



Pensions Act 2008

2008 CHAPTER 30

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 1

EMPLOYERS' DUTIES

Qualifying schemes and automatic enrolment schemes

16 Qualifying schemes

- (1) A pension scheme is a qualifying scheme in relation to a jobholder (J) if—
 - (a) the scheme is an occupational pension scheme or a personal pension scheme,
 - (b) the scheme is registered under Chapter 2 of Part 4 of the Finance Act 2004 (c. 12), and
 - (c) while J is an active member, the scheme satisfies the quality requirement in relation to J.
- (2) The Secretary of State may by regulations provide that subsection (1)(b) does not apply in relation to a scheme to which section 25 or 27 applies, if prescribed requirements are satisfied.
- (3) The Secretary of State may by regulations provide that a scheme is not a qualifying scheme in relation to J if—
 - ^{F1}(a)
 - ^{F2}(aa)
 - ^{F3}(ab)
 - (b) while J is an active member, the contributions that must be paid to the scheme by, or on behalf or in respect of, J exceed a prescribed amount, or

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- (c) the scheme provides for average salary benefits to be provided to or in respect of J and contains prescribed features.

[^{F4}(3A) See also paragraphs 1(4) and 2(4) of Schedule 18 to the Pensions Act 2014, which confer power to make regulations providing for a scheme not to be a qualifying scheme in relation to a jobholder in certain circumstances.]

^{F5}(4)

^{F5}(5)

Textual Amendments

- F1** S. 16(3)(a) omitted (11.9.2014) by virtue of [Pensions Act 2014 \(c. 19\)](#), s. 56(1), **Sch. 18 para. 11(2)**; [S.I. 2014/2377](#), art. 2(1)(a)(i)(2)(k)
- F2** S. 16(3)(aa) omitted (11.9.2014) by virtue of [Pensions Act 2014 \(c. 19\)](#), s. 56(1), **Sch. 18 para. 11(2)**; [S.I. 2014/2377](#), art. 2(1)(a)(i)(2)(k)
- F3** S. 16(3)(ab) omitted (11.9.2014) by virtue of [Pensions Act 2014 \(c. 19\)](#), s. 56(1), **Sch. 18 para. 11(2)**; [S.I. 2014/2377](#), art. 2(1)(a)(i)(2)(k)
- F4** S. 16(3A) inserted (11.9.2014) by [Pensions Act 2014 \(c. 19\)](#), s. 56(1), **Sch. 18 para. 11(3)**; [S.I. 2014/2377](#), art. 2(1)(a)(i)(2)(k)
- F5** S. 16(4)(5) omitted (11.9.2014) by virtue of [Pensions Act 2014 \(c. 19\)](#), s. 56(1), **Sch. 18 para. 11(4)**; [S.I. 2014/2377](#), art. 2(1)(a)(i)(2)(k)

Modifications etc. (not altering text)

- C1** S. 16(1)(b) excluded (1.7.2012) by The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations ([S.I. 2010/772](#)), regs. 1(1) (as amended by [S.I. 2012/1257](#), **reg. 3(b)**) and 47

Commencement Information

- I1** S. 16 wholly in force at 30.6.2012; s. 16 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 16 in force so far as not already in force at 30.6.2012 by [S.I. 2012/1682](#), **art. 2(1)(2)(a)**, [Sch. 1](#)

17 Automatic enrolment schemes

- (1) A pension scheme is an automatic enrolment scheme in relation to a jobholder (J) if—
- (a) it is a qualifying scheme in relation to J,
 - (b) it satisfies the conditions in subsection (2), and
 - (c) it satisfies any further conditions prescribed.
- (2) The conditions mentioned in subsection (1)(b) are that—
- (a) no provision of the scheme prevents the employer from making arrangements prescribed by regulations under section 3(2), 5(2) or 7(4) for J to become an active member of the scheme;
 - (b) no provision of the scheme requires J to express a choice in relation to any matter, or to provide any information, in order to remain an active member.

Commencement Information

- I2** S. 17 wholly in force at 30.6.2012; s. 17 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 17 in force so far as not already in force at 30.6.2012 by [S.I. 2012/1682](#), **art. 2(1)(2)(a)**, [Sch. 1](#)

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18 Occupational pension schemes

For the purposes of this Part, each of these is an occupational pension scheme—

- (a) an occupational pension scheme within the meaning of section 1(1) of the Pension Schemes Act 1993 (c. 48) that has its main administration in the United Kingdom;
- ^{F6}(b)
- (c) a pension scheme that is prescribed or is of a prescribed description and that has its main administration elsewhere than in [^{F7}the United Kingdom].

Textual Amendments

- F6** S. 18(b) omitted (31.12.2020) by virtue of [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **6(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 18(c) substituted (31.12.2020) by [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **6(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I3** S. 18 wholly in force at 30.6.2012; s. 18 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 18 in force so far as not already in force at 30.6.2012 by [S.I. 2012/1682](#), **art. 2(1)(2)(a)**, Sch. 1

19 Personal pension schemes

For the purposes of this Part, a personal pension scheme is a pension scheme that is not an occupational pension scheme.

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. 3(1A) inserted by [2023 c. 44 s. 1\(2\)](#)
- s. 5(1C) inserted by [2023 c. 44 s. 1\(3\)](#)
- s. 13(3)(ec) inserted by [2023 c. 20 Sch. para. 56](#)
- s. 13A inserted by [2023 c. 44 s. 1\(4\)](#)
- s. 24(1)(c) inserted by [2015 c. 8 Sch. 2 para. 43\(2\)\(d\)](#)
- s. 143(6)(7) inserted by [2023 c. 44 s. 1\(5\)\(b\)](#)