

Business Asset Transfer Checklist

<i>Asset</i>	<i>Consent of 3rd Party Required?</i>	<i>Obligations</i>
Employees	No	Will be transferred on same terms and conditions. Need to consult under TUPE.
Pension Fund	Yes – Pension Trustees	May be obligations to transfer. Consider winding up old pension scheme.
Property – leasehold	Yes – landlords and superior landlords	Will have to pay for consent. May be withheld. Always takes some time.
Property – freehold	No	Will need to re-register at HM Land Registry.
Intellectual property – registered	No	Need a separate agreement to transfer. Must re-register at correct registry.
Intellectual property – unregistered	No	May need a separate agreement to transfer.
Domain names	No	Transferor needs to notify registering authority (Nominet in UK).
Trading contracts	Yes	Consent of third party required to transfer “burden” (i.e. obligation of contract). Major contracts may need format innovation.
Lease/Hire-Purchase Contracts	Yes	Consent of Lease/Hire Purchase company required. If not obtained Lease/Hire Purchase company may be able to cancel.
Lenders	Yes	Will be an act of default if transfer without consent.
Licences/Consents (eg Consumer Credit Act, Waste Transfer, Enviro & Product Licences)	Yes	These are usually non-transferable and will need to be reapplied for. Check that purchaser can operate without them until new ones obtained.
Vehicles	No	Need to file correct forms at DVLA.

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Book debts	No	Need to give a S.136 Law of Property Act 1925 Notice prior to suing for recovery of any debt.
Directors' Consent	Yes	Consent of Board required. Should hold Board Meetings and record agreement to sell.
Shareholders' Consent	No (unless a listed company when consent may be required) or where there is a shareholders' agreement restricting board's ability to sell assets without investor consents	Directors generally able to sell business and assets if in the best interests of the Company as a whole.
Guarantors	No	Should consider whether company has the benefit of any guarantees. If so this benefit will be lost on transfer.
Insurances	No	Should cancel old insurances and make sure that assets covered by new insurances arranged at time of transfer.
Re-seller or Marketing Licences	Yes	Usually cannot be assigned or transferred without consent of third party.
Distribution Agency	Yes	Cannot unilaterally transfer to new company without consent of third party.
Liabilities	Yes	The liabilities will remain the primary responsibility of the transferring company. However, the purchaser may undertake to pay all liabilities.
Fixtures and Fittings	Yes	Any "assets" which have been "fixed" to any leasehold property will be owned by the landlord and cannot be removed without his consent.

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Competition	Maybe	Will the combined business be dominant in a particular market sector? If so may need consent of relevant competition authority prior to transfer.
Tax Authorities	No	No formal consent is required from any taxation authority. Tax advice should always be taken as the transfer will have a number of taxation implications.

If you would like to discuss this in more detail as it relates to your situation, please give us a CALL NOW and ask to speak to one of company and commercial team.

Or REQUEST A CALL BACK at a time convenient to you.

Alternatively, you can contact Simon Moffat by e-mail on simon.moffat@curwens.co.uk.

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