



Pensions Act 2004

2004 CHAPTER 35

PART 5

OCCUPATIONAL AND PERSONAL PENSION SCHEMES: MISCELLANEOUS PROVISIONS

Pension protection on transfer of employment

VALID FROM 06/04/2005

257 Conditions for pension protection

- (1) This section 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 subsections (2), (3) and (4) applies.
- (2) This subsection 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 subsection applies where—

Status: Point in time view as at 15/03/2005. This version of this provision is not valid for this point in time.

Changes to legislation: Pensions Act 2004, Section 257 is up to date with all changes known to be in force on or before 11 August 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)

- (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 subsection 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 section, the condition in subsection (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 subsection (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 9 of the Pension Schemes Act 1993 (c. 48), the references in subsections (2)(b), (3)(b) and (4)(b) to contributions mean contributions other than minimum payments (within the meaning of that Act).
- (8) In this section—
- 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 section 435 of the Insolvency Act 1986 (c. 45) applies for the purposes of this section as it applies for the purposes of that Act.

Status:

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