



Pensions Act 2004

2004 CHAPTER 35

PART 5

OCCUPATIONAL AND PERSONAL PENSION SCHEMES: MISCELLANEOUS PROVISIONS

Pension protection on transfer of employment

257 Conditions for pension protection

- (1) This section applies in relation to a person (“the employee”) where—
- [^{F1}(a) there is a relevant transfer within the meaning of the TUPE regulations,]
 - (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—
- (a) the employee is not an active member of the scheme but is eligible to be such a member, and

Changes to legislation: Pensions Act 2004, Section 257 is up to date with all changes known to be in force on or before 09 June 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

- (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.

^{F2}(6)

^{F3}(7)

- (8) In this section—
- the “TUPE Regulations” means the [^{F4}Transfer of Undertakings (Protection of Employment) Regulations 2006] ;
- 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.

Textual Amendments

- F1** S. 257(1)(a) substituted (with application in accordance with reg. 21(1) of the amending S.I.) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), **Sch. 2 para. 13(2)**
- F2** S. 257(6) omitted (with application in accordance with reg. 21(1) of the amending S.I.) by virtue of [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), **Sch. 2 para. 13(3)**
- F3** S. 257(7) repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 27(7), 30(2)(b), **Sch. 4 para. 41**, **Sch. 7 Pt. 6** (with **Sch. 4 Pt. 3**); S.I. 2011/1267, art. 2(a)
- F4** Words in s. 257(8) substituted (with application in accordance with reg. 21(1) of the amending S.I.) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), **Sch. 2 para. 13(4)**

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. 257 applied (30.3.2009) by [The Amendments to Law \(Resolution of Dunfermline Building Society\) Order 2009 \(S.I. 2009/814\)](#), **art. 4**

Changes to legislation: Pensions Act 2004, Section 257 is up to date with all changes known to be in force on or before 09 June 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](#)

- C4** S. 257 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. 257 applied (1.1.2010) by [The Northern Rock plc Transfer Order 2009 \(S.I. 2009/3226\)](#), **art. 12**
- C6** S. 257 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. 257 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

Changes to legislation:

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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\(i\)\(iv\)](#))