
STATUTORY INSTRUMENTS

2006 No. 246

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

Remedy for failure to notify employee liability information

12.—(1) On or after a relevant transfer, the transferee may present a complaint to an employment tribunal that the transferor has failed to comply with any provision of regulation 11.

(2) An employment tribunal shall not consider a complaint under this regulation unless it is presented—

- (a) before the end of the period of three months beginning with the date of the relevant transfer;
- (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

(3) Where an employment tribunal finds a complaint under paragraph (1) well-founded, the tribunal—

- (a) shall make a declaration to that effect; and
- (b) may make an award of compensation to be paid by the transferor to the transferee.

(4) The amount of the compensation shall be such as the tribunal considers just and equitable in all the circumstances, subject to paragraph (5), having particular regard to—

- (a) any loss sustained by the transferee which is attributable to the matters complained of; and
- (b) the terms of any contract between the transferor and the transferee relating to the transfer under which the transferor may be liable to pay any sum to the transferee in respect of a failure to notify the transferee of employee liability information.

(5) Subject to paragraph (6), the amount of compensation awarded under paragraph (3) shall be not less than £500 per employee in respect of whom the transferor has failed to comply with a provision of regulation 11, unless the tribunal considers it just and equitable, in all the circumstances, to award a lesser sum.

(6) In ascertaining the loss referred to in paragraph (4)(a) the tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to any damages recoverable under the common law of England and Wales, Northern Ireland or Scotland, as applicable.

(7) Section 18 of the 1996 Tribunals Act (conciliation) shall apply to the right conferred by this regulation and to proceedings under this regulation as it applies to the rights conferred by that Act and the employment tribunal proceedings mentioned in that Act.