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# EMCC

European Monitoring Centre on Change

## Ireland: Staff information and consultation on business transfers

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Ireland

Phase:

Anticipation

 Type: [Staff information and consultation on business transfers](#)

Last modified: 10 October, 2019

Native name:	European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003; S.I. No. 131/2003; S.I. No. 15/2018 - European Communities (Seafarers) Regulations 2018
English name:	European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003; S.I. No. 131/2003; S.I. No. 15/2018 - European Communities (Seafarers) Regulations 2018

### Article

S.I. No. 131/2003 article no. 8; S.I. No. 15/2018 articles no. 4-5

### Description

Both the original (transferor) and new employer (transferee) has a duty to inform the employee representatives (article no.8) of the date of transfer; the reasons for the transfer; the legal implications of the transfer for the employees and a summary of any relevant economic and social implications of the transfer for them; and any measures envisaged in relation to the employees. This must be done at least 30 days in advance of the planned transfer.

If the employees do not have representatives, the transferee or transferor employer must put in place a procedure whereby employees can choose amongst themselves a person(s) to represent them. Where no representatives have been selected, all affected employees are to be informed, in writing, no less than 30 days in advance of the transfer, of the relevant aforementioned criteria.

In a transfer of undertakings scenario, existing terms and conditions of employment (except pensions) and terms of any standing collective agreement remain in place for employees, until the agreement expires or a new agreement is negotiated. There is no interruption in employment with a transfer of undertakings - the owner of the undertakings changes hands, but the employment contract is not broken with service being continuous.

Information required must also include the the number of agency workers temporarily engaged in the undertaking concerned; those parts of the undertaking in which those agency workers are, for the time being, working; and the type of work that those agency workers are engaged to do. In 2012, obligations under Regulation 8 of the Statutory Instrument were amended to incorporate agency workers.

From 2018, seafarers are no longer excluded from relevant consultation provisions.

### Comments

Dr John McMullen (Leeds University) - writing in 2004 - commented that the information and consultation procedures under regulation 8 'are largely similar to Statutory Instrument 306 of 1980, as amended by Statutory Instrument No 487 of 2000, save that more specific information must now be given.'

The information and consultation provisions in the regulations were highlighted by Dr McMullen as one area of improvement from prior provisions, such as the incorporating of the improved complaints procedure for failure to inform and consult under the 2000 regulations, with an application to a Rights Commissioner and further recourse to the Employment Appeals Tribunal (for an award of up to 4 weeks' pay per affected employee) as opposed merely to a criminal penalty.

#### Cost covered by

Not applicable






#### Involved actors other than national government

Trade union  
Works council

### Thresholds

No, applicable in all circumstances

### Sources

-  Purdy, A. (2011), Termination of Employment: A Practical Guide for Employers (2nd ed.), Bloomsbury Professional
-  Watson Wyatt (2006), Employment Terms & Conditions Report Europe Volume I, Brussels, Belgium
-  [European Communities \(Protection of Employees on Transfer of Undertakings\) Regulations 2003 S.I. No. 131/2003](#)
-  McMullen, John (2004), Business Transfers and Employee Rights (Butterworths)
-  [2012 amendment to 2003 regulations](#)
-  [SI 15/2018, European Communities \(Seafarers\) Regulations 2018](#)

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