are not relevant to this provision.