
STATUTORY INSTRUMENTS

2012 No. 215

The Automatic Enrolment (Miscellaneous
Amendments) Regulations 2012

PART 4

Amendment of the Occupational and Personal Pension
Schemes (Automatic Enrolment) Regulations 2010

Amendment of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

17. The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(1) are amended in accordance with this Part.

Substitution of regulation 2

18. For regulation 2 (enrolment information) substitute—

“Enrolment information

2. In these Regulations “enrolment information” means the information described in paragraphs 1-15, 24 and 25 of Schedule 2.”

Amendment of regulation 4

19. In regulation 4 (pay reference periods for the purposes of section 1(1)(c) of the Act)—

- (a) in the heading, for “section 1(1)(c)” substitute “sections 1(1)(c), 3(1)(c) and 5(1)(c)(2)”;
- (b) in paragraph (1) for “section 1(1)(c) of the Act (jobholders), except in the case of person A,” substitute “sections 1(1)(c), 3(1)(c) and 5(1)(c) of the Act (jobholders, automatic enrolment and automatic re-enrolment)”;
- (c) omit paragraphs (2) to (7).

Substitution of regulation 5

20. For regulation 5 substitute—

(1) [S.I. 2010/772](#).

(2) Sections 3(1) and 5(1) were substituted by the Pensions Act 2011, section 5.

“Pay reference periods for the purposes of section 20(1)(b) and (c) and section 26(4)(b) and (5)(b) of the Act

5.—(1) The pay reference periods for the purposes of section 20(1)(b) and (c) (quality requirement: UK money purchase schemes) and section 26(4)(b) and (5)(b) (quality requirement: UK personal pension schemes) of the Act are as follows.

(2) In relation to any person—

(a) the person’s first pay reference period is to begin—

(i) on the first day, on or after the staging date, that a person is both a jobholder and an active member of a qualifying scheme; or

(ii) where there has been a period beginning after that first day, during which the requirements of section 1(1)(a) or (c) of the Act were not met but the person remained an active member of a qualifying scheme, on the day following the last day of that period; and

(b) the person’s subsequent pay reference periods begin on the anniversary of the employer’s staging date.

(3) The pay reference period in relation to any person ends on the day on which the person ceases to be a jobholder of the employer or ceases to be an active member of a qualifying scheme.”.

Amendment of regulation 12

21. In regulation 12 (automatic re-enrolment dates)—

(a) in paragraph (1) omit “(2),”;

(b) in sub-paragraphs (1)(a) and (b) for “of one month beginning with” in both places where it appears substitute “beginning 3 months before, and ending at the end of the period of 3 months beginning with,”;

(c) omit paragraph (2); and

(d) in paragraph (3), for the words from “—“ to “qualifying scheme” substitute “the jobholder ceases to be an active member of the scheme”.

Substitution of regulation 14

22. For regulation 14 substitute—

“Jobholders excluded from automatic re-enrolment

14.—(1) Section 5(2) of the Act does not apply in the cases to which paragraphs (2) and (3) apply.

(2) This paragraph applies where, in relation to re-enrolment in a case under section 5(1) of the Act, within the period of 12 months before the automatic re-enrolment date referred to in regulation 12(1)—

(a) the jobholder ceased to be an active member of a qualifying scheme because of an action or omission by the jobholder or by the employer at the jobholder’s request; or

(b) the jobholder gave notice under section 8 of the Act.

(3) This paragraph applies where, in relation to re-enrolment in a case under section 5(1B) of the Act⁽³⁾, the jobholder has ceased to be an active member of the qualifying scheme in question because of any action or omission by the employer and the action or omission was at the jobholder’s request.”.

Amendment of regulation 17

- 23.** In regulation 17 (information on the right to opt in to pension saving)—
- (a) in paragraph (1) for “the information specified in paragraph (2)” substitute “, in writing, the information described in paragraphs 16, 24 and 25 of Schedule 2”; and
 - (b) omit paragraphs (2) and (4).

Amendment of regulation 21

- 24.** In regulation 21 (information)—
- (a) in paragraph (1) for “the information specified in paragraph (2)” substitute “, in writing, the information described in paragraphs 17, 24 and 25 of Schedule 2”; and
 - (b) omit paragraph (2).

Amendment of Part 6

25. In the heading to Part 6 after “postponement” insert “or disapplication of automatic enrolment”.

Substitution of regulation 24

26. For regulation 24 (information) substitute—

“Prescribed requirements for the purposes of section 4(1), (2) and (3) of the Act

24.—(1) A notice under section 4(1) or (2) of the Act (postponement or disapplication of automatic enrolment) given by an employer (E) to the category of E’s workers that appears in column 1 of the table must be in writing and include the information described in the paragraphs of Schedule 2 that appear in column 2 of the table against that category.

Table

<i>Category of worker</i>	<i>Paragraphs of Schedule 2</i>
all workers	18, 19, 20, 21, 24, 25
all workers who are not active members of a qualifying scheme	18, 20, 21, 24, 25
all workers who are jobholders and who are not active members of a qualifying scheme	16, 20, 21, 24, 25
all workers who are not jobholders and are not active members of a qualifying scheme	17, 20, 21, 24, 25

(3) Section 5(1B) was inserted by the Pensions Act 2011, section 4(2).

(2) A notice given by E under section 4(3) of the Act to a worker who is a jobholder must be in writing and include the information described in the paragraphs of Schedule 2 that appear in column 2 of the Table against that category of worker.

(3) For the purposes of section 4(5) of the Act, the prescribed period is the period of 1 month beginning with the day after the starting day.”.

Revocation of regulations 25 and 26

27. Regulation 25 (postponement of the automatic enrolment date) and regulation 26 (cases in which automatic enrolment may be postponed) are revoked.

Substitution of regulation 27

28. For regulation 27 (information) substitute—

“Notice to be given under section 30(3) of the Act

27. Where the employer gives the jobholder the notice mentioned in section 30(3)(4) of the Act (transitional period for defined benefits and hybrid schemes), that notice must—

- (a) be in writing;
- (b) be given at any time before the end of the period of 1 month beginning with the employer’s first enrolment date⁽⁵⁾; and
- (c) include the information described in paragraphs 16, 22, 24 and 25 of Schedule 2.”.

Amendment of regulation 29

29. In regulation 29—

- (a) in sub-paragraph (a) for “regulation 6” substitute “regulation 6(1)”;
- (b) in the substituted text for “6” substitute “(1)”;
- (c) after the substituted sub-paragraph (a) omit “or”;
- (d) after the substituted sub-paragraph (b) add—
 - “or
 - (c) the provider of an automatic enrolment scheme which is a personal pension scheme so that before the end of the period of 1 month beginning with the closure date the jobholder to whom section 3 of the Act applies receives information about the terms and conditions mentioned in paragraph (4).”; and
- (e) after sub-paragraph (a) insert—
 - “(aa) in regulation 6(2) and (4) for “paragraph (1)(b)” each time it occurs substitute “paragraph (1)(c)”.

Substitution of regulation 33

30. For regulation 33 (information) substitute —

“Information

33.—(1) Subject to paragraph (3) the employer of a worker who is—

(4) Section 30(3) was amended by the Pensions Act 2011 (c.19) sections 6 and 14.

(5) “employer’s first enrolment date” is defined in section 30(9) of the Pensions Act 2008.

- (a) on the staging date both a jobholder and an active member of a qualifying scheme;
or
- (b) becomes both a jobholder and an active member of a qualifying scheme on a day after the staging date,

must, in accordance with paragraph (2), give the worker, in writing, the information described in paragraphs 7, 23 and 25 of Schedule 2.

(2) The information must be provided at any time before the end of the period of 2 months beginning with the date or day referred to in paragraph (1).

(3) Paragraph (1) does not apply where the worker becomes an active member of a qualifying scheme under section 3(2), 5(2) or 7(3) of the Act with effect from the date or day referred to in that paragraph.”.

Revocation of regulation 34

31. Regulation 34 (continuity of scheme membership) is revoked.

Amendment of regulation 37

32. In regulation 37 (test scheme: requirements to revalue accrued benefits and increase pensions in payment)—

- (a) in paragraph (1) for the words “section 23(1)(b)” substitute “section 23(1)(c)”**(6)**; and
- (b) at the end of paragraph (2)(b) add the words “in relation to a scheme which provides for a member to be entitled to a pension commencing at the appropriate age**(7)** and continuing for life”.

Amendment of regulation 38

33. In regulation 38(2)**(8)** (staged increase in appropriate age) in the first row of the table, for the date “6 April 2024” substitute “6 April 2020”.

Amendment of regulation 39

34. In regulation 39(4)(b)(v) (requirements for meeting the test scheme standard) omit “(but this is subject to regulations 41 and 42)”.

Insertion of regulation 39A

35. After regulation 39 (requirements for meeting the test scheme standard) insert—

“Requirement for satisfying the test scheme under section 23(2)(b) of the Act

39A.—(1) The requirement relating to a sum of money which a scheme referred to in section 23(2)(b) of the Act (test schemes) must satisfy if it is to be a test scheme is specified in—

- (a) paragraph (4) in the case of a scheme described in paragraph (2); or
- (b) paragraph (5) in the case of any other scheme to which section 23(2)(b) applies.

(6) Section 23 was substituted by the Pensions Act 2011, section 11(2).

(7) “appropriate age” is defined in section 23(3) of the Pensions Act 2008.

(8) State pension age is specified in section 126 of, and Schedule 4 to, the Pensions Act 1995 (c.26). Relevant amending provisions are section 13(1) and (3) of, and paragraphs 1 to 4(6) of Schedule 3 to, the Pensions Act 2007 (c.22) and section 1(5) and (6) of, and paragraphs 6, 9 and 10 of Schedule 1 to, the Pensions Act 2011 (c.19).

(2) A scheme referred to in paragraph (1)(a) is a scheme under which the sum of money to be made available for the provision of benefits is determined by reference to final pensionable pay.

(3) For the purposes of paragraph (2) “final pensionable pay” has the same meaning as in the rules of the scheme in question.

(4) Where this paragraph applies, the requirement in question is that the sum of money to be made available for the provision of benefits to a member must—

- (a) accrue at an annual rate of at least 16% of average qualifying earnings in the last three tax years preceding the end of pensionable service; and
- (b) be multiplied by the number of years of pensionable service up to a maximum of 40 years.

(5) Where this paragraph applies, the requirement in question is the requirement specified in paragraph (6) or (7).

(6) The requirement is that the sum of money must accrue at an annual rate of at least 16% of average qualifying earnings multiplied by the number of years of pensionable service up to a maximum of 40 years.

(7) The requirement is that the sum of money must—

- (a) accrue at an annual rate of at least 8% of average qualifying earnings; and
- (b) until the date on which the member attains the appropriate age, be increased as a minimum by 3.5% per annum, in addition to any increase that is required by virtue of regulation 37(2)(a).

(8) Where the employer makes a choice under paragraph (5) as to the requirement to be satisfied for the purposes of this regulation, that requirement must be satisfied in relation to all persons who are relevant members as defined by section 22(2) of the Act (test scheme standard).”.

Revocation of regulations 41 and 42

36. Regulations 41 and 42 (modifications of test schemes) are revoked.

Amendment of regulation 43

37. In regulation 43 (modification allowing different quality requirements to be satisfied in aggregate)—

- (a) in paragraph (1) for “Paragraphs (2) to (5)” substitute “Paragraphs (2) to (4)”;
- (b) for paragraph (3)(b) substitute—
 - “(b) all of the paragraph (b) quality requirements are met apart from the relevant benefit requirement (“requirement Y”); and”;
- (c) for paragraph (4)(b) substitute—
 - “(b) the extent to which requirement Y is met as a proportion of—
 - (i) where the requirement in subsection (4) of section 23 of the Act applies, the annual rate of pension specified in that subsection; or
 - (ii) where a requirement in paragraph (4), (6) or (7) of regulation 39A applies, the sum of money to be made available for the provision of benefits as specified in the relevant paragraph.”; and
- (d) for paragraphs (5) and (6) substitute—

“(5) Where paragraphs (2) to (4) have effect in relation to a hybrid scheme of the relevant description, regulation 39 is to be read as if, for paragraph (5), there were substituted—

“(5) A scheme actuary or employer may not certify that a scheme satisfies the test scheme standard if the aggregate percentage referred to in regulation 43(3) (c) is less than 100 in relation to more than 10% of relevant members.”.

(6) In this regulation, “the relevant benefit requirement” means—

- (a) the requirements in subsection (4) of section 23 of the Act where that subsection applies; or
- (b) one of the requirements specified in regulation 39A where that regulation applies.”.

Amendment of regulation 47

38. In regulation 47 (prescribed conditions for non-UK qualifying schemes)—

- (a) in paragraphs (1) and (3) for “a money purchase scheme” substitute “an occupational pension scheme”; and
- (b) in paragraph (7) for “money purchase schemes”, substitute “any money purchase benefits applicable to the jobholder”.

Insertion of regulation 47A

39. After regulation 47 (prescribed requirements for non-UK qualifying schemes) insert—

“Meaning of “provider”

47A. For the purposes of the definition of “provider” in section 99 of the Act (interpretation of Part) a provider of a personal pension scheme to which section 26 of the Act (quality requirement: UK personal pension schemes) does not apply is a person whose normal business includes the provision of personal pensions.”.

Amendment of regulation 48

40. In regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996⁽⁹⁾ (prescribed time in which an employer must make payments to trustees or managers) as substituted by regulation 48 (amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996)—

(a) in paragraph (1) for the words “is 19 days” to the end, substitute—

“is—

- (a) where the contribution payable on behalf of an active member is paid to the trustees or managers of the scheme by means of an electronic communication, 22 days; or
- (b) in any other case, 19 days,

commencing on the day following the last day of the month in which the amount is deducted from the earnings in question.”; and

(b) in paragraph (3)—

- (i) after the definition of “automatic re-enrolment date”, insert—

(9) [S.I. 1996/1715](#). Regulation 16 was amended by [S.I. 1997/786](#), [2000/679](#) and [2010/772](#).

““electronic communication” has the meaning given in section 15 of the Electronic Communications Act 2000(10);” and

(ii) in the definition of “opt out period” after “section 3(2)” insert “, 5(2) or 7(3)”.

Amendment of regulation 49

41. In regulation 5 of the Personal Pension Schemes (Payments by Employers) Regulations 2000(11) (prescribed period for the purpose of calculating the due date for the payment of any contributions on behalf of an employee) as substituted by regulation 49 (amendment of the Personal Pension Schemes (Payments by Employers) Regulations 2000)—

(a) in paragraph (1) for the words “is the period” to the end, substitute—

“is the period of—

(a) where the contribution payable under the direct payment arrangements is paid to the trustees or managers of the scheme by means of an electronic communication, 22 days; or

(b) in any other case, 19 days,

commencing on the day following the last day of the month in which the deduction was made from the employee’s earnings.”; and

(b) in paragraph (2) for “a jobholder” substitute “an employee”; and

(c) in paragraph (3)—

(i) after the definition of “automatic re-enrolment date”, insert—

““electronic communication” has the meaning given in section 15 of the Electronic Communications Act 2000;” and

(ii) in the definition of “opt out period” after “section 3(2)” insert “, 5(2) or 7(3)”.

Amendment of regulation 50

42. In regulation 50(2) (due date for the purposes of section 37(3) of the Act) for “19th” substitute “22nd”.

Insertion of Schedule 2

43.—(1) In regulation 1 (citation, commencement and interpretation) in the definition of “opt out notice” and in regulation 9(6)(a) (opting out) for “the Schedule” substitute “Schedule 1”.

(2) For the heading to the Schedule substitute “Schedule 1”;

(3) After that Schedule insert the Schedule set out in the Schedule to these Regulations.

(10) 2000 c.7.

(11) S.I. 2000/2692. Regulation 5 was substituted by S.I. 2010/772, regulation 49.