



2008 CHAPTER 13

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 1

EMPLOYERS' DUTIES

*Qualifying schemes and automatic enrolment schemes*

**Qualifying schemes**

**16.—**(1) A pension scheme is a qualifying scheme in relation to a jobholder (J) if—

- (a) it is an occupational pension scheme or a personal pension scheme,
- (b) it 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 Department 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 Department may by regulations provide that a scheme is not a qualifying scheme in relation to J if—

- (a) while J is an active member, the payments that must be made to the scheme by, or on behalf or in respect of, J for purposes other than the provision of benefits exceed a prescribed amount,

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

#### **Automatic enrolment schemes**

**17.**—(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 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.

#### **Occupational pension schemes**

**18.** 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 that has its main administration in the United Kingdom;
- (b) an institution for occupational retirement provision within the meaning of Article 6(a) of the IORP Directive that has its main administration in an EEA state other than the United Kingdom;
- (c) a pension scheme that is prescribed or is of a prescribed description and that has its main administration elsewhere than in an EEA state.

#### **Personal pension schemes**

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