



2008 CHAPTER 13

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 7

APPLICATION AND INTERPRETATION

General

Interpretation of Part

78 In this Part—

“active member”—

- (a) in relation to an occupational pension scheme, means a person who is in pensionable service under the scheme;
- (b) in relation to a personal pension scheme, means a jobholder in relation to whom there is an agreement within section 26(4) between the provider of the scheme and the employer or (where section 9 applies) a worker in relation to whom there are direct payment arrangements (within the meaning of section 107A of the Pension Schemes Act) between the worker and the employer;

“automatic enrolment scheme” is to be read in accordance with section 3(8);

“average salary benefits” means benefits the rate or amount of which is calculated by reference to the average salary of a member over the period of service on which the benefits are based;

[^{F1}“collective money purchase benefit” has the meaning given by section 52 of the Pension Schemes Act 2021;]

Changes to legislation: Pensions (No. 2) Act (Northern Ireland) 2008, Cross Heading: General is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- “contract of employment” has the meaning given by section 70;
- “defined benefits”, in relation to a member of an occupational pension scheme, means benefits which are not money purchase benefits (but the rate or amount of which is calculated by reference to earnings or service of the member or any other factor other than an amount available for their provision);
- “defined benefits scheme” means an occupational pension scheme under which all the benefits that may be provided are defined benefits;
- “employer” and “employment” have the meaning given by section 70;
- “enrolment duty” means a duty under section 3(2), 5(2), 7(3) or 9(2);
- “hybrid scheme” means an occupational pension scheme which is neither a defined benefits scheme nor a money purchase scheme;
- ^{F2} ...
- “jobholder” has the meaning given by section 1(1);
- “money purchase benefits”, in relation to a member of a pension scheme, [^{F3} means—
- (a) benefits] the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and [^{F4} which fall within section 78A][^{F5}, and
 - (b) collective money purchase benefits;]
- “money purchase scheme” means an occupational pension scheme under which all the benefits that may be provided are money purchase benefits;
- “occupational pension scheme” has the meaning given by section 18;
- “pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act;
- “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the 1995 Order;
- “pensionable service”, in relation to a member of an occupational pension scheme, means service in any description of employment to which the scheme relates which qualifies the member (on the assumption that it continues for the appropriate period) for pension or other benefits under the scheme;
- “personal pension scheme” has the meaning given by section 19;
- “provider”—
- (a) in relation to a personal pension scheme to which section 26 applies, means the person referred to in subsection (1)(b) of that section;
 - (b) in relation to any other personal pension scheme, has the meaning prescribed;
- “qualifying earnings” has the meaning given by section 13;
- “qualifying scheme” is to be read in accordance with section 2(5);

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“tax year” means the 12 months beginning with 6th April in any year;
 “trustee or manager” is to be construed in accordance with section 173 of the Pension Schemes Act (trustees or managers of schemes);
 “worker” has the meaning given by section 70.

Textual Amendments

- F1** Words in s. 78 inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 4 para. 6(2)**; S.R. 2022/197, art. 3(a)
- F2** Words in s. 78 omitted (31.12.2020) by virtue of The Occupational and Personal Pension Schemes (Amendment etc.) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/193), regs. 1, **6(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 78 substituted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 4 para. 6(3)(a)**; S.R. 2022/197, art. 3(a)
- F4** Words in s. 78 substituted (retrospectively) by Pensions Act (Northern Ireland) 2012 (c. 3), ss. 27(3)(6), 34(3); S.R. 2014/203, **art. 2**
- F5** Words in s. 78 inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 4 para. 6(3)(b)**; S.R. 2022/197, art. 3(a)

Commencement Information

- I1** S. 78 wholly in operation at 5.7.2010; s. 78 in operation for certain purposes at Royal Assent see s. 118(2); s. 78 in operation at 5.7.2010 in so far as not already in operation by S.R. 2010/50, **art. 2(2)**

[^{F6}Money purchase benefits: supplementary

78A.—(1) This section applies for the purposes of [^{F7}paragraph (a) of the definition] of “money purchase benefits” in section 78.

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purpose of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
- (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).

Changes to legislation: *Pensions (No. 2) Act (Northern Ireland) 2008, Cross Heading: General is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).]

Textual Amendments

- F6** S. 78A inserted (retrospectively) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\)](#), ss. 27(3) (6), 34(3); S.R. 2014/203, [art. 2](#)
- F7** Words in [s. 78A\(1\)](#) substituted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by [Pension Schemes Act 2021 \(c. 1\)](#), s. 131(1)(3)(a), [Sch. 4 para. 7](#); S.R. 2022/197, art. 3(a)

Changes to legislation:

Pensions (No. 2) Act (Northern Ireland) 2008, Cross Heading: General is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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. 24\(1\)\(c\) inserted by 2016 c. 1 \(N.I.\) Sch. 2 para. 39\(2\)\(d\)](#)