

How TUPE impacts you if you are selling your business.

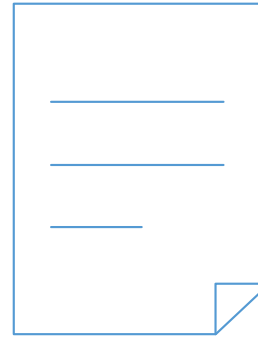
If your business hires employees, it is more than likely that they are protected by the Transfer of Undertakings (Protection of Employment) regulations, also known as TUPE. This means that if you're selling your business, you must act in compliance with TUPE's provisions.

TUPE applies to all UK-based, privately-owned businesses that hire permanent employees. The regulations stipulate that employees should retain their positions as well as all terms and conditions of their employment contracts under the business' new ownership, unless a position is being made redundant or if the company is insolvent.

TUPE does not protect temporary employees, independent contractors or the self-employed. If you're planning on selling your business or part of your business, whether it's through a merger or a straightforward acquisition, the sale will be considered a 'business transfer' under TUPE, and you will be required to take certain measures in accordance with its regulations.

Before transferring ownership of your business, you must inform the relevant trade union or employee representatives of why and when the transfer will occur, and how it will affect your employees. You must also clarify whether there will be any reorganisation of the business and inform the representatives of any legal or economic implications of the transfer for affected employees.

In smaller businesses with less than 10 members of staff, you can deal directly with employees rather than representatives. Whether informing employees or



representatives, you must do so at the earliest opportunity, so that there is sufficient time for your consultation with your workforce.

As the transferor, you must also provide the new employer with written details of all the employees who will be transferred, including their rights, the liabilities, any disciplinary records, collective agreements, and the particulars of each position. The incoming employer must receive this information at least 14 days before the transfer is complete, but it is recommended that you provide the information much earlier where possible.

Once the sale of your business is complete, you must prepare an up-to-date written statement of employment that informs the employees of their new employer's name and confirms that the terms and conditions of their employment contract are the same. Following the transfer, it is legally the new employer's responsibility to ensure that all aspects of your former employee's contracts remain intact.

The penalties for failing to comply with TUPE can be severe, and an outgoing employer may be forced to give affected employees up to 13 weeks' pay as compensation if proper consultations aren't carried out.

To ensure you are fully compliant with all TUPE provisions or for expert advice on business or personal legal issues, call us on +44 (0)20 3475 6751 or via email at info@carterbond.co.uk

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