



Pensions Act 2004

2004 CHAPTER 35

PART 5

OCCUPATIONAL AND PERSONAL PENSION SCHEMES: MISCELLANEOUS PROVISIONS

Pension protection on transfer of employment

258 Form of protection

- (1) In a case where section 257 applies, it is a condition of the employee's contract of employment with the transferee that the requirements in subsection (2) or the requirement in subsection (3) are complied with.
- (2) The requirements in this subsection are that—
 - (a) the transferee secures that, as from the relevant time, the employee is, or is eligible to be, an active member of an occupational pension scheme in relation to which the transferee is the employer, and
 - (b) in a case where the scheme is a money purchase scheme, as from the relevant time—
 - (i) the transferee makes relevant contributions to the scheme in respect of the employee, or
 - (ii) if the employee is not an active member of the scheme but is eligible to be such a member, the transferee would be required to make such contributions if the employee were an active member, and
 - (c) in a case where the scheme is not a money purchase scheme, as from the relevant time the scheme [^{F1}complies with prescribed requirements].
- (3) The requirement in this subsection is that, as from the relevant time, the transferee makes relevant contributions to a stakeholder pension scheme of which the employee is a member.
- (4) The requirement in subsection (3) is for the purposes of this section to be regarded as complied with by the transferee during any period in relation to which the condition in subsection (5) is satisfied.

Changes to legislation: Pensions Act 2004, Section 258 is up to date with all changes known to be in force on or before 28 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

- (5) The condition in this subsection is that the transferee has offered to make relevant contributions to a stakeholder pension scheme of which the employee is eligible to be a member (and the transferee has not withdrawn the offer).
- (6) Subsection (1) does not apply in relation to a contract if or to the extent that the employee and the transferee so agree at any time after the time when the employee becomes employed by the transferee.
- (7) In this section—
- “the relevant time” means—
- (a) in a case where section 257 applies by virtue of the application of subsection (2) or (3) of that section, the time when the employee becomes employed by the transferee;
- (b) in a case where that section applies by virtue of the application of subsection (4) of that section, the time at which the employee would have been a member of the scheme referred to in subsection (1)(c)(i) of that section or (if earlier) would have been eligible to be such a member;
- “relevant contributions” means such contributions in respect of such period or periods as may be prescribed;
- “stakeholder pension scheme” means a pension scheme which is registered under section 2 of the Welfare Reform and Pensions Act 1999 (c. 30).

Textual Amendments

- F1** S. 258(2)(c)(i)(ii) substituted for words (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 13 para. 73**

Modifications etc. (not altering text)

- C1** Ss. 257, 258 applied (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **art. 27**
- C2** Ss. 257 258 applied (29.9.2008) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **art. 27**
- C3** S. 258 applied (30.3.2009) by [The Amendments to Law \(Resolution of Dunfermline Building Society\) Order 2009 \(S.I. 2009/814\)](#), **art. 4**
- C4** S. 258 applied (30.3.2009 at 8.00 a.m.) by [The Amendments to Law \(Resolution of Dunfermline Building Society\) Order 2009 \(S.I. 2009/814\)](#), **art. 4**
- C5** S. 258 applied (1.1.2010) by [The Northern Rock plc Transfer Order 2009 \(S.I. 2009/3226\)](#), **art. 12**
- C6** S. 258 applied (31.10.2023) by [The Transport \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2023 \(S.I. 2023/80\)](#), arts. 1(3), **31**

Commencement Information

- I1** S. 258(1)(2)(a)(b)(c)(i)(3)-(6) in force at 6.4.2005 by [S.I. 2005/275](#), **art. 2(7)**, **Sch. Pt. 7**
- I2** S. 258(7) in force in so far as it relates to the definition of "relevant contributions" for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes in relation to that definition at 6.4.2005 for specified purposes by [S.I. 2005/275](#), **art. 2(3)**, **Sch. Pt. 3**
- I3** S. 258(7) in force in so far as not already in force at 6.4.2005 by [S.I. 2005/275](#), **art. 2(7)**, **Sch. Pt. 7**

Changes to legislation:

Pensions Act 2004, Section 258 is up to date with all changes known to be in force on or before 28 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 :

- s. 258(2)(b) words substituted by [2015 c. 8 Sch. 2 para. 34\(a\)](#)
- s. 258(2)(c) words substituted by [2015 c. 8 Sch. 2 para. 34\(b\)](#)

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

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

- s. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of [2011 c. 19](#), Sch. 4 para. 20; [S.I. 2011/3034 art. 3\(i\)\(iv\)](#))