



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.