



Pensions Act 2008

2008 CHAPTER 30

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 1

EMPLOYERS' DUTIES

Quality requirements

28 **[^{F1}Certification that quality requirement or alternative requirement is satisfied]**

- (1) The Secretary of State may by regulations provide that, subject to provision within subsection (6)(f), a scheme to which this section applies is to be taken to satisfy the relevant quality requirement in relation to [^{F2}each of an employer's relevant jobholders] if a certificate given in accordance with the regulations is in force in relation to the employer.

[^{F3}(1A) In this section—

- (a) “ relevant jobholder ” means a jobholder to whom the certificate in question applies;
 - (b) a reference to a scheme includes a reference to part of a scheme.]
- (2) The certificate must [^{F4} state—
- (a) that], in relation to [^{F5}relevant jobholders] of the employer who are active members of the scheme, the scheme is in the opinion of the person giving the certificate able to satisfy the relevant quality requirement throughout the certification period[^{F6}, or
 - (b) that, in relation to those jobholders, the scheme is in that person's opinion able to satisfy a prescribed alternative requirement throughout the certification period.]

Changes to legislation: Pensions Act 2008, Section 28 is up to date with all changes known to be in force on or before 14 April 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

[^{F7}(2A) Alternative requirements must be such that, assuming all jobholders to be active members of schemes to which this section applies, for at least 90% of jobholders—

- (a) employer contributions, and
- (b) total contributions,

would be likely to be no less if every scheme satisfied an alternative requirement applicable to it than if every scheme satisfied the relevant quality requirement.

(2B) In subsection (2A)—

“ alternative requirement ” means a requirement prescribed under subsection (2)(b);

“ employer contributions ”, in relation to an active member of a scheme, means the amount of contributions that have to be paid under the scheme in respect of the member by the employer;

“ total contributions ”, in relation to an active member of a scheme, means the total amount of contributions that have to be paid under the scheme in respect of the member by the employer and by the member.

(2C) The Secretary of State—

- (a) must apply the test in subsection (2A) when regulations under subsection (2)(b) are first made, and
- (b) must carry out subsequent reviews of whether the test continues to be satisfied.

A review under paragraph (b) must be carried out during 2017, and after that each review must be completed no more than three years after the completion of the previous one.]

(3) This section applies to—

- (a) a money purchase scheme to which section 20 applies;
- (b) a personal pension scheme to which section 26 applies;
- (c) a hybrid scheme, to the extent that requirements within section 24(1)(a) apply.

[^{F8}(3A) This section also applies to—

- (a) a money purchase scheme that is an occupational pension scheme within section 18(b);
- (b) a personal pension scheme of a prescribed description for which provision is made under section 27;
- (c) a hybrid scheme that is an occupational pension scheme within section 18(b), to the extent prescribed.]

[^{F9}(3B) This section also applies to a defined benefits scheme that has its main administration in the United Kingdom and is of a description prescribed under section 23A(1)(a).]

(4) The “relevant quality requirement”—

- (a) for a scheme within subsection (3)(a), means the quality requirement under section 20;
- (b) for a scheme within subsection (3)(b), means the quality requirement under section 26;
- (c) for a scheme within paragraph (c) of subsection (3), means the requirements mentioned in that paragraph;

[^{F10}(d) for a scheme within subsection (3A), means a prescribed requirement.]

[^{F11}(e) for a scheme within subsection (3B), means the quality requirement under section 23A(1)(a).]

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- (5) Regulations may make further provision in relation to certification under this section.
- (6) Regulations may in particular make provision—
- (a) as to the period for which a certificate is in force (the “certification period”);
 - (b) as to the persons by whom a certificate may be given;
 - (c) as to procedures in connection with certification or where a certificate has been given;
 - (d) requiring persons to have regard to guidance issued by the Secretary of State;
 - (e) requiring an employer to calculate the amount of contributions that a scheme, and any [^{F12}contribution agreements], required to be paid by or in respect of [^{F13}any relevant jobholder] in the certification period;
 - (f) as to cases where the requirements of a scheme, and any [^{F12}contribution agreements], as to payment of contributions by or in respect of [^{F14}relevant jobholders] of an employer did not satisfy prescribed conditions.
- (7) Provision within subsection (6)(f) includes in particular provision for a scheme not to be treated by virtue of regulations under this section as having satisfied the relevant quality requirement unless prescribed steps are taken (which may include the making of prescribed payments).
- (8) In subsection (6)[^{F15} “contribution agreements” means—
- (a) the agreement] required, in the case of a scheme within subsection (3)(b), by section 26(4) and any agreement required, in the case of such a scheme, by section 26(6)[^{F16}, or
 - (b) any agreement of the same or a similar kind that is required, in the case of a scheme within subsection (3A)(b), by regulations under section 27.]
- (9) The Secretary of State may by order repeal this section.

Textual Amendments

- F1** S. 28 heading substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 12\(2\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(b\)](#)
- F2** Words in s. 28(1) substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 12\(3\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(b\)](#)
- F3** S. 28(1A) inserted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 12\(4\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(b\)](#)
- F4** Words in s. 28(2) substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 12\(5\)\(a\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(b\)](#)
- F5** Words in s. 28(2) substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 12\(5\)\(b\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(b\)](#)
- F6** S. 28(2)(b) and preceding word inserted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 12\(5\)\(c\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(b\)](#)
- F7** S. 28(2A)-(2C) inserted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 12\(6\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(b\)](#)
- F8** S. 28(3A) inserted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 13\(2\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(c\)](#)
- F9** S. 28(3B) inserted (12.9.2014) by [Pensions Act 2014 \(c. 19\)](#), [ss. 39\(4\)\(a\)](#), 56(1); S.I. 2014/2377, [art. 2\(1\)\(b\)](#)
- F10** S. 28(4)(d) inserted (3.11.2011 for specified purposes otherwise 6.3.2012) by [Pensions Act 2011 \(c. 19\)](#), [ss. 13\(3\)](#), 38(1)(4); S.I. 2012/682, [art. 2\(c\)](#)

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- F11** S. 28(4)(e) inserted (12.9.2014) by Pensions Act 2014 (c. 19), **ss. 39(4)(b)**, 56(1); S.I. 2014/2377, art. 2(1)(b)
- F12** Words in s. 28(6)(e)(f) substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by Pensions Act 2011 (c. 19), **ss. 13(4)**, 38(1)(4); S.I. 2012/682, **art. 2(c)**
- F13** Words in s. 28(6)(e) substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by Pensions Act 2011 (c. 19), **ss. 12(7)(a)**, 38(1)(4); S.I. 2012/682, **art. 2(b)**
- F14** Words in s. 28(6)(f) substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by Pensions Act 2011 (c. 19), **ss. 12(7)(b)**, 38(1)(4); S.I. 2012/682, **art. 2(b)**
- F15** Words in s. 28(8) substituted (3.11.2011 for specified purposes otherwise 6.3.2012) by Pensions Act 2011 (c. 19), **ss. 13(5)(a)**, 38(1)(4); S.I. 2012/682, **art. 2(c)**
- F16** S. 28(8)(b) and preceding word inserted (3.11.2011 for specified purposes otherwise 6.3.2012) by Pensions Act 2011 (c. 19), **ss. 13(5)(b)**, 38(1)(4); S.I. 2012/682, **art. 2(c)**

Commencement Information

- I1** S. 28 wholly in force at 7.3.2012; s. 28 in force for certain purposes at Royal Assent see s. 149(2)(k); s. 28 in force in so far as not already in force on 7.3.2012 by S.I. 2012/683, **art. 2(2)(b)**

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Changes and effects yet to be applied to :

- s. 28(3)(a) words substituted by [2015 c. 8 Sch. 2 para. 45\(2\)\(a\)](#)
- s. 28(3)(b) words inserted by [2015 c. 8 Sch. 2 para. 45\(2\)\(b\)](#)
- s. 28(3)(c) substituted by [2015 c. 8 Sch. 2 para. 45\(2\)\(c\)](#)
- s. 28(3A)(a) substituted by [2015 c. 8 Sch. 2 para. 45\(3\)\(a\)](#)
- s. 28(3A)(c) substituted by [2015 c. 8 Sch. 2 para. 45\(3\)\(b\)](#)
- s. 28(3B) words substituted by [2015 c. 8 Sch. 2 para. 45\(4\)](#)

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\(5\)\(b\)](#)