
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 122

**The Occupational and Personal Pension Schemes
(Automatic Enrolment) Regulations (Northern Ireland) 2010**

PART 13

Non-UK Pension Schemes

Description of an occupational pension scheme with its main administration outside the EEA States

44. A pension scheme that has its main administration outside the EEA States is an occupational pension scheme for the purposes of section 18(c) (occupational pension schemes) if it is an occupational pension scheme within the meaning of section 1(1) of the 1993 Act⁽¹⁾.

Quality requirements: non-UK occupational pension schemes

45.—(1) A money purchase scheme within section 18(b) or (c) (occupational pension schemes) satisfies the quality requirement for the purposes of section 25 in relation to a jobholder—

- (a) if it satisfies the requirements for a money purchase scheme under section 20(1), or
- (b) if Article 6 of Directive [98/49/EC](#) of the European Council of 29th June 1998 on safeguarding the supplementary pension rights of employed and self employed persons moving within the Community⁽²⁾ applies in relation to the jobholder and the scheme is a supplementary pension scheme within the meaning given by Article 3(b) of that Directive.

(2) For the purposes of paragraph (1), section 20(1) is to be read as if for “that has its main administration in the United Kingdom” there were substituted “within section 18(b) or (c)”.

(3) A defined benefits scheme within section 18(b) or (c) satisfies the quality requirement for the purposes of section 25 in relation to the jobholder—

- (a) if it satisfies the requirements for a defined benefits scheme under sections 21 to 23, or
- (b) if Article 6 of Directive [98/49/EC](#) of the European Council of 29th June 1998 on safeguarding the supplementary pension rights of employed and self employed persons moving within the Community applies in relation to the jobholder and the scheme is a supplementary pension scheme within the meaning given by Article 3(b) of that Directive.

(4) For the purposes of paragraph (3), section 21 is to be read as if for “that has its main administration in the United Kingdom” there were substituted “within section 18(b) or (c)”.

(5) Section 24 (quality requirement: UK hybrid schemes) applies to any hybrid scheme within section 18(b) or (c) as it applies to a hybrid scheme that has its main administration in the United Kingdom.

(1) Section 1 was amended by Article 216 of the Pensions (Northern Ireland) Order 2005 and the definition of “occupational pension scheme” was amended by regulation 2(2) of [S.R. 2007 No. 457](#)

(2) OJ L 209, 25.7.1998 p.46-49

(6) For the purposes of paragraph (5)—

- (a) the reference in section 24(1)(a) to the requirements for a money purchase scheme under section 20, and
- (b) the reference in section 24(1)(b) to the requirements for a defined benefits scheme under sections 21 to 23,

are to be read subject to the modifications made by paragraphs (2) and (4).

(7) Accordingly, a hybrid scheme within section 18(b) or (c) satisfies the quality requirement for the purposes of section 25 in relation to the jobholder if the scheme falls within a description of hybrid schemes specified in any rule made under section 24(2) to (4) and either—

- (a) the scheme satisfies such of the requirements referred to in paragraph (6)(a) or (b) as the rule in question may specify as being appropriate to schemes of that description, subject to any prescribed modification of those requirements which is referred to in that rule, or
- (b) the requirement is that Article 6 of Directive [98/49/EC](#) of the European Council of 29th June 1998 on safeguarding the supplementary pension rights of employed and self employed persons moving within the Community applies in relation to the jobholder and the scheme is a supplementary pension scheme within the meaning given by Article 3(b) of that Directive.

46. A pension scheme to which section 26 (quality requirement: UK personal pension schemes) does not apply, satisfies the quality requirement for the purposes of section 27 (quality requirement: other personal pension schemes) in relation to a jobholder—

- (a) if the conditions in section 26(3) to (7) are satisfied, or
- (b) if Article 6 of Directive [98/49/EC](#) of the European Council of 29th June 1998 on safeguarding the supplementary pension rights of employed and self employed persons moving within the Community applies in relation to the jobholder and the scheme is a supplementary pension scheme within the meaning given by Article 3(b) of that Directive.

Prescribed requirements for non-UK qualifying schemes

47.—(1) Where—

- (a) the requirements set out in paragraphs (2) and (3) are satisfied, and
- (b) the requirement set out in one of paragraphs (4), (5), (6) and (7) is satisfied,

section 16(1)(b) (qualifying schemes) does not apply in relation to a money purchase scheme or a personal pension scheme to which section 25 or 27 (quality requirement: non-UK occupational pension schemes or other personal pension schemes) applies.

(2) The requirements to be satisfied are that—

- (a) the scheme is an occupational pension scheme and there is, in the country or territory in which it has its main administration, a body—
 - (i) which regulates occupational pension schemes, and
 - (ii) which regulates that scheme, or
- (b) the scheme is a personal pension scheme and there is, in the country or territory in which the personal pension scheme provider is established, a body—
 - (i) which regulates personal pension schemes, and
 - (ii) which regulates the personal pension scheme provider in relation to that scheme.

(3) The requirement to be satisfied is that the regulatory requirements applicable to the money purchase scheme or the personal pension scheme provide that some of the benefits applicable to the jobholder may be designated for the purpose of providing that jobholder with an income for life.

(4) The requirement to be satisfied is that the scheme is a qualifying overseas pension scheme.

(5) The requirement to be satisfied is that relief from tax is given in respect of contributions made by an individual under a double taxation agreement for which a deduction of tax is given under the Income and Corporation Taxes Act 1988⁽³⁾.

(6) The requirement to be satisfied is that relief from tax is given in respect of contributions made by an individual under an arrangement entered into by the individual for which a deduction of tax is given under Chapter 2 of Part 5 of the Income Tax (Earnings and Pensions) Act 2003⁽⁴⁾ (employment income: deductions allowed from earnings) for that tax year in accordance with paragraph 51 of Schedule 36 to the Finance Act 2004⁽⁵⁾ (pension schemes etc).

(7) This paragraph applies in relation to money purchase schemes and the requirement to be satisfied is that the employer's contribution, however calculated, includes an additional amount, the value of which represents the value of any relief from tax which would have been applicable in relation to the jobholder's contributions if the scheme had been registered under Chapter 2 of Part 4 of the Finance Act 2004.

(8) For the purposes of this regulation—

“double taxation agreement” means an agreement having effect by virtue of section 788 of the Income and Corporation Taxes Act 1988 (relief by agreement with other territories);

“qualifying overseas pension scheme” has the meaning given in Schedule 33 to the Finance Act 2004 (overseas pension schemes: migrant member relief).

(3) 1988 c.1
(4) 2003 c.1
(5) 2004 c. 12