

STATUTORY INSTRUMENTS

2010 No. 772

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

PART 13

Non-UK Pension Schemes

**Description of an occupational pension scheme with its main administration outside the
[^{F1}United Kingdom]**

44. A pension scheme that has its main administration outside the [^{F2}United Kingdom] is an occupational pension scheme for the purposes of section 18(c) (occupational pension schemes) of the Act if it is an occupational pension scheme within the meaning of section 1(1) of the 1993 Act.

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| F1 | Words in reg. 44 heading substituted (31.12.2020) by The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192) , regs. 1, 33(6) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F2 | Words in reg. 44 substituted (31.12.2020) by The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192) , regs. 1, 33(6) ; 2020 c. 1, Sch. 5 para. 1(1) |

Quality requirements: non-UK occupational pension schemes

45.—(1) A money purchase scheme within section [^{F3}18(c)] (occupational pension schemes) of the Act satisfies the quality requirement for the purposes of section 25 (quality requirement: non-UK occupational pension schemes) of the Act in relation to a jobholder—

- (a) if it satisfies the requirements for a money purchase scheme under section 20(1) (quality requirement: UK money purchase schemes) of the Act; ^{F4}...

^{F4}(b)

(2) For the purposes of paragraph (1), section 20(1) of the Act is to be read as if for the words “that has its main administration in the United Kingdom” there were substituted “;within section [^{F3}18(c)]”.

(3) A defined benefits scheme within section [^{F3}18(c)] of the Act satisfies the quality requirement for the purposes of section 25 of the Act in relation to the jobholder—

- (a) if it satisfies the requirements for a defined benefits scheme under sections 21 to [^{F5}23A] (quality requirement: UK defined benefits schemes) of the Act; ^{F6}...

^{F6}(b)

(4) For the purposes of paragraph (3), [^{F7}sections 21 and 23A of the Act are] to be read as if for the words “that has its main administration in the United Kingdom” there were substituted “;within section [^{F3}18(c)]”.

(5) Section 24 (quality requirement: UK hybrid schemes) of the Act applies to any hybrid scheme within section [^{F3}18(c)] of the Act as it applies to a hybrid scheme that has its main administration in the United Kingdom.

(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 of the Act; and
- (b) the reference in section 24(1)(b) to the requirements for a defined benefits scheme under sections 21 to [^{F8}23A] of the Act,

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

(7) Accordingly, a hybrid scheme within section [^{F9}18(c)] of the Act satisfies the quality requirement for the purposes of section 25 of the Act 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) of the Act 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; ^{F10} ...

^{F10}(b)

F3	Words in reg. 45(1)-(5) substituted (31.12.2020) by The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192) , regs. 1, 33(7)(a) ; 2020 c. 1, Sch. 5 para. 1(1)
F4	Reg. 45(1)(b) and word omitted (31.12.2020) by virtue of The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192) , regs. 1, 33(7)(b) ; 2020 c. 1, Sch. 5 para. 1(1)
F5	Word in reg. 45(3)(a) substituted (1.4.2015) by The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015 (S.I. 2015/501) , regs. 1, 14(a)
F6	Reg. 45(3)(b) and word omitted (31.12.2020) by virtue of The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192) , regs. 1, 33(7)(b) ; 2020 c. 1, Sch. 5 para. 1(1)
F7	Words in reg. 45(4) substituted (1.4.2015) by The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015 (S.I. 2015/501) , regs. 1, 14(b)
F8	Word in reg. 45(6)(b) substituted (1.4.2015) by The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015 (S.I. 2015/501) , regs. 1, 14(c)
F9	Words in reg. 45(7) substituted (31.12.2020) by The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192) , regs. 1, 33(7)(a) ; 2020 c. 1, Sch. 5 para. 1(1)
F10	Reg. 45(7)(b) and word omitted (31.12.2020) by virtue of The Occupational and Personal Pension Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/192) , regs. 1, 33(7)(b) ; 2020 c. 1, Sch. 5 para. 1(1)

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

- (a) if the conditions in subsections (3) to (7) of section 26 are satisfied; ^{F11} ...

^{F11}(b)

F11 Reg. 46(b) and word omitted (31.12.2020) by virtue of [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **33(8)**; 2020 c. 1, Sch. 5 para. 1(1)

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) or (7) is satisfied,

section 16(1)(b) of the Act does not apply in relation to [^{F12}an occupational pension scheme] or a personal pension scheme to which section 25 or 27 of the Act 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 [^{F12}an occupational pension 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 ^{M1}.

(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 (Employment Income: Deductions allowed from earnings) of the Income Tax (Earnings and Pensions) Act 2003 ^{M2} for that tax year in accordance with paragraph 51 of Schedule 36 (Pension Schemes etc.) to the Finance Act 2004.

(7) This paragraph applies in relation to [^{F13}any money purchase benefits applicable to the jobholder] 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 (Pension Schemes etc.) 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 (relief by agreement with other territories) of the Income and Corporation Taxes Act 1988;

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

- F12** Words in reg. 47(1)(3) substituted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **38(a)**
- F13** Words in reg. 47(7) substituted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **38(b)**

Marginal Citations

- M1** 1988 c.1.
M2 2003 c.1.

[^{F14}Meaning of “provider”

47A. For the purposes of the definition of “provider” in section 99 of the Act (interpretation of Part) a provider of a personal pension scheme to which section 26 of the Act (quality requirement: UK personal pension schemes) does not apply is a person whose normal business includes the provision of personal pensions.]

- F14** Reg. 47A inserted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **39**

Changes to legislation:

There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010, PART 13.