Automatic enrolment: Guidance on certifying money purchase pension schemes

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Department for Work and Pensions

Contents

1. Background

1.1 Automatic enrolment: the employer duty

Employers will be required by law to automatically enrol their eligible jobholders into a qualifying automatic enrolment pension scheme and to maintain active membership for those already enrolled in a qualifying scheme. A qualifying scheme is one that meets certain standards and satisfies minimum requirements, in accordance with scheme type.

The key features of the minimum requirements for occupational money purchase schemes, personal pension schemes and the money purchase elements of hybrid pension schemes are set out in Annex A.

Employers' enrolment duties are being staged in from October 2012 with the largest employers being staged first. The Pensions Regulator will tell employers when their enrolment duty will start.

The Pensions Regulator has published detailed guidance on employers' duties. Employers should familiarise themselves with the Regulator's tool kit in conjunction with this guidance. The Regulator's tool kit is a simplified form of the guidance on the employer duty. See attached link **The Pensions Regulator**.

2. Purpose of this guidance

2.1 Who is this guidance for

This guidance is for employers and their advisers. It sets out the issues employers must consider in determining whether they can certify that their money purchase scheme or the money purchase element of their hybrid scheme(s) satisfies the relevant or alternative quality requirements, in respect of the relevant jobholders.

2.2 The legal status of the guidance

The person who gives a certificate in respect of a pension scheme must have regard to the guidance. This document is only a guide and does not cover every circumstance. The information contained in the document is correct as of June 2012. Some of the information may become inaccurate over time, for example because of changes to the law. We will periodically publish further versions of guidance.

3. What is certification?

Employers are required to automatically enrol jobholders who are aged at least 22, under State Pension Age and earning more than the earnings trigger (currently £8,105) into a qualifying automatic enrolment pension scheme. The minimum contribution is 8 per cent of ‘qualifying earnings’ (however calculated) of which at least 3 per cent must come from the employer, the remaining 5 per cent[1] and the remainder from the jobholder.[2]

Certification has been designed primarily to cater for employers who have existing good quality money purchase schemes and where either:

- the scheme does not satisfy the minimum contribution requirements under sections 20, 24 or 26 of the Act, but the scheme is able to satisfy any one of the three tiers of the ‘alternative quality requirement’; or
- the scheme does not on the face of things, i.e. from what is in the scheme rules, necessarily satisfy the quality requirements in the Act in all circumstances. However, the employer, having examined data held for all relevant jobholders, determines that in practice the contributions under the scheme have been as good or better than the minimum contributions under sections 20, 24 or 26 for all relevant jobholders This may be the case where some variable elements of jobholders’ earnings are not pensionable (e.g. overtime earnings).

Employers may certify where they have evidence that it is reasonable to believe that their money purchase occupational or personal pension scheme meets either the minimum quality requirements under the Act or one tier of the alternative quality requirements.

While a certificate is in force, provided that it was given on reasonable grounds, you will not need to reconcile any shortfalls in the contributions arising in the certification period. However, it would be good practice to monitor the situation especially where circumstances change. If at the end of the certification period, the minimum quality requirements were not met, you will be required to make any necessary improvements going forward before renewing the certificate.

If you are using a defined benefit pension scheme as your qualifying automatic enrolment scheme, or a hybrid scheme with a defined benefit element, then you should read the separate guidance at the following link: Guidance for employers certifying that a defined benefit scheme meets the test scheme standard. Hybrid schemes may need to satisfy both the defined benefit and money purchase quality requirements.

[1] Assuming the employer only makes minimum contributions.

[2] The jobholder’s contribution will also include income tax relief where it is due.

3.1 Who can certify?

The employer is responsible for certifying a scheme[3]. Where calculations are required, they can be delegated to a competent person. This could be the payroll department, accountant, scheme administrator etc. Only the employer or someone authorised by the employer can sign the certificate. Examples of persons who could be authorised by the employer include:

- in a limited company, a director or officer of the company;
- in a partnership, a senior partner;
- for a sole trader, the business owner;
- in a Government Department, a member of the executive team or the permanent secretary;
- in a Local Authority the chief executive;
- in a Government Agency, the chief executive;
- in public body, the chief executive;
- in an academic institution, the Dean or Principal; and
- in a National Health Service Trust – the chief executive.

In a multi-employer scheme one employer may be able to certify on behalf of the other employers in relation to their respective jobholders, if that employer is authorised to give a certificate by the relevant employers. For a scheme with segregated sections each employer certifies in respect of their jobholders in the relevant section(s). If more than one employer participates in a section, one employer may be able to certify on behalf of the other's relevant jobholders**,** if that employer is authorised to do so by the others.

If you are a charity, a society or club you should check the constitution of the organisation to determine who should sign the certificate.

3.2 When would you certify?

You can certify that your scheme satisfies one tier of the alternative quality requirements and can be used to meet your automatic enrolment duties, if you are satisfied that your scheme will meet the alternative requirement for each jobholder to whom the certificate will relate. It is possible, however, that under two of the tiers of the alternative requirement that, depending on the amount of the total earnings during the certification period that are non-pensionable, not all of the jobholders will receive the minimum level of contributions that the Act requires.

Where your scheme does not explicitly guarantee that it will satisfy the quality requirements in the Act, but you believe, after examining current remuneration data for all your relevant jobholders, that they were entitled to contributions which were at least as good as they would have been entitled to under the relevant quality requirement you may

[3] The employer is defined in section 88 of the Act as the person who employs the worker (normally the person responsible for deducting and paying National Insurance Contributions and Income Tax to Her Majesty's Revenue and Customs).

wish to certify that your scheme satisfies the relevant quality requirement going forwards. This is only likely to be used in rare circumstances where there are variable non-pensionable elements of pay and it is therefore not possible to be absolutely certain that the scheme will satisfy the quality requirements going forwards.

You will still need to calculate each jobholder's qualifying earnings as defined by the Act in order to apply the earnings trigger (currently earnings above £8,105)[4] to determine whether or not a jobholder is eligible for automatic enrolment, and to determine whether the payments to the jobholder meet the quality requirements in the Act..

3.3 When is certification not needed?

Certification is not necessary for money purchase schemes or the money purchase element of hybrid schemes, that require contributions at or above the minimum levels in the relevant quality requirement in the Act. Nor is it necessary where an employer does not want a certificate to cover certain jobholders or has chosen to undertake individual checks to ensure contributions are paid at or above the minimum levels.

Certification is likely to be of assistance if the earnings on which contributions are calculated do not include all wages, salary, commission, bonuses and overtime, or where such payments are variable.

3.4 Alternatives to Certification

If your scheme does not provide for contributions equivalent to at least 8% of qualifying earnings (of which 3% must come from the employer), one option is to make improvements to the scheme in collaboration with the trustees or managers so that the scheme meets the relevant quality requirements in sections 20, 24 or 26. There is a power in the Pensions Act 2008[5] that allows the trustees or managers, with the employer's consent, to make certain changes to the scheme. However, such modifications are limited to:-

- increasing the contribution rate, either directly or by changing the basis on which contributions are calculated;
- changing their frequency; and/or
- changing the rules of the scheme so that they provide for at least the minimum level of contributions required by law.

[4] This is the earnings trigger for the 2012/13 tax year. It will be reviewed each tax year and may be revised.

[5] See section 32 of the Pensions Act 2008 which provides for a modification power.

4. How certification works

4.1 Certification period

A certificate can be in force for a maximum period of 18 months, or for some shorter period. You can decide when the certificate starts (the “effective date”), and when it ends (the “expiry date”) provided it lasts for no more than 18 months. but you must ensure that either your scheme is a qualifying scheme or that you have given a certificate by the date when the duty to automatically enrol arises. You can choose a shorter period to align your first certificate with your chosen annual certification cycle.

If, during this period, a significant change in circumstances occurs such that the scheme can no longer satisfy the certification requirements, you should alter the expiry date of the certificate so that it expires on a day after the one on which the change takes place and before the last day of the period of 18 months beginning with the effective date. However, you cannot retrospectively cancel a certificate.

Examples of significant changes could be:

- corporate transactions such as mergers, acquisitions and transfers under the Transfer of Undertakings (Protection of Employment) Act (TUPE);
- changes to a scheme’s benefit structure;
- changes to the contribution rate;
- changes to the pay and reward structure;
- the winding up of a scheme.

You can also be required to bring the expiry date of a certificate forward, if the Pensions Regulator investigates the scheme because it is of the view that there were no reasonable grounds for the opinion that a certificate could be given stating that the scheme was able to satisfy the appropriate certification requirements .

At the end of the certification period

The certificate will expire at the end of the 18 month period or any shorter period that you have chosen. You should therefore consider in advance of its expiry how you intend to comply with your duty to pay minimum contributions at the end of the certification period, particularly, if you chose to renew the certificate, as you will have one month from the day after the expiry date of the first certificate to complete a new certificate.

4.2 Before you start to certify the scheme

You will need to choose a date on which the certificate will start. This will be the beginning of the certification period and is referred to as the “effective date”. It is also the date by reference to which you check the earnings data and make any calculations required.

The effective date of any certificate would normally be no later than the automatic enrolment date (unless the certificate is given within one month of this date with retrospective application). This date varies depending on your jobholders circumstances –

- for those already enrolled in the scheme or those eligible jobholders who are not already enrolled in the scheme the effective date is **the staging date**[6]**;**
- for those eligible jobholders for whom the duty to automatically enrol is being delayed because of a waiting period, the effective date would be **the postponed automatic enrolment date.** (You will need to bear in mind that these jobholders can opt into pension saving during a waiting period so you will need to have a qualifying scheme into which to enrol them.)

4.3 The Certification Test

The law relating to the certification requirements is contained in section 28 of the Act and Part 7A of the Regulations.

The alternative quality requirement requires a scheme to satisfy one of the following three requirements, referred to in the guidance as tiers, for all of the relevant jobholders.

Tier 1 – Total contributions of at least 9% of the jobholder's pensionable earnings (including an employer contribution of at least 4%) for each relevant jobholder in the scheme. The pensionable earnings of the jobholder must be equal to or more than that jobholder's basic pay.

Tier 2 – Total contributions of at least 8% of the jobholder's pensionable earnings (including an employer contribution of at least 3%) for each relevant jobholder in the scheme, provided that the total pensionable earnings of all relevant jobholders (taken in aggregate) to whom this tier applies constitutes at least 85% of their total earnings. The pensionable earnings of the jobholder must be equal to or more than that jobholder's basic pay.

Tier 3 – Total contributions of at least 7% of the jobholder's **total earnings** (including an employer contribution of at least 3%) for each relevant jobholder in the scheme. All earnings must be pensionable.

The contribution rates set out above are reduced during the transitional period to enable employers offering money purchase schemes to phase in their contributions gradually (see 5.5 Phasing in contributions).

Different groups of jobholders can fit into different tiers of the alternative requirement.

4.4 Definition of pensionable earnings

What constitutes "pensionable earnings" is likely to vary between employers; however, for the purposes of the certification test, pensionable earnings are defined as the gross earnings on which contributions to the scheme are payable. They must be at least equal to basic pay.

[6] The Employers Duties (Implementation) Regulations 2010

Basic pay should include, in particular -

- earnings before deductions;
- holiday pay; and
- statutory benefits such as: maternity, paternity, adoption and sick pay delivered through the payroll.

Allowances such as a car allowance based on value paid in replacement of a company car, other similar allowances and allowances for ancillary duties can be excluded – other examples are -

- bonuses
- overtime
- commission
- clothing allowances
- meal allowances
- attendance allowances
- shift allowances
- allowances for health and safety such as fire warden, first aid, key holder
- relocation allowance.

In establishing how to treat different pay items, employers will need to consider whether the payments made fall outside the definition of “earnings” in section 13(3) of the Act or within the list of payments which may be excluded from the definition of “basic pay” under regulation 32K, and therefore may be excluded.

4.5 Applying the alternative quality requirement test

If your scheme satisfies one of the tiers in the table below in respect of the relevant jobholders, you should certify that your scheme meets the alternative quality requirement. You can use different tiers for different groups of jobholders. See Annex C for an example of how to apply the test where there is more than one contribution band and Annex D if you wish to apply the test to a particular section of the scheme.

Table 1: Alternative quality requirement test

Test	The scheme must provide for at least	Minimum contributions in 1st transitional period if you choose to use phasing	Minimum contributions in 2nd transitional period if you choose to use phasing	What you need to do to qualify
Tier 1[7]	a 9% contribution of pensionable earnings (inclusive of at least a 4% employer contribution) for all of the relevant jobholders in the group or in the scheme	a 3% contribution of pensionable earnings (inclusive of at least a 2% employer contribution)	a 6% contribution of pensionable earnings (inclusive of at least a 3% employer contribution)	Check the documentation of the scheme; if the scheme provides for at least a contribution of 9% of pensionable earnings (inclusive of at least a 4% employer contribution) for all of the relevant jobholders you can sign the certificate.
Tier 2[8]	an 8% contribution of pensionable earnings (inclusive of at least a 3% employer contribution) for all of the relevant jobholders in the group or scheme	2 % contribution of pensionable earnings (inclusive of at least a 1% employer contribution)	a 5% contribution of pensionable earnings (inclusive of at least a 2% employer contribution)	Check the contribution rate in the scheme documentation, does the scheme require at least an 8% contribution of pensionable earnings of which the employer pays 3%? Are pensionable earnings at least 85% of the aggregate earnings of the relevant jobholders? If so, calculate pensionable earnings for all relevant jobholders over the period preceding the effective date. For the first certificate, this should normally be the earnings data from the preceding

7 Under Tier 1 the pensionable earnings of the jobholder must be equal to or more than that jobholder's basic pay (except where there is an upper limit to contributions, but contributions made to jobholders affected by the upper limit satisfy the quality requirements under the Act).

8 Under Tier 2 The pensionable earnings of the jobholder must be equal to or more than that jobholder's basic pay. To use this tier, the pensionable earnings of the relevant jobholders taken together must constitute at least 85% of earnings. The ratio should include all relevant jobholders to whom the certificate will apply.

Test	The scheme must provide for at least	Minimum contributions in 1st transitional period if you choose to use phasing	Minimum contributions in 2nd transitional period if you choose to use phasing	What you need to do to qualify
				year (however see below) - Call this figure A. Calculate, for all of the relevant jobholders, their total earnings over the same period. –Call this figure B. You can sign the certificate, if the contribution rate is at least 8% of pensionable earnings (with an employer contribution of at least 3%) and A/B x100 is at least 85% You can also use prospective earnings data over the certification period if you are employing staff for the first time or you have made recent changes to the scheme and/or payroll
Tier 3[9]	a 7% contribution of total earnings (with at least a 3% employer contribution) for all of the relevant jobholders in the group or scheme.	a 2% contribution of total earnings (with at least a 1% employer contribution) for all of the relevant jobholders in the group or scheme.	a 5% contribution of total earnings (with at least a 2% employer contribution) for all of the relevant jobholders in the group or scheme.	Check the documentation of the scheme, if the scheme provides for a contribution of at least 7 % (with an employer contribution of at least 3%) of all earnings for all of the relevant jobholders, you can sign the certificate.

9 Under Tier 3 all earnings of each relevant jobholder must be pensionable.

4.6 Who needs to be covered by a certificate

A certificate need not cover all of the jobholders employed and who are active members of the scheme, if the relevant quality requirements are being met in other ways for those active members. If you are certifying that your scheme satisfies the alternative requirements, different tiers of the test may be applied to different groups of the workforce and separate certificates must be completed in respect of each. Based on the position at the effective date, the table below lists the jobholders that you must include when you are certifying your schemes and those that you may exclude.

Table 2: Who needs to be covered by a certificate

Test for the first certificate		**Test for subsequent certificates**	
At the effective date – e.g. the staging date, you must include	**At the effective date, you can exclude**	**At the effective date you must include**	**At the effective date you can exclude**
All the relevant jobholders whose benefits are to be tested against the certification requirements. **This could include**: Jobholders who are existing members of the scheme. Jobholders eligible for automatic enrolment. Jobholders who are able to opt in to a qualifying scheme.	Any individual whose benefits you will not be testing against the certification requirements **This could include**: Jobholders for whom automatic enrolment has been deferred because you offer a type of hybrid scheme. Jobholders who do/will clearly receive contributions of at least the minimum under the relevant quality requirement. Individuals who are not jobholders i.e. do not fall within the definition of a jobholder in section 1 of the Act.	All the relevant jobholders whose benefits will be tested against the certification requirements. **This could include**: Jobholders who are existing members of the scheme. Jobholders eligible for automatic enrolment. Jobholders who are able to opt in to a qualifying scheme.	Any individual whose benefits you will not be testing against the certification requirements. **This could include**: Jobholders who have opted out. Jobholders who have voluntarily asked to contribute less than the minimum level contributions. Jobholders for whom automatic enrolment has been deferred because you offer a type of hybrid scheme. Jobholders who do/will clearly receive contributions of at least the minimum under the relevant quality requirement. Individuals who are not jobholders ie do not fall within the definition of a jobholder in section 1 of the Act.

Any jobholders excluded from the certificate because they have opted voluntarily to contribute less than the minimum or because they will clearly receive at least the minimum contributions under the relevant quality requirement must have their names and job roles recorded on the certificate.

5. Additional information

5.1 The certificate

A template certificate is provided in Annex E. To certify your scheme, you can use this template or you can develop your own certificate provided that it includes the following:

- the name of the scheme being certified;
- whether the certificate relates to part of a scheme and, if so, which part;
- the employer's unique reference(s) for the scheme – depending on the scheme type this could be:
    - the occupational pension scheme reference number,
    - a reference given by a personal pension provider; or
    - the reference given to an employer participating in a multi-employer pension scheme.
- whether the certificate relates to all of the jobholders of the employer who are active members of the scheme or part-scheme;
- whether there is a contribution cap and if so, the details;
- if the certificate relates to only some of the jobholders of the employer who are active members of the scheme or part-scheme/section of scheme, the names and job roles of the relevant jobholders;
- whether you have excluded any jobholders who have chosen voluntarily to save below the qualifying level, and their names and job roles;
- whether any jobholders have been excluded from the certificate because they will clearly receive contributions at least at the minimum level required under the Act[10]; and if so their names and job roles;
- which tier of the test is being used to certify;
- whether the test is to be applied proportionately because the scheme is a combination hybrid and the proportion to be satisfied;
- the certification period; and
- whether the certificate has been amended, and if so, the period covered by the previous certificate.

5.2 Timescales for certifying the scheme

You have one month , beginning with the effective date of the certificate, to complete the necessary checks and calculations and to sign the certificate. To meet this deadline, you should prepare for certification well in advance of your staging date.

For example, an employer chooses to certify their scheme –

- The automatic enrolment duty commences on 6 April 2013.
- The effective date of the certificate would be 6 April 2013.

[10] See sections 20 and 26 of the Pensions Act 2008

- The certificate can be based on the earnings data for the period 6 April 2012 to 5 April 2013.
- Employer has one month in which to undertake the relevant calculations and sign the certificate.
- The certificate should therefore be signed by 5 May 2013.
- The certificate expires on 5 October 2014 (for an 18 month certificate).
- Effective date of any new certificate would need to be 6 October 2014.

You must retain a copy of any signed certificate and any data/evidence relating to the certification for at least six years after its expiry. You do not have to send the certificate to the Pensions Regulator but the Regulator may ask to see it. If you have more than one scheme you will need to complete a certificate for each scheme. For example, if you offer a hybrid scheme, a Workplace Personal Pension Scheme and an occupational money purchase scheme you will need to complete three certificates. Also if you are using different sets of requirements (the three 'tiers' under the alternative requirements) for different jobholders, you will need to complete a certificate for each set of requirements .

After the end of the certification period, you must provide a copy of the certificate(s) on request by a relevant jobholder or a representative from a recognised trade union within two months after the day on which you received the request. However, you can remove any personal information that would identify any particular individual or group of individuals.

If you have capped pensionable pay and/or contributions but you are paying contributions at the same level, or in excess of, the minimum contributions required by law (see sections 20 and 26 of the Act) you can remove those individuals from any calculations. A "minimum" contribution is one equivalent to at least 8 per cent of qualifying earnings (of which at least 3 per cent must come from the employer) and if you offer a certain type of combination hybrid scheme, a proportionate amount.

5.3 Renewing a certificate

To renew a certificate, you must calculate whether or not the alternative quality requirement or relevant quality requirement was, or will be met. Where it has not been met, you must consider what action needs to be taken to ensure that the quality requirements are met for the proposed period of the further certificate.

To renew the certificate:

- refer to the relevant or alternative quality requirement and the jobholders to be included and those that can be excluded (see above on p17)
- using the earnings data over the period for which the previous certificate was in force and based on the scheme's contribution rate(s), apply the appropriate set of requirements to ensure that the scheme satisfied the test for all of the relevant jobholders
- the effective date of the next certificate is the day after the one on which the previous certificate expired.

Where there is a gap between the period covered by one certificate and the period covered by the next, the scheme must satisfy the relevant quality requirement under the Act during this period.

If you cannot renew a certificate because the review at the end of the certification period revealed that during that period the scheme did not satisfy any of the tiers of the alternative quality requirement or the relevant quality requirement in respect of all of the relevant jobholders and this situation is likely to continue, you must make improvements to the scheme.

Improvements can be made going forward by:

- increasing the contribution rate in the scheme; and/or changing the definition of pensionable earnings so that it is a higher proportion of total pay; or
- providing for a contribution of at least 8% of qualifying earnings (of which 3% is provided by the employer) so that the relevant quality requirement is met.

No retrospective calculation of shortfalls in the contributions is required, although any shortfall would of course be calculated as part of ensuring that the scheme meets the alternative quality requirements or relevant quality requirements over the period to be covered by a renewed certificate. You are required, to keep records[11] and the Regulator may at any time require those records or require you to give details of any shortfall in contributions. If the Pensions Regulator determines that the scheme has been mis-certified (see 4.4 Mis-certification) you may be required to identify shortfalls and make retrospective payments of contributions. If, for example, the scheme was originally certified using the second tier set of requirements but failed to meet the requirement that the total pensionable earnings of all jobholders constitutes at least 85% of their total earnings, this may mean that you are required by the Regulator to identify and correct shortfalls in contributions made for each individual jobholder. Making good the shortfall would require making contributions up to the level of 9 per cent of basic pay.

If for any reason you choose not to renew a certificate, you must ensure that the relevant jobholders are enrolled into a qualifying scheme which satisfies the relevant minimum contribution requirements. If you later decide to re-new that certificate and there has been a gap of two years or less between the end of the previous certification period and the start of the new certificate, you should assess the position during the previous certification period and make any necessary adjustments before giving a further certificate.

5.4 Mis-certification

If the Pensions Regulator is of the view that there were not reasonable grounds for you to have been of the opinion that the scheme was able to satisfy the alternative quality requirement or a quality requirement in the Act and that there was a shortfall between the contributions payable under the scheme and those payable under the relevant quality requirement, the Regulator may require you to make good the shortfall.

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[11] Record keeping is required under the Employers' Duties (Registration and Compliance) Regulations 2010

If you fail to make good the shortfall within the time specified by the Regulator, the certificate will be treated as being of no effect and the Regulator may take enforcement action under the Act for failure to enrol your jobholders into a qualifying scheme. The Pensions Regulator has enforcement powers which include imposing financial penalties. The Regulator will consider each case on its own merits. It has recently published a Compliance and Enforcement Strategy and Policy see Compliance and Enforcement strategy and policy.

5.5 Phasing in contributions

To help you manage the costs of your employer contributions, employers offering money purchase occupational pension schemes and Workplace Personal Pension Schemes will be able to gradually phase in their contributions over a transitional period. The phasing profile below only relates to occupational money purchase pension schemes and personal pension schemes. **Both employers and workers can make contributions in excess of the minimum requirements.**

The arrangements for hybrid schemes to help employers phase in their costs are set out in Annex F.

Table 3: Tier 1 Phasing

Transitional period	Employer minimum contribution calculated on pensionable pay	Worker minimum contribution calculated on pensionable pay	Total minimum contribution calculated on pensionable pay
First period (until 30/09/2017)	2%	1%	3%
Second period 01/10/2017 – 30/09/2018)	3%	3%	6%
Steady state (from 01/10/2018)	4%	5%	9%

Pensionable pay must be at least equal to basic pay.

Table 4: Tier 2 Phasing

Transitional period	Employer minimum contribution calculated on pensionable pay	Worker minimum contribution calculated on pensionable pay	Total minimum contribution calculated on pensionable pay

Transitional period	Employer minimum contribution calculated on pensionable pay	Worker minimum contribution calculated on pensionable pay	Total minimum contribution calculated on pensionable pay
First period (until 30/09/2017)	1%	1%	2%
Second period 01/10/2017 – 30/09/2018)	2%	3%	5%
Steady state (from 01/10/2018)	3%	5%	8%

Pensionable pay must be at least equal to basic pay. Basic pay must be at least 85% of total earnings for all relevant jobholders taken in aggregate.

Table 5: Tier 3 Phasing

Transitional period	Employer minimum contribution calculated on pensionable pay	Worker minimum contribution calculated on pensionable pay	Total minimum contribution calculated on pensionable pay
First period (until 30/09/2017)	1%	1%	2%
Second period 01/10/2017 – 30/09/2018)	2%	3%	5%
Steady state (from 01/10/2018)	3%	4%	7%

Pensionable pay must be equal to total earnings.

5.6 Questions and answers

What if –

I am employing staff for the first time?

If you are employing staff for the first time and wish to certify, you can do so based on the expected earnings of your jobholders and the requirements of the scheme. Mention that you have done this in the certificate.

I am an employer with more than one scheme?

You will need to give a certificate for each scheme. Each certificate will need to include the details of the scheme to which it relates.

More than one employer participates in my scheme?

In a scheme where more than one employer participates and one or more employers choose(s) to use certification, each employer using certification will be required to hold a certificate in respect of the relevant jobholders.

An employer may be able to certify on behalf of another participating employer and in respect of their jobholders, provided that the employer is authorised to do so by the participating employer.

I want the certificate to cover some jobholders but not others?

You can give a certificate in relation to:

- a sub-group of jobholders within a scheme;
- jobholders within a section of a scheme; and/or
- a sub-group of jobholders within a section of a scheme (see Annex D for an example)

I want to certify a workplace personal pension scheme?

Workplace personal pension schemes including Group Personal Pensions, Group Stakeholder Pensions and Group Self Invested Personal Pensions are a series of independent contracts between a jobholder and a provider to which an employer makes a contribution. A group of workplace personal pension schemes administered by a single provider on similar terms and conditions can be treated as if they were a single scheme for the purposes of certification.

I want to satisfy different tiers or sets of the requirements for different jobholders?

You can use different sets of requirements for different categories of relevant jobholders. if, for example the contribution bands in your scheme vary in relation to matching arrangements, grade, job, length of service etc (see Annex C for an example). You will need a separate certificate for each set of requirements.

A jobholder or trade union asks for a copy of the certificate?
You are required to furnish that person with a copy after the end of the certification period but you can remove any personal information that would enable a member of staff to be identified.

5.7 The Secretary of State's periodic review of the certification test

The law requires the Secretary of State to ensure that, under the alternative quality requirement, contributions will not be less than the statutory minimum for at least 90% of jobholders, assuming that they were all automatically enrolled into a scheme to which certification applies. Starting from 2017, the Secretary of State must periodically review the certification test to ensure that this condition is still met. If it is not met, the Secretary of State has the power to strengthen or repeal it going forwards.

The review carried out by the Secretary of State is at the aggregate level for all jobholders and is separate from the certification test for employers set out in this guidance. It has been introduced to minimise the risk of jobholders receiving less than the minimum level of contributions.

5.8 Relevant legislation

Section 28 of the Pensions Act 2008

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

The Hybrid Schemes Quality Requirements Rules 2012

Northern Ireland has its own body of pensions law and references to Great Britain legislation are to be taken, where necessary, as including references to the corresponding Northern Ireland legislation. Annex H lists the corresponding references.

Annex A – Terms used in the guidance

The Act – Pensions Act 2008

Automatic enrolment scheme – a scheme that can be used for automatic enrolment and other enrolment duties because it is a qualifying scheme (see below) and facilitates automatic enrolment by not requiring jobholders to provide information or make a decision in any matter in relation to the scheme, as a condition of membership.

Alternative quality requirement – a requirement set out in section 28 of the Pensions Act 2008 and Part 7A of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010. An employer can use an alternative quality requirement to check that the scheme can be used to fulfil their enrolment duties under the Act

Basic pay - the person's gross pay other than commission, bonuses, overtime, or similar payments, shift premium pay, certain job related allowances.

The certification test – The alternative requirements which a scheme must satisfy in order for the scheme to be used to fulfil their enrolment duties under the Act

Effective date – date on which the employer decides that the certification period should start and the date by reference to which the payroll and related records are checked.

Eligible jobholder – is a worker aged at least 22 and under State Pension Age who is working or ordinarily works in Great Britain, with earnings in excess of the automatic enrolment earnings trigger in section 3 of the Act (as amended)

Jobholder – a worker aged at least 16 and under 75, who is working or ordinarily works in Great Britain with earnings in excess of the lower threshold of the qualifying earnings band set out in section 13 of the Act (as amended)

Minimum level contributions – a contribution of 8 per cent of qualifying earnings (of which at least 3 per cent must come from the employer). For some hybrids this will be a proportionate rate. See also phasing period

Phasing period – employers offering money purchase schemes will be able to phase in the minimum contributions over two transitional periods. Different arrangements apply to hybrid schemes.

Qualifying earnings – earnings within the band set out in section 13 of the Act which will be periodically reviewed[12] Earnings to be taken into account include, salary, wages, commission, bonuses and overtime; statutory sick pay, statutory maternity, paternity and adoption pay.

[12] £5,564-£42,475 for the 2012/13 tax year.

Quality requirement – the minimum requirement which a scheme must satisfy in order to be a qualifying scheme,[13]

Qualifying scheme – a pension scheme which can be used to satisfy an employer's enrolment duties because it satisfies at least the minimum quality requirements in the Act (including where a certificate is given in relation to such quality requirements or an alternative quality requirement) and other criteria[14].

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

Relevant jobholders – all jobholders to whom a certificate relates.

Staging - the gradual implementation of the automatic enrolment duties.between 1st October 2012 and [1st February 2018] ?

The statutory minimum – the minimum level contributions required in order for a scheme to satisfy a quality requirement or an alternative quality requirement.

Steady state – after the implementation and transitional periods end

Tier - this is the term used in the guidance to describe a set of the alternative quality requirements.

Worker – an individual who works under a contract of employment or under any contract to provide a service (other than where the other party is a client or customer of a profession or business carried on by the individual)

[13] See sections 20-27 of the Act.
[14] See section 16 of the Act

Annex B - Scheme quality requirements

Guidance from the Pensions Regulator sets out in detail the basic standards and minimum requirements for qualifying schemes and for automatic enrolment schemes. Only the headline features are summarised below for ease of reference.

Quality requirements for UK occupational money purchase schemes and certain hybrid pension schemes with a money purchase element

To be a qualifying scheme a UK money purchase scheme and the money purchase element of UK hybrid schemes must meet certain basic standards and must provide for:

- an employer contribution equivalent to at least 3% of qualifying earnings, in the relevant pay reference period; and
- a total contribution (employer and jobholder) equivalent to at least 8% of qualifying earnings in the relevant pay reference period.[15]

Rules made under section 24 of the Act will direct hybrid schemes to the money purchase scheme quality requirements which in some cases are modified.[16]

Quality requirements for UK personal pension schemes

To be a qualifying scheme, a personal pension operating in the UK must meet certain basic standards and must provide that:

- all of the benefits provided to the jobholder are money purchase benefits;
- in relation to the jobholder there is an agreement between the provider of the scheme and the employer under which the employer must pay contributions in respect of the jobholder, and the employer contribution must be at least 3% of the jobholder’s qualifying earnings in the relevant pay reference period;
- there is an agreement between the scheme provider and jobholder requiring the jobholder to pay contributions equivalent to any shortfall between the employer’s contribution and the total contribution of 8% of qualifying earnings;
- in relation to the jobholder there are direct payment arrangements (see section 111A Pension Schemes Act 1993) in place between the jobholder and the employer

A scheme may meet the requirements however the employer contribution and the total contribution are calculated. For instance, scheme rules may not provide for all ‘qualifying earnings’ to attract pension contributions. However, if the contribution rate on earnings which are pensionable exceeds the minimum, it may be that the scheme will still be able to satisfy the contribution requirements.

[15] See section 20 of the Pensions Act 2008

[16] See section 24 of the Pensions Act 2008, The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2012, The Hybrid Schemes Quality Requirements Rules 2012, Guidance for actuaries on certifying Defined Benefit and Hybrid pension schemes

Quality requirements for EEA schemes.

To be a qualifying scheme an occupational[17] EEA money purchase scheme and the money purchase element an EEA hybrid schemes must meet certain basic standards and the quality requirements for UK schemes. See above.

To be a qualifying personal pension scheme, the scheme must meet certain basic standards and meet the minimum requirements for UK schemes[18]. See above.

[17] See also section 16 and18(b) of the Pensions Act 2008 and Regulations 35 and 47 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

[18] See regulations 35, 46 and 47 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2012

Annex C– Example of test where there is more than one contribution band

Employer C runs an airline and offers different bands of contributions, in accordance with job type. Contributions are calculated on basic pay which excludes payments such as overtime, commission, bonuses, shift allowances and similar allowances but includes geographical allowances.

Employer C arranges for the scheme documentation to be checked and the contribution rates are as follows –

	Employer cont	**Employee cont**	**Total cont**
Pilots/engineers	10%	5%	15%
Cabin crew	5%	3%	8%
Junior ground staff	3%	4%	7%

Cabin Crew Pay in the last year is as follows –

Cabin Crew	**Basic Pay**	**Shift allowance**	**Total pay**
Jobholder A	£10,000	£1,000	£11,000
Jobholder B	£10,000	£1,000	£11,000
Jobholder C	£10,000	£1,000	£11,000
Jobholder D	£10,000	£1,000	£11,000
Jobholder E	£10,000	£1,000	£11,000
Total	£50,000	£5,000	£55,000

Tier 1
The contribution of 15 per cent (including a 5 per cent employer contribution) for pilots and engineers satisfies tier 1 of the alternative quality requirement in respect of those relevant jobholders. Tier 1 requires a contribution of at least 9 per cent of pensionable earnings including the requirement for the employer to pay at least 4 per cent.

Tier 2
Aggregate basic pay for all cabin crew is 91 per cent of their total pay (50,000 / 55,000 x 100), which exceeds the 85 per cent minimum requirement. This means the contribution of 8 per cent for cabin crew (with 3 per cent from the employer) satisfies tier 2 of the alternative quality requirement.

Tier 3
Ground staff are entitled to a 7 per cent contribution (including a 3 per cent employer contribution). In order to satisfy tier 3 of the alternative quality requirement contributions must be calculated on all earnings. Employer C agrees to improve the pensionable pay definition to satisfy the certification test.

Employer C will have to complete a certificate for each tier of the test.

Annex D – Example of applying the test to a section of a scheme

Employer D ‘s company has been merged with another firm. The importing employer offers a hybrid scheme with a money purchase part and a defined benefit part. The terms of the merger are that the incoming workers are entitled to join the money purchase part of the scheme and retain their previous contributions calculated on pensionable pay (which in this case is the same as basic pay). The importing employer does not currently use certification.

For simplicity, the importing employer opens up a section within the money purchase part of the scheme and transfers in Employer D’s workers. The importing employer can self-certify in relation to Employer D’s former workers now in a section of the money purchase part of the scheme, if the section satisfies one of the tiers in respect of the relevant jobholders.

Annex E – Template certificate

Unique identifier which is one or more of:

- Pension Schemes Registry Number(s) (PSR);
- National Employment Savings Trust reference number;
- A reference number given the provider of a personal pension scheme; or
- The reference given to a multi-employer scheme

Name of scheme

Are you certifying a section/part of a scheme: Yes/No
If yes give details:

Name and Address of employer(s):

Effective Date of certificate:

Certification period:

If the certification period is changed at any time, give below the new date of expiry and brief reasons for the change:

The certificate relates to –

An occupational money purchase scheme	☐
The money purchase element of a hybrid pension scheme	☐
A personal pension scheme	☐

If the scheme is a hybrid and the test is to be satisfied proportionately, state the proportion of the test to be satisfied. Attach details if necessary.

Does the certificate cover all jobholders who are active members: Yes/No
If "no" attach details such as names, grade, job, pay band etc of those covered by certificate

Have you excluded any jobholders because they are receiving contributions of at least the minimum required by law? Yes/No
If "yes", attach names and roles.

Have you excluded any jobholders because they have chosen to pay contributions below the qualifying level? Yes/No
If "yes" attach names and roles.

Does the scheme operate a contribution or earnings cap? Yes/No.
If yes please give details

Alternative quality requirement – minimum pension contributions:
The scheme to which this certificate relates satisfies the following tier of the alternative quality requirement for all relevant jobholders.

Tier 1

First transitional period – until 30 September 2017 3% of pensionable pay and pensionable pay is at least equal to basic pay (inclusive of at least a 2% employer contribution)	☐
Second transitional period – 1 October 2017 to 30 September 2018 6% of pensionable pay and pensionable pay is at least equal to basic pay (inclusive of at least a 3% employer contribution)	☐
Steady state – from 1 October 2018 9% of pensionable pay and pensionable pay is at least equal to basic pay (inclusive of at least a 4% employer contribution)	☐

You must confirm the relevant jobholders and the names and roles of any jobholders who have been excluded from the certificate.

Tier 2

First transitional period – until 30 September 2017 2% of pensionable pay and pensionable pay is at least equal to basic pay (inclusive of at least a 1% employer contribution)	☐
Second transitional period – 1 October 2017 to 30 September 2018 5% of pensionable pay and pensionable pay is at least equal to basic pay (inclusive of at least a 2% employer contribution)	☐
Steady state – from 1 October 2018 8% of pensionable pay and pensionable pay is at least equal to basic pay (inclusive of at least a 3% employer contribution)	☐
AND Basic pay constitutes at least 85% of total earnings for all relevant jobholders taken together.	☐

You must confirm the relevant jobholders and the names and roles of any jobholders who have been excluded from the certificate.

Tier 3

First transitional period – until 30 September 2017 2% of pensionable pay and pensionable pay is equal to total earnings (inclusive of at least a 1% employer contribution)	☐
Second transitional period – 1 October 2017 to 30 September 2018 5% of pensionable pay and pensionable pay is equal to total earnings (inclusive of at least a 2% employer contribution)	☐
Steady state – from 1 October 2018 7% of pensionable pay and pensionable pay is equal to total earnings (inclusive of at least a 3% employer contribution)	☐

You must confirm the relevant jobholders and the names and roles of any jobholders who have been excluded from the certificate.

Relevant quality requirement – minimum pension contributions:

The scheme to which this certificate relates satisfies the relevant quality requirement for all relevant jobholders.

First transitional period – until 30 September 2017 2% of qualifying earnings (inclusive of at least a 1% employer contribution)	☐
Second transitional period – 1 October 2017 to 30 September 2018 5% of qualifying earnings (inclusive of at least a 2% employer contribution).	☐
Steady state – from 1 October 2018 8% of qualifying earnings (inclusive of at least a 3% employer contribution)	☐

You must confirm the relevant jobholders and the names and roles of any jobholders who have been excluded from the certificate.

NB: For certain hybrid schemes you will need to modify the minimum contributions to reflect apportionment of benefits within the scheme.

Satisfaction of the relevant or alternative requirement:

I certify that, in my opinion, the above scheme is able to satisfy the relevant quality requirement in sections 20, 24 or 26 the Act or one of the alternative quality requirements set out in section 28 of the Pensions Act 2008 and Part 7A of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 throughout the certification period in relation to the relevant jobholders.

In giving this certificate, I confirm that I have complied with the requirements contained in the relevant legislation and have had regard to the current Guidance on Certification issued by [the Secretary of State for Work and Pensions] [the Department for Social Development] under section 28(6)(d).

Signature of employer/person authorised by employer:

Name:

Position:

Date:

Annex F – hybrid pension schemes

If you offer a hybrid with a money purchase element and the Hybrid Schemes Quality Requirements Rules 2012 direct you to use the money purchase scheme quality requirements, you can give a certificate so that the money purchase element of the scheme can be taken to satisfy the alternative requirement.

Combination hybrids

However, the money purchase scheme quality requirements are modified for certain hybrid schemes, sometimes referred to as “combination hybrid schemes”, so the three tier test has been similarly modified.

Combination hybrids are schemes in which a jobholder builds up a pension based on money purchase and defined benefits accruals simultaneously in the proportions set out in the rules of the scheme. Employers offering combination hybrid schemes that do not satisfy the defined benefits or money purchase quality requirements in full must refer the scheme to an actuary for certification. Actuaries certifying combination hybrid schemes should refer to the guidance on the certification of defined benefits schemes and hybrid schemes.

To certify the money purchase element of a combination hybrid scheme, the actuary must ascertain the proportion of the money purchase quality requirements that the scheme has to satisfy to qualify. For example in the case of a scheme that needs to satisfy 50% of the money purchase quality requirements, the tiers of the test are proportionately adjusted.

Below is an example of how the certification test applies to a combination hybrid that only needs to satisfy the certification test proportionately based on 50% of the contributions required under certification.

Alternative Quality Test	Test
Tier 1	Scheme must provide for a contribution of at least 4.5% of pensionable earnings, of which the employer must pay at least 2%. Pensionable earnings must be equal to or more than basic pay.
Tier 2	Scheme must provide for a contribution of at least 4% of pensionable earnings, of which the employer must pay at least 1.5%. Pensionable earnings must be equal to or more than basic pay.
Tier 3	Scheme must provide for a contribution of at least 3.5% of earnings, of which the employer must pay at least 1.5%. All earnings must be pensionable

Employers offering hybrid schemes will be able to phase in their costs by rescheduling the automatic enrolment date of jobholders, who were eligible to join the scheme but declined membership, until the end of the transitional period in September 2017.

To use the transitional period, an employer will be required to provide an individual with a notice setting out their intention, along with their new automatic enrolment date. Individuals will retain the right to opt in to the scheme before the end of the transitional period.

The phasing in of contributions does not apply where a hybrid scheme chooses to automatically enrol jobholders at the end of the transitional period.

Annex G – a step by step guide to certifying the alternative quality requirements

The certification of a scheme in respect of the relevant jobholders

Step 1

Choose a date from which the certificate will start – "the effective date" and the period that the certificate will cover. Certificates can last for up to 18 months.

Step 2

To certify you will need to:

- consider the type of scheme(s) on offer;
- identify the contribution rate(s) required by the scheme(s);
- identify the basis on which pension contributions are calculated this will be either "basic pay" or "earnings");
- if necessary, determine whether pensionable earnings are at least equal to basic pay - this guidance assumes that the definition of pensionable pay is basic pay from pound one;
- for tier 2, obtain remuneration data from the previous year or use projected data to anticipated earnings.

Step 3

Based on the records at the effective date, identify the relevant jobholders to be covered by the certificate. This may include:

- jobholders who are active members of the scheme;
- jobholders to be automatically enrolled in the scheme; and
- jobholders who earn above the qualifying earnings threshold who may opt in.

Step 4

Based on the records at the effective date, identify any individuals whose benefits do not need to be tested against the certification requirements i.e. ,

- jobholders who (on renewal) have opted out;
- jobholders who (on renewal) have voluntarily asked to contribute less than the minimum level contributions[19] ;
- jobholders for whom automatic enrolment has been deferred because you offer a type of hybrid scheme;

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[19] but ensure that you record the names and job roles of the relevant jobholders

- jobholders who do/will receive contributions of at least the minimum under the relevant quality requirement in the Act;[20] and
- individuals who are not jobholders, i.e. do not fall within the definition of a jobholder in section 1 of the Act.

Step 5

For a large workforce, consider dividing the jobholders into categories based on the contribution band, job, department etc.

Step 6

Identify which tier(s) of the alternative requirement is/are to apply and based on the data obtained for step 2 and in respect of the jobholders identified in step 3:

- identify contribution rate(s) required for the scheme(s) to meet the tier selected;
- for tiers 1 and 2, ensure that pensionable pay is at least equal to basic pay;
- for tier 2 calculate pensionable pay as a percentage of total earnings for relevant jobholders in aggregate (this must be at least 85 per cent;
- for tier 3, ensure that all earnings are pensionable.

Step 7

If the scheme satisfies one tier of the test for all relevant jobholders, go to **step 10.**

Step 8

If scheme does not satisfy any of the tiers for all of the relevant jobholders of the test go to **step 9.**

Step 9

Consider making improvements to contribution levels into the scheme by:

- increasing the contribution rate;
- changing the definition of pensionable earnings; and/or
- calculating contributions on qualifying earnings.

Step 10

The certificate must be completed, signed and dated within 1 month of its effective date.

Step 11

Retain any certificate(s) and supporting documents for at least 6 years after the expiry date.

Renewing a certificate

Step 12

Prior to its expiry, decide whether you are going to renew the certificate. If so see steps above and repeat **step 2** onwards as appropriate.

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[20] as per previous note ensure that you record the relevant names and job roles

Step 13

If you choose not to renew the certificate, consider how you intend to comply with the employer duties.

Annex H – Corresponding Northern Ireland legislation

GB legislative reference	**NI legislative reference**
Pensions Act 2008 section 1 section 3 section 13(3) section 16 section 18(b) sections 20 to 28 section 32 section 88	Pensions (No. 2) Act (Northern Ireland) 2008 section 1 section 3 section 13(3) section 16 section 18(b) sections 20 to 28 section 32 section 70
The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 Part 7A regulation 32K regulation 35 regulations 46 and 47	The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 Part 7A regulation 32K regulation 35 regulations 46 and 47
The Employers’ Duties (Implementation) Regulations 2010	The Employers’ Duties (Implementation) Regulations (Northern Ireland) 2010
The Employers’ Duties (Registration and Compliance) Regulations 2010	The Employers’ Duties (Registration and Compliance) Regulations (Northern Ireland) 2010
The Hybrid Schemes Quality Requirements Rules 2012	The Hybrid Schemes Quality Requirements Rules (Northern Ireland) 2012
Pension Schemes Act 1993 section 111A	Pension Schemes (Northern Ireland) Act 1993 section 107A