

# Guidance on certifying money purchase pension schemes and the money purchase element of certain hybrid pension schemes

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This document is only a guide and does not cover every circumstance. The information contained in the document is correct as of July 2011. Some of the information may become inaccurate over time because of changes to the law.

## Relevant legislation

Section 28 of the Pensions Act 2008

The Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendment) No2 Regulations 2011

The Hybrid Schemes (Quality Requirements) Rules 2010

Northern Ireland Legislation

## Who is this guidance for?

Employers will be required by law to automatically enrol their eligible jobholders into a qualifying pension scheme and to maintain active membership for those already enrolled into a qualifying scheme. A qualifying scheme is one that meets certain basic standards and satisfies other minimum requirements, in accordance with scheme type. The key features of those requirements for occupational money purchase schemes, personal pension schemes and certain hybrid pension schemes with a money purchase element are set out in Annex C. Employers' enrolment duties are being staged in from October 2012. The Pensions Regulator will notify employers when the enrolment duty will start.

This guidance is for employers and their advisers. The guidance explains how employers can use certification as a means of ensuring that their money purchase and/or hybrid scheme can qualify to be used for automatic enrolment and related duties. It informs employers of the issues that they must consider in determining whether they can certify that their scheme(s) satisfies the relevant quality requirements, in respect of the relevant jobholders.

Any employers who contract with the National Employment Savings Trust (NEST), can use certification to ensure that they are complying with the minimum saving levels that NEST requires. These are based on a contribution of at least 8% of qualifying earnings of which 3% must come from the employer.

## What is certification?

Employers may choose Certification as a straightforward way to comply with their automatic enrolment and related duties. Employers with the following schemes may use certification:

- a money purchase occupational pension scheme with its main operational base in the United Kingdom (UK)<sup>1</sup> or in another member state of the European Economic Area (EEA);
- a personal pension scheme which is provided by a provider based in the UK or another EEA State; and/or
- the money purchase element of certain types of hybrid pension schemes<sup>2</sup> with the main operational base in the UK or in another member state of the EEA.

Certification has been designed, to make automatic enrolment easier for employers who do not calculate their pension contributions on qualifying earnings but nevertheless provide for contributions at or above the minimum required by law. **Minimum level contributions are at least the equivalent of 8% of qualifying earnings of which 3% must come from the employer.** Qualifying earnings are a band of earnings - £5,035-£33,540 in 2006/7 terms and will be updated and announced in early 2012.

To certify, you apply a straightforward test based on the contributions that your scheme requires. The certification test set out in this guidance, assumes that you pay pension contributions on basic pay from pound one of earnings.

## When to certify?

You can certify your scheme if you believe that it will satisfy the quality requirements for each jobholder but there is a risk that, depending on the position of the jobholders, at the end of the certification period not all of the jobholders will receive the minimum level of contributions that the law requires in every single pay period. Certification is likely to be of assistance if your definition of pensionable pay excludes variable pay items such as overtime, bonuses, commission etc.

## 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 of qualifying earnings.

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<sup>1</sup> This includes National Employment Savings Trust (NEST)

<sup>2</sup> For further information refer to the Hybrid Schemes (Quality Requirements) Rules 2010.

## **Other ways of complying with your Automatic Enrolment and other related duties**

If your scheme does not currently comply with the minimum requirements an alternative to certification is to make improvements to the scheme in collaboration with the trustees or managers. Section 32 of the Pensions Act 2008 allows you to make certain changes to the scheme to improve it so that it meets the quality requirements. Such improvements are limited to increasing the contribution rate:-

- directly, or
- by changing the basis on which contributions are calculated; and/or
- changing the frequency of contributions.

## **The Secretary of State's periodic review of the certification test**

The law requires the Secretary of State to ensure that under the certification test contributions are likely to be no less than the statutory minimum for at least 90% of jobholders, assuming that they were automatically enrolled into a scheme where certification is being used. Starting from 2017, the Secretary of State will periodically review the certification test and has power to strengthen or repeal the test, if the review identifies that this requirement is no longer met.

The test for the Secretary of State is separate from the certification test for employers set out in this guidance and has been introduced to minimise the number of jobholders receiving less than the minimum level of contributions.

## Background

### **Employer duty**

The Pensions Regulator has published detailed guidance on employers' duties: <http://www.thepensionsregulator.gov.uk/pensions-reform/detailed-guidance.aspx>. You should familiarise yourself with the Regulator's guidance in conjunction with this guidance. Your principal duty will be to automatically enrol your eligible jobholders into a qualifying scheme.

## Terms used in the guidance

**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

**Basic pay** – the elements of pay that do not vary, and therefore excludes variable elements of pay such as commission, bonuses and overtime

**Earnings** – money that is payable to an individual in connection with that individual's employment

**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 between 22 and State Pension Age who ordinarily works in Great Britain and earns at least qualifying earnings

**From pound one (£1) of earnings** – means that there is no lower earnings threshold in the definition of pensionable pay used by the employer in question

**Jobholder** – a worker aged between 16 and 75, who ordinarily works in Great Britain and who earns at least qualifying earnings

**Minimum level contributions** – a contribution of 8% of qualifying earnings (of which 3% must come from the employer). For some hybrids this will be a proportionate rate

**Pay reference period** – the period within which an individual is paid. This is normally a weekly or a monthly period

**Pensionable earnings** – at least basic pay, from pound one.

**Qualifying earnings** – earnings within a certain band which is periodically updated<sup>3</sup>

**Qualifying scheme** – a pension scheme which can be used for some of an employer's enrolment duties because it satisfies at least the minimum quality requirements and other criteria<sup>4</sup>

**Quality requirement** – the minimum requirement which a scheme must satisfy in order to be a qualifying scheme, (see Annex C)<sup>5</sup>

**Relevant jobholders** – all jobholders to which a certificate relates

**Steady State** – from 2017 when the phasing period ends

**The Act** – Pensions Act 2008

**The statutory minimum** – see under minimum level contributions

**Three tier certification test** - (also referred as “the certification test” “the three tier test” or “the test”).

**Total Earnings** – the total pay bill in respect of money paid to jobholders in connection with their employment

**Worker** – an individual who works under a contract of employment or under any contract to provide a service

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<sup>3</sup> £5,035-£33,540 in 2006/7 terms

<sup>4</sup> See section 16 of the Act

<sup>5</sup> See sections 20-27 of the Act

## The certification process

### Certification test

The law relating to the certification requirements is contained in section 28 of the Pensions Act 2008, The Occupational and Personal Pension Schemes (Automatic Enrolment) Amendment) Regulations and this guidance.

The certification test requires a scheme, from £1 of earnings, to satisfy at least one of the following three tiers for all of the relevant jobholders by requiring:

- tier 1 – at least a 9% contribution of the jobholder's pensionable earnings (inclusive of a 4% employer contribution);
- tier 2 – at least an 8% contribution of the jobholder's pensionable (inclusive of a 3% employer contribution) provided that the total pensionable earnings of all relevant jobholders to whom this tier applies in aggregate constitutes at least 85% of their total earnings; and/or
- tier 3 – at least a 7% contribution of the jobholder's total earnings (inclusive of a 3% employer contribution). That is, all earnings must be pensionable.

Different groups of jobholders can fit into one or more of the tiers.

### Persons who may certify

The employer is responsible for certifying a scheme<sup>6</sup>. The actual calculations can be delegated to anyone competent, such as the payroll department, accountant or scheme administrator. Only the employer or someone authorised by the employer can sign the certificate.

Examples of the employer or authorised person who could sign the certificate 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;

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<sup>6</sup> The employer is defined as the person who employs the worker and the person responsible for deducting and paying National Insurance Contributions and Income Tax to Her Majesty's Revenue and Customs.

- in an academic institution, the Dean or Principle; and
- in a National Health Service Trust – the chief executive

If you are charity, a society or club you should check the constitution.

## The beginning of the certification period

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 to which you refer to check the earnings data and make any calculations required.

During the implementation phase of the employer duty, the effective date of any certificate would normally be no later than the date on which your duty to automatically enrol your eligible jobholders takes effect. You will be notified of your staging date by the Pensions Regulator, unless you have opted to move your date forwards.

## 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,
  - the NEST 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;
- 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 and, a description of the relevant jobholders;
- which tier or tier(s) of the test are 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;
- the effective date;
- any changes made to the certification period;

- whether any jobholders have been excluded from the certificate because they will receive contributions at least at the minimum level required by law;
- provision for the signature the employer or the authorised person and the date
- a statement to the effect that “in relation to the jobholders of the employer who are active members of the scheme, the scheme in the opinion of the of the person giving the certificate is able to satisfy the relevant quality requirement throughout the certification period.”

From the effective date of the certificate, you have **one month** 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 the duty taking effect.

You should retain a copy of any signed certificate 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 the certificate. A certificate will have to be completed for each scheme on offer. For example, if you offer a hybrid scheme, a Workplace Personal Pension Scheme and a money purchase scheme you will need to give three certificates.

## Certification period

A certificate can be in force for a maximum of 12 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 is within a 12 month timeframe. You can choose a shorter period to align your first certificate with your chosen annual certification cycle.

While a certificate is in force, if a significant change in circumstances occurs in relation to a scheme or an employer that means that the scheme can no longer satisfy the certification test, you should alter the expiry date so the certificate expires on the day after the one on which the change takes place. 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.

## Expiry of the certificate.

A certificate must expire at the end of the 12 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, particularly, if you chose to re-certify, as you will have one month from the day after the expiry date of the previous certificate.

For example, employer A chooses to certify. Their automatic enrolment duty commences on 6 April 2013.

- The effective date of the certificate is 6 April 2013 (it should not be later than this date).
- The certificate can be based on the earnings data for the period 6 April 2012 to 5 April 2013
- You have 1 month in which to undertake the relevant calculations and sign the certificate.
- It should therefore be signed by 5 May 2013
- The certificate expires on 5 April 2014
- Effective date of any new certificate is **6 April 2014**

## Persons 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. Different tiers of the test may be applied to different groups of the workforce. **See annex B for further details.**

Based on the position at the effective date the table overleaf sets out the jobholders that you must include when you are certifying your schemes and those that you can exclude.

When the duty is staged		Subsequent certificates after the duty has been staged	
Based on the position at the effective date:		Based on the position at the effective date::	
You must Include	You can exclude	You must include	You can exclude
<ul style="list-style-type: none"> <li>• Jobholders automatically enrolled into the scheme;</li> <li>• Jobholders who are active members of the scheme;</li> <li>• Jobholders who have voluntarily opted in and earn above the qualifying earnings threshold; and</li> <li>• Jobholders not automatically enrolled due to a waiting period</li> </ul>	<ul style="list-style-type: none"> <li>• Jobholders who have voluntarily asked to be able to contribute less than the minimum level contributions required by law;</li> <li>• Workers who have voluntarily opted in but earn below the qualifying earnings threshold;</li> <li>• Jobholders for whom automatic enrolment has been deferred during the transitional period because you offer a certain type of hybrid scheme; and</li> <li>• Jobholders who receive contributions at least at the minimum level required by law.*</li> </ul>	<ul style="list-style-type: none"> <li>• Jobholders automatically enrolled into the scheme;</li> <li>• Jobholders who are active members of the scheme;</li> <li>• Jobholders who have voluntarily opted in and earn above the qualifying earnings threshold; and</li> <li>• Where the certification period coincides with triennial re-enrolment date, jobholders to be re-enrolled</li> </ul>	<ul style="list-style-type: none"> <li>• Jobholders who have opted out of automatic enrolment;</li> <li>• Jobholders who have voluntarily asked to be able to contribute less than the minimum level contributions required by law;</li> <li>• Workers who have voluntarily opted in but earn below the qualifying earnings threshold;</li> <li>• Jobholders not enrolled during a waiting period;</li> <li>• Jobholders for whom automatic enrolment has been deferred during the transitional periods because you offer a certain type of hybrid scheme; and</li> <li>• Jobholders who receive contributions at least at the minimum level required by law.</li> </ul>

\*If you have capped pensionable pay and/or contributions and you are paying contributions at or in excess of the minimum required by law you can remove those the individuals from any calculations. A “minimum” contribution is one equivalent to at least 8% of qualifying earnings (of which at least 3 percent) must come from the employer and if you offer a certain type of combination hybrid scheme, a proportionate amount.

## Applying the test

If your scheme satisfies one of the tiers in the table below in respect of the relevant jobholders, you can certify that your scheme meets the relevant quality requirement. You can use different tiers for different groups of jobholders. See section entitled “Additional information”. Refer to Annex A for an example of how this might work and Annex D for step-by-step guidance.

Test	Based on earnings from £1, your scheme must provide for at least:	Minimum contributions in transitional periods, if you choose to use phasing		What you need to do to certify
		1 October 2012 to 30 September 2016	1 October 2016 to 30 September 2017	
Tier 1	a <b>9% contribution of pensionable earnings</b> (inclusive of at least a 4% employer contribution) for all of the relevant jobholders in the group or in the scheme.	a <b>3% contribution of pensionable earnings</b> (inclusive of at least a 2% employer contribution)	at <b>6% contribution of pensionable earnings</b> (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 for of all the relevant jobholders. You can sign the certificate
Tier 2	an <b>8% contribution of pensionable earnings</b> (inclusive of at least a 3% employer contribution) for all of the relevant jobholders in the group or scheme	<b>2 % contribution of pensionable earnings</b> (inclusive of at least a 1% employer contribution)	a <b>5% contribution of pensionable earnings</b> (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 on personable earnings of which the employer pays 3%? If so, calculate for all of the relevant jobholders their pensionable earnings over the relevant pay reference period preceding the effective date. This should normally be the earnings data from the preceding year (however see below) - <b>Call this figure - A.</b> for individuals to be automatically enrolled, you can look back or forwards and consider how the definition
	To use this tier, the relevant earnings of the relevant jobholders who are active members of the scheme or group (if the tier only applies to a group) taken together must constitute at least 85 % of			

Test	Based on earnings from £1, your scheme must provide for at least:	Minimum contributions in transitional periods, if you choose to use phasing		What you need to do to certify
		1 October 2012 to 30 September 2016	1 October 2016 to 30 September 2017	
	<p>total earnings. The ratio should include jobholders who are active members of the scheme minus any permitted exclusions.</p>			<p>of pensionable earnings will apply to them once they are enrolled. you can also use prospective earnings data if you are employing staff for the first time or you have made recent changes to the scheme and/or payroll Calculate, for all of the relevant jobholders, their total earnings over the relevant pay reference period preceding the effective date. This should normally be the earnings data from the preceding year but in some cases this can be prospective earnings – see above; <b>Call this figure – B</b> You can sign the certificate, if the contribution rate is at least 8% of pensionable earnings and <b>A/B x100 is equivalent to at least 85%</b> If you are concerned that a large or identifiable group of people will substantially lose out, you can perform the calculation for each individual jobholder to ascertain the position.</p>

Test	Based on earnings from £1, your scheme must provide for at least:	Minimum contributions in transitional periods, if you choose to use phasing		What you need to do to certify
		1 October 2012 to 30 September 2016	1 October 2016 to 30 September 2017	
Tier 3	a <b>7% contribution of total earnings</b> (with at least a 3% employer contribution) for all of the relevant jobholders in the tranche or scheme. All earnings must be pensionable earnings.	a <b>2% contribution of total earnings</b> (with at least a 1% employer contribution) for all of the relevant jobholders in the tranche or scheme. All earnings must be pensionable .	a <b>5% contribution of total earnings</b> (with at least a 2% employer contribution) for all of the relevant jobholders in the tranche or scheme. All earnings must be pensionable	Check the documentation of the scheme, if the scheme provides for a contribution of at least 7 % of total pay for all of the relevant jobholders. You can sign the certificate.

## Renewing the certificate

You can only renew a certificate, if the scheme satisfied at least one of the tiers of the test for all of the relevant jobholders.

To renew the certificate:

- consider the three tier test and the jobholders to be included and those that can be excluded;
- 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 tier(s) of the test to ensure that the scheme satisfies the test for the relevant jobholders;
- the effective date of the next certificate is the day after the one on which the previous certificate expired;
- you must ensure that the next certificate is in place within a month of the day after the expiry of the previous. That day now becomes the new effective date of the next certificate.

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 test in respect of the relevant jobholders and this situation is likely to continue you must improve the contribution levels.

Improvements can be made going forwards 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 so that the relevant quality requirement is met.

No retrospective calculation of shortfalls in the contributions is required. However, if the Pensions Regulator determines that the scheme has been mis-certified (see section entitled "mis-certification") you may be required to make retrospective payments of contributions.

If for any reason you **choose not to renew a certificate**, you must ensure that your jobholders are enrolled into another qualifying scheme which satisfies the relevant minimum contribution requirements.

## Phasing in contributions

To help you manage the costs of your employer contributions, employers offering money purchase occupational pension schemes, Workplace Personal Pension Schemes and/or hybrid 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. The arrangements for hybrid schemes are mentioned in the section entitled “Other information”.

### Tier 1 Phasing

Transitional period	Duration	Employer minimum contribution calculated on basic pay	Employee minimum contribution calculated on basic pay	Total minimum contribution calculated on basic pay
1	1 October 2012 to 30 September 2016	2%	1%	3%
2	1 October 2016 to 30 September 2017	3%	3%	6%
<b>Steady state</b>		<b>4%</b>	<b>5%</b>	<b>9%</b>

### Tier 2 Phasing

Transitional period	Duration	Employer minimum contribution calculated on basic pay which must be at 85% of total pay	Employee minimum contribution calculated on basic pay be at 85% of total pay	Total minimum contribution calculated on basic pay be at 85% of total pay
1	1 October 2012 to 30 September 2016	1%	1%	2%
2	1 October 2016 to 30 September 2017	2%	3%	5%
<b>Steady state</b>		<b>3%</b>	<b>5%</b>	<b>8%</b>

### Tier 3 Phasing

Transitional period	Duration	Employer minimum	Employee minimum	Total minimum contribution
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		<b>contribution calculated on total pay</b>	<b>contribution calculated on total pay</b>	<b>calculated on total pay</b>
1	1 October 2012 to 30 September 2016	1%	1%	2%
2	1 October 2016 to 30 September 2017	2%	3%	5%
<b>Steady state</b>		<b>3%</b>	<b>4%</b>	<b>7%</b>

## Additional information

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.

### **I am an employer with more than one scheme?**

You will need to give a certificate for each scheme. The details of each scheme will need to be included in the certificate(s).

### **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.

### **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 B for an example)

### **I operate a salary sacrifice arrangement?**

If you operate arrangements, commonly referred to as "salary sacrifice", in which an individual gives up part of their pay in exchange for a pension contribution, the individual's earnings (and relevant earnings) is the sum that is payable to the individual after part of the pay has been sacrificed.

### **I want to certify a workplace personal pension scheme?**

Workplace personal pension schemes include Group Personal Pensions Schemes, 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 of the test for different jobholders?**

Different tiers of the test can be satisfied for different categories of relevant jobholders, in accordance with the contribution bands in your scheme which may vary in relation to matching arrangements, grade, job, length of service etc (see Annex A for an example).

### **I offer a hybrid scheme, can I give a certificate?**

If you offer a hybrid with a money purchase element and the Hybrid Scheme (Quality Requirements Rules) 2010 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 relevant quality requirement.

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. See example below:

Tier	Test
Tier 1	Scheme must provide for at least a 4.5% contribution of pensionable earnings of which the employer must pay 2 per cent.
Tier 2	Scheme must provide for at least a 4% contribution of pensionable earnings of which the employer must pay 1.5 cent. Pensionable earnings must be at least 85% of the total pay bill.
Tier 3	Scheme must provide for at least a 3.5 %contribution of total pay of which the employer must pay 1.5 per cent.

**My scheme is a hybrid and I want to phase in my contributions:**

Employers offering hybrid schemes will be able to phase in their contributions by deferring the automatic enrolment date of jobholders, who were eligible to join the scheme but declined membership, until the end of a transitional period in September 2016.

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 auto enrolment date.

## Mis-certification

If the Pensions Regulator finds that there were not reasonable grounds for you to have certified based on the opinion that the scheme was able to satisfy the certification test or a quality requirement 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.

If you fail to make good the shortfall within the time allowed the certificate will be treated as being of no effect and you will be exposed to 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.

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## Annex A – example of test where there is more than one contribution band

Employer A runs an airline and offers different bands of contributions in accordance with job type. Contributions are calculated on basic earnings. Basic earnings are the same as pensionable earnings.

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

### Tier 1

The contribution of 15% for pilots and engineers satisfies tier 1 of the test in respect of those relevant jobholders. Tier 1 requires a contribution of at least 9% of pensionable earnings including the requirement for the employer to pay 3%.

### Tier 2

Total pensionable earnings for all cabin crew are 91% of their total pay ( $50,000/55,000 \times 100$ ), which exceeds the 85% minimum requirement. This means the contribution of 8% for cabin crew satisfies the second tier test.

Per annum	Pensionable earnings	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 3

Ground staff are entitled to a 7% contribution. In order to satisfy the third tier, that 7% contribution must be calculated on their total pay.

## Annex B – example of applying the test to a section of a scheme.

Employer B's company has been merged with another firm. The importing employer offers a hybrid scheme with a money purchase part and defined benefits 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 basic earnings (same as pensionable earnings). 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 B's workers. The importing employer can self-certify in relation to Employer B's former workers now in a section of the money purchase part of the scheme, if the section satisfies at least one of the tiers in respect of the relevant jobholders.

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## Annex C – 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.

### **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 UK hybrid schemes must meet certain basic standards and must provide for:

- an employer contribution equivalent to **at least 3 percent of qualifying earnings**, in the relevant pay reference period; and
- a total contribution (employer and jobholder) equivalent to **at least 8 percent of qualifying earnings** in the relevant pay reference period.<sup>7</sup>

Regulations, rules and guidance will direct [certain] hybrid schemes to the money purchase scheme quality requirements which in some cases are modified.<sup>8</sup>

### **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 percent of the jobholder's qualifying earnings** in the relevant pay reference period;
- there is an agreement between the scheme provider and jobholder requiring jobholder to contributions equivalent to any shortfall between the employer's contribution and the total contribution of 8 per cent;
- 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

### **Quality requirements for EEA schemes.**

To be a qualifying scheme an occupational EEA money purchase scheme and the money purchase element an EEA hybrid schemes must meet certain basic standards as well as the quality requirements for UK schemes.<sup>9</sup>

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<sup>7</sup> See section 20 of the Pensions Act 2008

<sup>8</sup> See section 24 of the Pensions Act 2008, The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2011, Hybrid Schemes (Quality Requirements) Rules, Guidance for actuaries on the certification of defined benefits and hybrid schemes

## Guidance on certifying money purchase schemes and the money purchase element of certain hybrid schemes

To be a qualifying personal pension scheme, the scheme must meet certain basic standards as well as meet the minimum requirements for UK schemes<sup>10</sup>.

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<sup>9</sup> See also section 16 and 18(b) of the Pensions Act 2008 and Regulations 35 and 47 of the Occupational and Personal Pensions (Automatic Enrolment) Regulations 2010

<sup>10</sup> See regulations 35, 46 and 47 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2011

## Annex D – a step by step guide to certification

### The initial 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 one year.

**Step 2 – To undertake the certification test you will need to -**

- consider the type of scheme(s) on offer;
- identify contribution rate(s) required by the scheme(s);
- identify the proportion of earnings on which contributions are calculated (sometimes referred to as “basic pay”);
- determine the earnings thresholds at which point contributions are payable. Contributions must be payable from £1 to use the certification test is set out in this guidance;
- obtain remuneration data from the previous year, if tiers 2 or 3 of the test apply.

**Step 3 – Based on the records at the effective date identify -**

- Jobholders automatically enrolled into the scheme;
- Jobholders who are active members of the scheme; and
- Jobholders who have voluntarily opted in and earn above the qualifying earnings threshold
- When the enrolment duty is staged those jobholders whose automatic is being delayed because of a waiting period.

These jobholders are to be included in the test

**Step 4 – Based on the records at the effective date identify -**

Jobholders who have opted out of automatic enrolment;

- Jobholders who have voluntarily asked to be able to contribute less than the minimum level contributions required by law;
- Workers who have voluntarily opted in but earn below the qualifying earnings threshold
- if you have capped pensionable pay or contributions, jobholders who earn in excess of the qualifying earnings upper threshold and who will receive at least the minimum level contributions required by law,
- Jobholders, during the transitional period, for whom automatic enrolment can be deferred, because you offer a certain type of hybrid scheme and
- After the duty has been stage jobholders whose automatic is being delayed because of a waiting period.

These jobholders can be excluded from the test

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**Step 5 – For a large workforce -**

- consider dividing the jobholders into categories based on the contribution band and/or
- consider focusing the checks on categories of jobholders most at risk of not satisfying the certification tests

**Step 6 – Identify which tier(s) of the test 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 2 and 3 calculate pensionable earnings as a percentage of total earnings (85% for tier 2 and 100% for tier 3)
- determine the earnings thresholds at which point contributions are payable. Contributions must be payable from £1;

**Step 7 – If the scheme satisfies at least one tier of the test for all jobholders who are active members, go to step 10**

**Step 8 – If scheme does not satisfy any of the tiers 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 its effective date.**

**Step 11 – Retain any certificate(s) 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**

**Step 13 – Follow the guidance under the heading “Renewal of Certificate” above.**

**Step 14-** Repeat **Step 2** onwards as appropriate.

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## Annex E – template certificate

### Unique identifier which is one or more of:

- Pension Schemes Registry Number(s) (PSR);
- National Employment Saving 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:

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

### 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

**Type of scheme that the certificate covers (one certificate for each scheme): the certificate relates to –**

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

### Relevant Quality Requirement:

I pay pension contributions on basic pay from £1 of earnings and my scheme provides for contributions for each jobholder at least equivalent to:

- a 9% contribution of pensionable earnings (inclusive of at least a 4% employer contribution);

Please confirm the jobholders to which this tier applies. A description of the jobholders by job, grade, pay band etc which would enable them to be identified will suffice.

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- an 8% contribution on pensionable earnings** (inclusive of at least a 3% employer contribution) and relevant pay constitutes **at least 85% of total pay for all jobholders collectively**.

Please confirm the jobholders to which this tier applies. A description of the jobholders by job, grade, pay band etc which would enable them to be identified will suffice.

- a 7% contribution of total pay** (with at least a 3% employer contribution), and all pay is pensionable.

Please confirm the jobholders to which this tier applies. A description of the jobholders by job, grade, pay band etc which would enable them to be identified will suffice.

**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.**

**Have you excluded any jobholders because they are receiving contributions of at least the minimum required by law: Yes/No**

**Satisfaction of the relevant quality requirement:**

I certify that, in my opinion, the above scheme is able to satisfy the relevant requirement identified above throughout the certification period in relation to the relevant jobholders<sup>11</sup>, I employ, who are active members of the scheme.

In giving this certificate, I confirm that I have complied with the requirements contained in the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 as amended by the Automatic Enrolment (Miscellaneous Amendments) Regulations and have had regard to the position of the relevant jobholders who are active members of the scheme on the effective date of the certificate and the current Guidance on Certification issued by the Secretary of State for Work and Pensions under section 28(6)(d) of the Pensions Act 2008.

Signature of employer/person authorised by employer:

Name:

Position:

Date:

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<sup>11</sup> Relevant jobholders are jobholders to whom the certificate applies.