

## If an employer is insolvent

If an organisation cannot pay its debts, it is insolvent.

TUPE regulations protect employees' rights when they transfer to a new employer. This includes transfers when the old employer is insolvent.

In a TUPE transfer, the type of insolvency and when it happened will affect:

- who pays any money owed to employees
- what protections employees have under TUPE

If an organisation – or a part of it – is being rescued and transferred or taken over by a new owner, employees are protected under TUPE.

If an organisation is closing down, employees are not protected under TUPE. This is because there's no transfer.

The employer should appoint an insolvency practitioner (IP). Find out more from [The Insolvency Service on GOV.UK](#).

## When an organisation is taken over

If an insolvent organisation is sold and stays in business, their employees automatically transfer to the new employer.

Employees keep their existing terms and conditions. This includes:

- their original start date
- wages
- holiday pay

The new employer or the insolvency practitioner can make changes to employees' terms and conditions. However, only if:

- it helps to protect jobs by keeping the business going
- they consult with a recognised trade union or employee representatives and get their agreement

## If employees transfer before insolvency

If employees are transferred before the old employer becomes insolvent, the new employer must pay any money employees are owed. For example, wages or holiday pay.

Employees cannot claim compensation from the government's Redundancy Payment Service.

## If employees transfer after insolvency

If employees are transferred after the old employer becomes insolvent, the new employer is not liable for money the old employer owes to employees.

Employees can claim some or all of the money they're owed from the Redundancy Payment Service. This includes wages and holiday pay.

To apply, they need a case reference number from the insolvency practitioner.

[Find out how to apply to the Redundancy Payment Service on GOV.UK](#)

## When an organisation closes down

Employees do not transfer to a new employer if the old employer:

- goes into 'liquidation' and closes down
- becomes bankrupt

Instead, the old employer should make employees redundant.

Employees can claim for some of the money they're owed from the Redundancy Payment Service. This can include:

- statutory redundancy pay
- wages they're owed
- statutory notice pay
- holiday pay

To apply, they need a case reference number from the insolvency practitioner.

[Find out how to apply to the Redundancy Payment Service on GOV.UK](#)

## More information

Find out more about:

- [redundancy](#)
- [your rights if your employer is insolvent on GOV.UK](#)