



# Pensions Act 2008

## 2008 CHAPTER 30

### PART 1

#### PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

#### CHAPTER 1

#### EMPLOYERS' DUTIES

#### *Employers' duties*

### 2 Continuity of scheme membership

- (1) If a jobholder is an active member of a qualifying scheme, the employer must not take any action, or make any omission, by which (without the jobholder ceasing to be employed by the employer)—
  - (a) the jobholder ceases to be an active member of the scheme, or
  - (b) the scheme ceases to be a qualifying scheme.
- (2) Subsection (1) is not contravened if the jobholder remains an active member of another qualifying scheme.
- [<sup>F1</sup>(3) Subsection (1) is not contravened if by virtue of section 5 the jobholder becomes an active member of an automatic enrolment scheme with effect from—
  - (a) the day after the cessation referred to in paragraph (a) or (b) of subsection (1), or
  - (b) a day within the prescribed period (if a period is prescribed).]
  - (4) Subsection (1) is not contravened if the action or omission is at the jobholder's request.
  - (5) In this Part as it applies in the case of any jobholder, references to a qualifying scheme are references to a pension scheme which is a qualifying scheme in relation to that jobholder (see section 16).

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**Changes to legislation:** *Pensions Act 2008, Section 2 is up to date with all changes known to be in force on or before 20 March 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*

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### **Textual Amendments**

- F1** S. 2(3) substituted (3.11.2011 for specified purposes otherwise 30.6.2012) by [Pensions Act 2011 \(c. 19\), ss. 4\(1\), 38\(1\)\(4\)](#); S.I. 2012/1681, [art. 2\(1\)\(a\)](#)

### **Modifications etc. (not altering text)**

- C1** S. 2(1): Power to exclude conferred (3.11.2011) by [Pensions Act 2004 \(c. 35\), s. 292A](#) (as inserted by [Pensions Act 2011 \(c. 19\), ss. 18, 38\(1\)](#))
- C2** S. 2(1) excluded (2.7.2012) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) Regulations 2010 \(S.I. 2010/772\), regs. 1\(1\)](#) (as amended by S.I. 2012/1257, [reg. 3\(b\)](#)) and 5A (as inserted by S.I. 2012/1477, [regs. 1, 2](#))

### **Commencement Information**

- I1** S. 2 wholly in force at 30.6.2012; s. 2 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 2 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](#)

**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. 3(1A) inserted by [2023 c. 44 s. 1\(2\)](#)
- s. 5(1C) inserted by [2023 c. 44 s. 1\(3\)](#)
- s. 13(3)(ec) inserted by [2023 c. 20 Sch. para. 56](#)
- s. 13A inserted by [2023 c. 44 s. 1\(4\)](#)
- s. 24(1)(c) inserted by [2015 c. 8 Sch. 2 para. 43\(2\)\(d\)](#)
- s. 143(6)(7) inserted by [2023 c. 44 s. 1\(5\)\(b\)](#)