

# PENSIONS ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1: Pension scheme membership for jobholders**

##### *Chapter 1: Employers' duties*

##### *Section 9: Workers without qualifying earnings*

42. There may be people who do not qualify for automatic enrolment and who are not participating in workplace saving. Although they ordinarily work in Great Britain and are aged at least 16 and under 75, (two of the three qualifying conditions for a jobholder in section 1) they do not have qualifying earnings, as defined in *section 13*.
43. *Section 9* allows workers without qualifying earnings to require their employer to make arrangements to enrol them into a pension scheme by giving notice. The worker may give notice to opt in under this section as many times as they like, although the employer is only obliged to act on one request in a 12 month period. This doesn't prohibit the employer allowing workers to join the scheme at other times by agreement. An employer is not obliged to make any matching contribution but may choose to do so.
44. The enrolment process, the details of the notice required and the date from which membership must be effected are to be prescribed in regulations (*subsection (3)*).
45. For the purposes of this section a pension scheme may be either an occupational pension scheme, or a personal pension scheme registered under the FA 2004. Also, a personal pension scheme must have direct payment arrangements between the worker and the employer. "Direct payment arrangements" are either where the employer makes a contribution and sends it to the worker's scheme or where the employer deducts contributions from the worker's earnings and forwards these to the worker's scheme on behalf of the worker.