



# 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—
  - <sup>F1</sup>(a) .....
  - <sup>F2</sup>(aa) .....
  - <sup>F3</sup>(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.

[<sup>F4</sup>(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.]

<sup>F5</sup>(4) .....

<sup>F5</sup>(5) .....

**Annotations:**

**Amendments (Textual)**

- 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**

- II** 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.

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**Annotations:**

**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](#)

## 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;
- (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.

**Annotations:**

**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. 13(3)(eb) inserted by [2018 c. 24 Sch. para. 55](#)
- s. 24(1)(c) inserted by [2015 c. 8 Sch. 2 para. 43\(2\)\(d\)](#)