

*Status: Point in time view as at 16/07/2015. This version of this provision has been superseded.*  
*Changes to legislation: Pensions (No. 2) Act (Northern Ireland) 2008, Section 28 is up to date with all changes known to be in force on or before 13 June 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)*



## 2008 CHAPTER 13

### PART 1

#### PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

##### CHAPTER 1

##### EMPLOYERS' DUTIES

###### *Quality requirements*

#### **[<sup>F1</sup>Certification that quality requirement or alternative requirement is satisfied]**

<sup>F2</sup>**28.**—(1) The Department 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 [<sup>F3</sup>each of an employer's relevant jobholders ] if a certificate given in accordance with the regulations is in force in relation to the employer.

[<sup>F4</sup>(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 [<sup>F5</sup>state—

- (a) that], in relation to [<sup>F6</sup>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[<sup>F7</sup>, or

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(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.]

(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.

[<sup>F8</sup>(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.]

[<sup>F9</sup>(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.

[<sup>F10</sup>(d) for a scheme within subsection (3A), means a prescribed requirement.]

[<sup>F11</sup>(e) for a scheme within subsection (3B), means the quality requirement under section 23A(1)(a).]

(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 Department;

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- (e) requiring an employer to calculate the amount of contributions that a scheme, and any [<sup>F12</sup>contribution agreements] , required to be paid by or in respect of [<sup>F13</sup>any relevant jobholder] in the certification period;
  - (f) as to cases where the requirements of a scheme, and any [<sup>F14</sup>contribution agreements] , as to payment of contributions by or in respect of [<sup>F15</sup>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) [<sup>F16</sup>“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).<sup>F17</sup>, 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 Department may by order repeal this section.

#### Textual Amendments

- F1** S. 28 heading substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(2\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)
- F2** S. 28 applied by S.R. 2010/122, reg. 32J (as inserted (1.7.2012) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/237\)](#), regs. 1(1)(a), **2(3)**)
- F3** Words in s. 28(1) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(3\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)
- F4** S. 28(1A) inserted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(4\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)
- F5** Words in s. 28(2) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(5\)\(a\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)
- F6** Words in s. 28(2) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(5\)\(b\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)
- F7** S. 28(2)(b) and preceding word added (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(5\)\(c\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)S.R. 2012/233, art. 2(1)(b)

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- F8** S. 28(3A) inserted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 14\(2\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(c)
- F9** S. 28(3B) inserted (16.7.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), ss. 38\(4\)\(a\), 53\(1\)](#); S.R. 2015/307, art. 2(1)(d)
- F10** S. 28(4)(d) added (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 14\(3\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(c)
- F11** S. 28(4)(e) inserted (16.7.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), ss. 38\(4\)\(b\), 53\(1\)](#); S.R. 2015/307, art. 2(1)(d)
- F12** Words in s. 28(6)(e) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 14\(4\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(c)
- F13** Words in s. 28(6)(e) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(6\)\(a\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)
- F14** Words in s. 28(6)(f) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 14\(4\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(c)
- F15** Words in s. 28(6)(f) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 13\(6\)\(b\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(b)
- F16** Words in s. 28(8) substituted (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 14\(5\)\(a\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(c)
- F17** S. 28(8)(b) and preceding word added (2.6.2012 for specified purposes, 7.6.2012 in so far as not already in operation) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 14\(5\)\(b\), 34\(1\)\(3\)](#); S.R. 2012/233, art. 2(1)(c)

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

- C1** Pt. 1 applied (with modifications) (1.7.2012) by [The Automatic Enrolment \(Offshore Employment\) Order 2012 \(S.I. 2012/1388\), arts. 1\(1\), 2 \(with art. 5\)](#)

#### **Commencement Information**

- I1** S. 28 partly in force; s. 28 in force for certain purposes at Royal Assent see s. 118(2)
- I2** S. 28 in operation at 8.6.2012 in so far as not already in operation by [S.R. 2012/236, art. 2\(b\)](#)

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