

**2013 No.[]**

**PENSIONS**

**The Transfer of Employment (Pension Protection) (Amendment)  
Regulations 2013**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - - - - *1st October 2013*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 258(7) and 318(1) of the Pensions Act 2004<sup>(1)</sup>.

In accordance with section 317 of the Pensions Act 2004, the Secretary of State has consulted with such persons as the Secretary of State considers appropriate.

**Citation and commencement**

1. These Regulations may be cited as the Transfer of Employment (Pension Protection) (Amendment) Regulations 2013 and come into force on 1st October 2013.

**Amendment of the Transfer of Employment (Pension Protection) Regulations 2005**

2. In regulation 3 of the Transfer of Employment (Pension Protection) Regulations 2005<sup>(2)</sup> (requirements concerning a transferee's pension contributions) for paragraph (1) substitute—

“(1) In a case where these Regulations apply, the transferee's pension contributions are relevant contributions if the contributions—

(a) are made in respect of each period for which the employee is paid remuneration, provided that the employee also contributes to the scheme in respect of that period; and

(b) meet the requirements paragraph (1A) or (1B) as the case may be.

(1A) For the purposes of section 258(2)(h) of the Act in the case of a money purchase scheme, and section 258(3) to (5) of the Act in the case of a stakeholder pension scheme, the transferee must satisfy either paragraph (1C) or paragraph (1D).

(1B) For the purposes of regulation 2(1)(b), the transferee must satisfy paragraph (1C).

(1C) This paragraph is satisfied if the transferee's contributions are not less than the contributions made by the transferor in respect of the employee immediately before the transfer.

(1D) This paragraph is satisfied if, subject to paragraph (1E), the transferee's contributions are at least equal to the contributions made by the employee provided the amount of the employee's contributions are permitted under the scheme rules.

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<sup>(1)</sup> 2004 c.35. Section 318(1) is cited for the meaning given to “prescribed” and “regulations”.  
<sup>(2)</sup> S.I. 2005/649.

(1E) Paragraph (1D) does not require the transferee's contributions to exceed 6% of the remuneration paid to the employee.”.

Signed by authority of the Secretary of State for Work and Pensions.

Date

*Name*  
Minister of State,  
Department for Work and Pensions

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Transfer of Employment (Pension Protection) Regulations 2005 (S.I. 2005/649) (“the 2005 Regulations”).

Regulation 2 amends regulation 3 of the 2005 Regulations to give a choice to a transferee employer in respect of transferring employees following a transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246). The choice is available to a transferee that provides a pension to its employees that will produce money purchase benefits. In such a case, the transferee may choose to match the contributions made by the transferring employer immediately before the transfer or may choose to match the contributions made by the transferring employee subject to a limit of 6% of the employee's remuneration.