

## Appendix D

### **(personal) Steps to take to determine if your defined contribution (DC) personal pension scheme is a qualifying scheme – These steps set out the two main available to employers. Other options can be found in section 4 of the Detailed Guidance - Transcript**

This is a transcript of the flowchart intended as supporting material for **Detailed guidance no. 4 – Pension schemes.**

The following flowchart shows the considerations an employer must make in satisfying themselves that a defined contribution (DC) personal pension scheme, with its main administration in the UK is a qualifying scheme. It will also tell you whether it can be used to fulfil any automatic enrolment duties.

Note: contribution levels are being phased in, appendix A and B have more information.

It is important to note that the criteria are the minimum features the scheme is required to have. There will be other things to consider before an employer makes a decision about what type of scheme to use. If the scheme is administered outside of the UK, then the employer may wish to consider if it meets the additional criteria for non-UK schemes.

\* More information about the relevant pay reference period can be found in Appendix E of Detailed guidance no 4 -Pension schemes.

#### **1. Is the scheme tax registered in the UK with HM Revenue and Customs?**

Yes – go to 3. No – go to 2.

2. The scheme is not a qualifying scheme and cannot be used for the employer duties for existing members who are eligible jobholders, or for automatic enrolment of future eligible jobholders.

#### **3. Do the terms of the policies use qualifying earnings as the definition of pay for the calculation of contributions?**

Yes – go to 5. No– go to 4.

#### **4. Are all the following statements true?**

There is an agreement in place between the employer and the provider of the scheme to pay contributions of at least 4% of pensionable earnings (the definition of pay for the calculation of contributions) in the certification period.

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If there is a shortfall between the employer's contribution and 9% of pensionable earnings, there is an agreement between the provider and the jobholder to pay contributions which are equal to or more than, the shortfall.

Pensionable earnings of the member are equal to or more than their basic pay.

Yes – go to 4.5. No – go to 4.1.

**4.1. Are all of the following statements true?**

1 There is an agreement in place between the employer and the provider of the schemes to pay contributions of at least 3% of pensionable earnings in the certification period.

2 If there is a shortfall between the employer's contributions and 8% of pensionable earnings, there is an agreement between the provider and the jobholder to pay contributions which are equal to or more than, the shortfall.

3 Pensionable earnings of the member are equal to or more than their basic pay.

No – go to 4.3. Yes – go to 4.2.

4.2. The employer may be able to certify that the scheme is a qualifying scheme for the workers who will be covered by the certificate. Is the average pensionable earnings at least 85% of their total earnings?

Yes – go to 4.5. No – go to 4.3.

**4.3. Are all of the following statements true?**

1. There is an agreement in place between the employer and the provider of the schemes to pay contributions of at least 3% of pensionable earnings in the certification period.

2. If there is a shortfall between the employer's contributions and 7% of pensionable earnings, there is an agreement between the provider and the jobholder to pay contributions which are equal to or more than, the shortfall.

Yes – go to 4.5. No – go to 4.4.

4.4. As it stands, the scheme is not a qualifying scheme so it will not be able to be used for the employer duties for existing members who are eligible jobholders, nor for automatic enrolment of future eligible jobholders. It may be possible to

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amend the terms of the policy to make it qualify. If amending the terms of the policy is an option and the employer also wants to know if it could be used for automatic enrolment, the scheme will have to have some additional features (described below).

Now go to 6.

4.5. The employer is able to certify that the scheme qualifies so it can continue to be used for existing members. The Department for Work and Pensions has published guidance on the process of certification. If the employer wants to use the scheme for automatic enrolment, it will also need to have the additional features (described below).

Now go to 6.

**5. Is there an agreement in place between the employer and the provider of the scheme for the employer to pay contribution at a rate of at least 3% of the member's qualifying earnings in a 12-month period?**

No – go to 5.4. Yes – go to 5.1.

**5.1. Is there a shortfall between the total contribution of 8% and the employer's contribution under the agreement above?**

No – go to 5.3. Yes – go to 5.2.

**5.2. Is there an agreement in place between the member and the provider of the scheme so that the member has to pay contributions equal to or more than that shortfall?**

No – go to 5.4. Yes – go to 5.3.

5.3. The scheme is a qualifying scheme and can continue to be used for existing members. If the employer wants to use the scheme for automatic enrolment, it will also need to have additional features (described below).

Now go to 6.

5.4. As it stands the scheme is not a qualifying scheme so it will not be able to be used for the employer duties for existing members who are eligible jobholders, not for automatic enrolment of future eligible jobholders.

It may be possible to amend the terms of the policy to make it qualify.

If amending the terms of the policy is an option and the employer also wants to know if it could be used for automatic enrolment, the scheme will have to have some additional features (described below)

Now go to 6.

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## 6. Additional features

Are the following statements true?

1. The scheme does not contain any provision which would prevent the employer from making the required arrangements to automatically enrol, opt in or re-enrol a jobholder (For example, it does not require a member to give consent to join).
2. The scheme does not require the member to provide any information or make any choices in order to remain an active member.
3. The scheme does not contain any provision that allows an amount to be deducted from a jobholder's pension pot or contributions, or the value of their pension rights to be reduced by any amount if that amount is to be paid to a third party other than the member, trustee or provider.

No, at least one statement is untrue – go to 6.2. Yes, all statements are true – go to 6.1.

6.1. The scheme is an automatic enrolment scheme.

6.2. As it stands, the scheme is not an automatic enrolment scheme so it will not be able to be used for the automatic enrolment of eligible jobholders. However, the scheme rules could be amended to make it an automatic enrolment scheme. If not amended, another scheme will need to be selected for automatic enrolment.

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## **Appendix D (occupational)**

### **Steps to take to determine if your defined contribution (DC) occupational pension scheme is a qualifying scheme -These steps set out the two main options available to employers. Other options can be found in section 4 of the Detailed Guidance -Transcript**

This is a transcript of the flowchart intended as supporting material for **Detailed guidance no. 4 – Pension schemes.**

The following flowchart shows the considerations an employer must make in satisfying themselves that a defined contribution (DC) pension scheme, with its main administration in the UK is a qualifying scheme. It will also tell you whether it can be used to fulfil any automatic enrolment duties.

Note: contribution levels are being phased in, appendix A and B have more information.

It is important to note that the criteria are the minimum features the scheme is required to have. There will be other things to consider before an employer makes a decision about what type of scheme to use. If the scheme is administered outside of the UK, then the employer may wish to consider if it meets the additional criteria for non-UK schemes.

\* More information about the relevant pay reference period can be found in Appendix E of Detailed guidance no 4 -Pension schemes.

#### **1. Is the scheme tax registered in the UK with HM Revenue and Customs?**

Yes – go to 3 No – go to 2

2. The scheme is not a qualifying scheme and cannot be used for the employer duties for existing members who are eligible jobholders, or for automatic enrolment of future eligible jobholders.

#### **3. Do the rules of the scheme or other binding agreement with the employer use qualifying earnings as the definition of pensionable earnings, or do they require contributions to be deducted from the first pound of pensionable earnings?**

Yes – go to 5 No – go to 4

#### **4. Do the rules of the scheme or other binding agreement with the employer:**

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1. Entitle the member to an employer's contribution equivalent to at least 4% of pensionable earnings in the certification period?
2. Entitle the member to a total contribution of 9%, and
3. Provide that pensionable earnings of the member is equal to or more than their basic pay?

Yes – go to 4.5 No – go to 4.1

**4.1 Do the rules of the scheme of other binding agreement with the employer:**

1. Entitle the member to an employer's contribution equivalent to at least 3% of pensionable earnings in the certification period?
2. Entitle the member to a total contribution of 8%, and
3. Provide that pensionable earnings of the member is equal to or more than their basic pay?

No – go to 4.3 Yes – go to 4.2

**4.2 The employer may be able to certify that the scheme is a qualifying scheme for the workers who will be covered by the certificate. Is the average pensionable earnings at least 85% of their total earnings?**

Yes – go to 4.5 No – go to 4.3

**4.3 Do the rules of the scheme of other binding agreement with the employer:**

1. Entitle the member to an employer's contribution equivalent to at least 3% of pensionable earnings in the certification period?
2. Entitle the member to a total contribution of 7%, of all their earning in that period?

Yes – go to 4.5 No –go to 4.4

4.4 As it stands, the scheme is not a qualifying scheme so it will not be able to be used for the employer duties for existing members who are eligible jobholders, nor for automatic enrolment of future eligible jobholders.

Employers may consider amending the rules of the scheme to make it qualify. If amending the rules of the scheme is an option and the employer also wants to know if it would be used for automatic enrolment, the scheme will have to have some additional features (described below).

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Now go to 6

4.5 The employer is able to certify that the scheme qualifies so it can continue to be used for existing members. The Department for Work and Pensions has published guidance on the process of certification. If the employer wants to use the scheme for automatic enrolment, it will also need to have additional features (described below).  
Now go to 6

**5. Do the rules of the scheme or other binding agreement with the employer:**

1. Entitle the member to an employer's contribution equivalent to at least 3% of the amount of the member's qualifying earnings in the relevant pay reference period\*?

2. Require a total contribution of at least 8%?

No – go to 5.2 Yes – go to 5.1

5.1 The scheme is a qualifying scheme and can continue to be used for existing members. If the employer wants to use the scheme for automatic enrolment, it will also need to have additional features (described below).  
Now go to 6

5.2 As it stands the scheme is not a qualifying scheme so it will not be able to be used for the employer duties for the existing members who are eligible jobholders, nor for automatic enrolment of future eligible jobholders.

Employers may consider amending the rules of the scheme of make it qualifying.

If amending the rules of the scheme is an option and the employer also wants to know if it could be used for automatic enrolment, the scheme will have to have some additional features (described below)

Now go to 6

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## **6 Are the following statements true?**

1. The scheme does not contain any provision which would prevent the employer from making the required arrangements to automatically enrol, opt in or re-enrol a jobholder (For example, it does not require a member to give consent to join).
2. The scheme does not require the member to provide any information to make any choices in order to remain an active member.

No, at least one statement is untrue – go to 6.2 Yes, all statements are true – go to 6.1

6.1 The scheme is an automatic enrolment scheme.

6.2 As it stands, the scheme is not an automatic enrolment scheme so it will not be able to be used for the automatic enrolment of eligible jobholders. However, the scheme rules could be amended to make it an automatic enrolment scheme. If not amended, another scheme will need to be selected for automatic enrolment.

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