
STATUTORY INSTRUMENTS

2005 No. 255

The Pensions (Northern Ireland) Order 2005

PART VI

**OCCUPATIONAL AND PERSONAL PENSION
SCHEMES: MISCELLANEOUS PROVISIONS**

Pension protection on transfer of employment

Conditions for pension protection

234.—(1) This Article applies in relation to a person (“the employee”) where—

- [^{F1}(a) there is a transfer of an undertaking, business or part of an undertaking or business for the purposes of regulation 3(1)(a) of the Transfer of Undertakings (Protection of Employment) Regulations 2006 or there is a service provision change within the meaning of the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006,]
- (b) by virtue of the transfer [^{F2}or service provision change] the employee ceases to be employed by the transferor and becomes employed by the transferee, and
- (c) at the time immediately before the employee becomes employed by the transferee—
 - (i) there is an occupational pension scheme (“the scheme”) in relation to which the transferor is the employer, and
 - (ii) one of paragraphs (2), (3) and (4) applies.

(2) This paragraph applies where—

- (a) the employee is an active member of the scheme, and
- (b) if any of the benefits that may be provided under the scheme are money purchase benefits—
 - (i) the transferor is required to make contributions to the scheme in respect of the employee, or
 - (ii) the transferor is not so required but has made one or more such contributions.

(3) This paragraph applies where—

- (a) the employee is not an active member of the scheme but is eligible to be such a member, and
- (b) if any of the benefits that may be provided under the scheme are money purchase benefits, the transferor would have been required to make

contributions to the scheme in respect of the employee if the employee had been an active member of it.

(4) This paragraph applies where—

Changes to legislation: *The Pensions (Northern Ireland) Order 2005, Section 234 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) the employee is not an active member of the scheme, nor eligible to be such a member, but would have been an active member of the scheme or eligible to be such a member if, after the date on which he became employed by the transferor, he had been employed by the transferor for a longer period, and
- (b) if any of the benefits that may be provided under the scheme are money purchase benefits, the transferor would have been required to make contributions to the scheme in respect of the employee if the employee had been an active member of it.

(5) For the purposes of this Article, the condition in paragraph (1)(c) is to be regarded as satisfied in any case where it would have been satisfied but for any action taken by the transferor by reason of the transfer.

(6) ^{F3}

(7) ^{F4}

[^{F5}(8) In this Article references to the transferor include any associate of the transferor, and Article 4 of the Insolvency Order applies for the purposes of this Article as it applies for the purposes of that Order.]

F1	Art. 234(1)(a) substituted (30.12.2007) by Transfer of Undertakings and Service Provision Change (Protection of Employment) (Consequential Amendments etc.) Regulations (Northern Ireland) 2007 (S.R. 2007/494) , regs. 2(2) , 6
F2	Words in art. 234(1)(b) inserted (30.12.2007) by Transfer of Undertakings and Service Provision Change (Protection of Employment) (Consequential Amendments etc.) Regulations (Northern Ireland) 2007 (S.R. 2007/494) , regs. 2(3) , 6
F3	Art. 234(6) omitted (30.12.2007) by virtue of Transfer of Undertakings and Service Provision Change (Protection of Employment) (Consequential Amendments etc.) Regulations (Northern Ireland) 2007 (S.R. 2007/494) , regs. 2(4) , 6
F4	Art. 234(7) repealed (11.2.2008 with effect as mentioned in ss. 13(4), 19(5) of the amending Act) by Pensions Act (Northern Ireland) 2008 (c. 1) , ss. 13(3), 19(2), Sch. 4 para. 40, Sch. 6 Pt. 6 (with savings in Sch. 4 Pt. 3)
F5	Art. 234(8) substituted (30.12.2007) by Transfer of Undertakings and Service Provision Change (Protection of Employment) (Consequential Amendments etc.) Regulations (Northern Ireland) 2007 (S.R. 2007/494) , regs. 2(5) , 6

Changes to legislation:

The Pensions (Northern Ireland) Order 2005, Section 234 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 6 para. 21(2)(c)-(cc) substituted for (b)(c) by [2008 c. 13 \(N.I.\) Sch. 6 para. 11](#)
- art. 2(4)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 21\(3\)\(b\)](#)
- art. 19(1A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(3\)](#)
- art. 19(10A) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 24\(5\)](#)
- art. 34(1)-(1B) substituted for art. 34(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 25](#)
- art. 34(7)(da) inserted by [2021 c. 1 Sch. 8 para. 3\(2\)](#)
- art. 39(1)-(1B) substituted for art. 39(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 26\(2\)](#)
- art. 48(1)-(1B) substituted for art. 48(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 27](#)
- art. 75(1)(a)(iib) inserted by [2021 c. 1 Sch. 8 para. 8\(2\)](#)
- art. 110(1)-(1B) substituted for art. 110(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 29](#)
- art. 191(5) added by [2008 c. 13 \(N.I.\) Sch. 9 para. 6](#)
- art. 267(4)(f) and word inserted by [2021 c. 1 Sch. 6 para. 20\(b\)](#)