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STATUTORY INSTRUMENTS

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**2021 No. 1237**

**The Occupational and Personal Pension Schemes  
(Conditions for Transfers) Regulations 2021**

**The Second Condition: transfers into an occupational pension scheme and the employment link**

**11.**—(1) There is an employment link between the member and the receiving scheme where the trustees or managers of the transferring scheme decide that—

- (a) the member’s employer is a sponsoring employer of the receiving scheme;
- (b) the member is in employment with the sponsoring employer and this employment has lasted for a continuous period of at least 3 months ending with the date the request to make the transfer was received by the trustees or managers of the transferring scheme;
- (c) the member’s employment during the period of 3 months ending with the date the request to make the transfer was received by the trustees or managers of the transferring scheme (“the relevant employment period”) has met the minimum salary requirement specified in paragraph (7); and
- (d) contributions to the receiving scheme have been paid by, or on behalf of, the sponsoring employer, or by, or on behalf of, both the sponsoring employer and the member, during the relevant employment period.

(2) The evidence required to demonstrate the employment link is that specified in paragraphs (3) to (6).

(3) A letter from the member’s employer confirming that—

- (a) the employer is a sponsoring employer of the receiving scheme;
- (b) the member is employed by them;
- (c) the date from which the member has been continuously in their employment; and
- (d) contributions to the receiving scheme shown as due to be paid by the schedule, required in accordance with paragraph (4), have been paid and the dates of those payments, or, where the amounts of the contributions that have actually been paid are different to those that were due to be paid, those actual amounts and the dates they were paid.

(4) A schedule of contributions or payment schedule showing—

- (a) separate entries for the amounts of pension contributions (excluding additional voluntary contributions) to the receiving scheme that were due to be paid for the relevant employment period by, or on behalf of, the member and the employer, or the employer only, in respect of that member; and
- (b) the dates on which those contributions were due to be paid.

(5) Payslips, or other evidence in writing advising of pay remittances, showing the salary paid to the member by their employer for the relevant employment period.

(6) Copies of the personal bank or a building society statements, or a copy of a building society passbook, showing the deposit of salary for the relevant employment period, or, where the trustees or managers of the transferring scheme request it, a certified copy of each statement or of the passbook.

(7) For the purposes of paragraph (1)(c), the minimum salary requirement is that the member must have been paid an average gross weekly salary, during the relevant employment period, which was at, or above, the lower earnings limit determined under section 5 of the Social Security Contributions and Benefits Act 1992 (earnings limits and thresholds for Class 1 contributions)(1).

(8) For the purposes of determining the member's average gross weekly salary referred to in paragraph (7), whether the member's regularly paid salary is weekly, fortnightly or monthly, the amount of that salary is to be calculated by aggregating all salary payments during the relevant employment period, multiplying by 4, dividing by 365 and multiplying by 7.

(9) Any salary paid to the member by way of commission, bonus, or other amounts paid separately from their regularly paid salary, is to be included in the aggregation of payments in the calculation made in accordance with paragraph (8).

(10) For the purposes of determining the member's average gross weekly salary referred to in paragraph (7), where payment was made in a currency other than Sterling, the value of the payment is to be determined by taking the Sterling equivalent on the date the payment was made.

(11) In this regulation—

“certified copy” means a copy certified as a true copy by the personal bank or a building society; and

“sponsoring employer” has the same meaning as in section 150(6) of the 2004 Act (meaning of pension scheme and related terms).

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(1) 1992 c. 4. Section 5 was substituted by paragraph 1 of Schedule 9 to the Welfare Reform and Pensions Act 1999 and section 5(1) was amended by section 1(1)(a) of, and paragraph 1 of Schedule 2 to, the National Insurance Contributions Act 2008 (c. 16).