
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—
- (a) there is a transfer of an undertaking, or part of an undertaking, to which the TUPE Regulations apply,
 - (b) by virtue of the transfer 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—
- (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) In paragraph (1)(a), the reference to an undertaking, or part of an undertaking, has the same meaning as in the TUPE Regulations.

(7) In the case of a scheme which is contracted-out by virtue of section 5 of the Pension Schemes Act, the references in paragraphs (2)(b), (3)(b) and (4)(b) to contributions mean contributions other than minimum payments (within the meaning of that Act).

(8) In this Article—

the “TUPE Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I.1981/1794);

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.