

## Transfer of Undertakings (Protection of Employment) changes expected in January 2014

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In response to its recent consultation on [proposed changes to the Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \("TUPE"\)](#), the Government has published the equally snappily-titled Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2013. These draft regulations will be laid before Parliament ahead of an expected implementation date in January 2014.

One of the key changes proposed is an amendment to the redundancy consultation provisions in the [Trade Union and Labour Relations \(Consolidation\) Act 1992 \("TULRCA"\)](#). A proposed new section 198A of TULRCA will provide that a transferee employer may elect to consult representatives of affected transferring employees collectively about proposed redundancy dismissals before the transfer takes place, provided that the transferor agrees to the consultation.

TUPE operates to transfer the contracts of employees providing a service to a subsequent service provider where there has been a "service provision change" (ie, where the client changes contractor, or outsources or insources work). The draft regulations seek to bring the service provision change rules more in line with case law, by providing that TUPE will only apply in respect of a service provision change where post-transfer activities are "fundamentally the same as the activities carried out previously".

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