

2011 No. []

PENSIONS

**The Automatic Enrolment (Miscellaneous Amendments)
Regulations 2011**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State, in exercise of the powers conferred by sections 111A(15)(b), 181, 182(2) and 183 of the Pensions Schemes Act 1993(a), sections 49(8), 124(1) and 174(2) and (3) of the Pensions Act 1995(b) and sections 2(3), 4(1) to (3) and (5), 5(4) and (8), 6(1)(b), 7(5), 10, 11, 12, 15, 16(2), 23(3), 29(2) and (4), 30(7A) and (8), 37(3), 38(3) and (4), 41(5), 52(3), 54(3), 60, 99, and 144(2), (3) and (4) of the Pensions Act 2008(c), makes the following Regulations:

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Automatic Enrolment (Miscellaneous Amendments) Regulations 2011 and come into force on xx.

PART 2

Amendment of the Employers' Duties (Implementation) Regulations 2010

Amendment of the Employers' Duties (Implementation) Regulations 2010

2. The Employers' Duties (Implementation) Regulations 2010(d) are amended in accordance with this Part.

Amendment of regulation 1

3. In regulation 1 (citation, commencement and interpretation)—

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- (a) 1993 c.48; section 11A(15) was inserted by section 9 of the Welfare Reform and Pensions Act 1999 (c.30). Section 181 is cited for the meaning it gives to "prescribed" and "regulations".
- (b) 1995 c.26; Section 49(8) was substituted by section 10 of the Welfare Reform and Pensions Act 1999 (c. 30). Section 124(1) is cited for the meaning it gives to "prescribed" and "regulations".
- (c) 2008 c.30. Section 4 was substituted by section xx of the Pensions Act 2011. Section 6(1)(b) was amended by section xx of that Act). Subsection (7A) was inserted into section 30 by section xx of that Act. Section 99 is cited for the meaning given to "prescribed" and "regulations".
- (d) S.I. 2010/4. These regulations are not yet in force.

- (a) in paragraph (1) for “1st September 2012” substitute “1st June 2012”; and
- (b) in paragraph (2) (interpretation)—
 - (i) at the appropriate place, insert—
 - “micro employer” means an employer who—
 - (a) has fewer than 10 full time equivalent workers immediately before 1st April 2011; and
 - (b) is part of a PAYE scheme with more than 239 persons within that scheme; and
 - (ii) in the definition of “PAYE scheme”, for “allocated” substitute “applicable”; and
 - (iii) for the definition of “staging date” substitute—
 - “staging date” means the date when the employers’ duties apply to employers as specified in regulation 2(1); and
- (c) after paragraph (2) insert—
 - i(3) For the purposes of the definition of “micro employer”, the number of full time equivalent workers is calculated as follows—

$$\frac{TH}{37.5}$$

Where TH is the total number of hours per week for which all the workers are contracted to work.

Amendment of regulation 2

- 4. In regulation 2 (application of the employers’ duties to employers)—
 - (a) for paragraph (1) substitute—
 - i(1) Except where an employer satisfies the conditions for early automatic enrolment in regulation 3, the employers’ duties do not apply to employers described in the first column of the table in regulation 4 until —
 - (a) in the case of employers other than micro employers, the corresponding staging dates prescribed in the final column of that table; or
 - (b) in the case of micro employers, the staging date prescribed in paragraph (2) of regulation 4A; and
 - (b) in paragraph (2), after the word “has” insert the words “, or is part of”.

Amendment of regulation 3

- 5. In regulation 3 (early automatic enrolment)—
 - (a) for paragraph (1) substitute—
 - i(1) Where the conditions in paragraphs (3) and (4) are both satisfied, the employers’ duties apply to an employer from the relevant date in paragraph (5) and for the purposes of this regulation that date is the early automatic enrolment date; and
 - (b) for paragraph (2) substitute—
 - i(2) Where the condition in paragraph (3) is satisfied but the condition in paragraph (4) is not satisfied, the employers’ duties apply to an employer from the applicable staging date for that employer; and
 - (c) for paragraph 4(c) substitute—
 - i(c) notified the Regulator accordingly in writing, at any time—
 - (i) where paragraph (5)(a) applies, before the date specified in the second column of the table in regulation 4 corresponding to that earlier date;
 - (ii) where paragraph (5)(b) applies, before 1st November 2012; or
 - (iii) where paragraph (5)(c) applies, no later than one month before the date specified in that sub-paragraph; and

- (d) after paragraph (4) insert—
- i(5) The relevant date is—
- (a) any date in the final column of the table in regulation 4 which is earlier than the applicable staging date for that employers’ description;
 - (b) 1st December 2012; or
 - (c) in the case of an employer of 50,000 or more persons by PAYE size or any other description—
 - (i) 1st July 2012;
 - (ii) 1st August 2012; or
 - (iii) 1st September 2012.

Amendment of regulation 4

6. In the table in regulation 4 (staging of the employers’ duties) for the part of the table beginning with the entry that corresponds to the words— “Less than 50 with the last 2 characters in their PAYE reference numbers, 92, A1-A9,” and ending with the entry that corresponds to the words “the last 2 characters in their PAYE reference numbers 48-57, 8A-8Z, Q1-Q9, QA-QZ, R1-R9, RA-RZ, S1-S9, SA-SZ, T1-T9 or TA-TZ ” substitute—

Table

<i>Employer (by PAYE scheme size or other description)</i>	<i>Date before which notification to automatically enrol early must be sent</i>	<i>Staging date</i>
240-249	1st February 2014	1st March 2014
Less than 50 with the last 2 characters in their PAYE reference numbers 92, A1-AY, B1-BY, M1-MZ or Z1-ZZ	1st March 2014	1st April 2014
150-239	1st April 2014	1st May 2014
90-149	1st May 2014	1st June 2014
50-89	1st June 2014	1st July 2014
Less than 50 with their last 2 characters in their PAYE reference number AZ	1st July 2014	1st August 2014
Less than 50 with the last 2 characters in their PAYE reference numbers BZ	1st August 2014	1st September 2014
Less than 50 with the last 2 characters in their reference numbers 00-01	1st September 2014	1st October 2014
Less than 50 with the last 2 characters in their reference numbers 02-04, 0A-0Z, C1-DZ	1st October 2014	1st November 2014
Less than 50 with the last 2 characters of their PAYE reference number 05-07, 1A-1Z or E1-EZ	1st December 2014	1st January 2015
Less than 50 with the last 2 characters in their reference numbers 08-11, 2A-2Z or F1-GZ	1st January 2015	1st February 2015
Less than 50 with the last 2 characters in their PAYE	1st February 2015	1st March 2015

reference numbers 12-16, 3A-3Z or H1-HZ		
Less than 50 with the last 2 characters in their PAYE reference numbers I1-IZ	1st March 2015	1st April 2015
Less than 50 with the last 2 characters in their PAYE reference numbers 17-22, 4A-4Z or J1-JZ	1st April 2015	1st May 2015
Less than 50 with the last 2 characters in their PAYE reference numbers 23-29, 5A-5Z or K1-KZ	1st May 2015	1st June 2015
Less than 50 with the last 2 characters in their PAYE reference numbers 30-37, 6A-6Z or L1-LZ	1st June 2015	1st July 2015
Less than 50 with the last 2 characters in their PAYE reference numbers N1-NZ	1st July 2015	1st August 2015
Less than 50 with the last 2 characters in their PAYE reference numbers 38-46, 7A-7Z or O1-PZ	1st August 2015	1st September 2015
Less than 50 with the last 2 characters in their reference numbers 47-57, 8A-8Z or Q1-TZ	1st September 2015	1st October 2015 ¹

Regulation 4A

7. After regulation 4 (staging of the employers' duties) insert—

Staging date for micro employers

4A.—(1) Where the employer is a micro employer, the employers' duties apply on the dates prescribed in paragraph (2) where, but for this regulation, the staging date for the employer would have been a date in the period—

- (a) beginning with 1st October 2012 and ending on 1st February 2013;
- (b) beginning with 1st March 2013 and ending on 1st June 2013;
- (c) beginning with 1st July 2013 and ending on 1st October 2013; or
- (d) beginning with 1st November 2013 and ending on 1st October 2014.

(2) Where—

- (a) paragraph (1)(a) applies, 1st January 2015;
- (b) paragraph (1)(b) applies, 1st April 2015;
- (c) paragraph (1)(c) applies, 1st October 2015; and
- (d) paragraph (1)(d) applies, 1st January 2016.

Amendment of regulation 5

8. In paragraph (a) of regulation 5 (transitional periods for money purchase and personal pension schemes) after the words "four years" insert "and three months".

Amendment of regulation 5

9. In regulation 6 (transitional period for defined benefits and hybrid schemes) after the words “four years” insert “and three months”.

PART 3

Amendment of the Employers’ Duties (Registration and Compliance) Regulations 2010

Amendment of the Employers’ Duties (Registration and Compliance) Regulations 2010

10. The Employers’ Duties (Registration and Compliance) Regulations 2010(a) are amended in accordance with this Part.

Amendment of regulation 1

11. In regulation 1(2) (citation, commencement and interpretation)—

- (a) in the definition of “PAYE scheme”, for “allocated” substitute “applicable”; and
- (b) for paragraph (a) in the definition of “employer pension scheme reference” substitute—
 - i(a) in relation to an occupational pension scheme (except a scheme established under section 67 of the Act)—
 - (i) in a case where only one employer is part of the scheme—
 - (aa) a reference given by the Regulator (R) to the trustees or managers of the scheme (T), following the provision of registerable information to R by T, or
 - (bb) any reference provided to the employer by T evidencing the relationship between the employer and the scheme; or
 - (ii) in a case where more than one employer is part of the scheme, the references referred to in sub-paragraph (i)(aa) and (bb).i.

12.—a) Regulation 3 (registration: after staging date and new PAYE schemes) is amended as follows.

(1) In paragraph (1)—

- (a) in sub-paragraph (a) for “2 months” substitute “4 months”; and
- (b) in sub-paragraph (b) for “3 months” substitute “4 months”.

(2) In paragraph (2)—

- (a) in sub-paragraph (a)—
 - (i) in paragraph (i) before “address” insert “name,”; and
 - (ii) for paragraph (ii) substitute—
 - i(ii) registered companies house number where one exists or, where such a number does not exist—
 - (aa) the employer’s industrial and provident society number;
 - (bb) but if the number mentioned in sub-paragraph (aa) does not exist, the employer’s registered charity number;
 - (cc) but if the number mentioned in sub-paragraph (bb) does not exist, the employer’s VAT registration number, if one exists;i;
- (b) in sub-paragraph (d)—

(a) S.I. 2010/5.

- (i) for paragraph (i) substitute—
 - i(i) subject to paragraph (iii), the number of jobholders automatically enrolled with effect from—
 - (aa) the employer’s staging date;
 - (bb) where sub-paragraph (aa) does not apply and the employer has not used a deferral date, the date the employer’s duties first apply to the employer; and
- (ii) after paragraph (ii) insert—
 - i(iii) on the deferral date—
 - (aa) the deferral date or the last such date where the employer uses more than one; and
 - (bb) the number of jobholders automatically enrolled with effect from that date;
- (c) for sub-paragraph (e) substitute—
 - i(e) where an employer is subject to transitional arrangements under section 30 of the Act (transitional period for defined benefits and hybrid schemes), the number of jobholders to whom section 30 applies;
- (d) in sub-paragraph (f), for “an automatic enrolment scheme” substitute “a qualifying scheme”.

Amendment of regulation 4

13. In regulation 4 (registration: re-registration)—

- (a) in paragraph (1)(a) for “2 months” substitute “1 month”; and
- (b) in paragraph (3)—
 - (i) in sub-paragraph (c)—
 - (aa) in paragraphs (i) and (ii), for “enrolled” in both places where it appears, substitute “re-enrolled”.
 - (bb) after paragraph (i) omit “and”; and
 - (cc) after paragraph (ii) insert—
 - and
 - (iii) the automatic re-enrolment date;
 - (ii) in sub-paragraph (e), for “an automatic enrolment scheme” substitute “a qualifying scheme”.

Amendment of regulation 6

14. After paragraph (2) of regulation 6 (records: employers) insert—

i(2A) Where an employer (E) gives to a person (P) employed by E a notice under section 4 of the Act (postponement or disapplication of automatic enrolment) that meets the requirements prescribed in Part 6 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(a), E must keep a record of—

- (a) P’s full name;
- (b) P’s national insurance number (where available); and
- (c) the date E gave the notice to P.

Amendment of regulation 13

15.—b) Regulation 13 (escalating penalty notices) is amended as follows.

- (1) In paragraph (4), after “(5)” insert “, (5A)”.
- (2) For paragraph (5)(a), substitute—
 - i(a) paragraph (2)(a) or (b) applies, it is the relevant number save that—
 - (i) in the circumstances set out in paragraph (5A), the number of persons is the number of persons in the employer’s PAYE scheme or schemes that are employed by the employer; and
 - (ii) where those circumstances do not apply and, in the Regulator’s opinion the relevant number is not known, paragraph (7) applies;î.
- (3) In paragraph 5(b) omit the words after “or” and substitute—
 - i(ii) where in the Regulator’s opinion the number in paragraph (i) is not known, the relevant number save that—
 - (aa) in the circumstances set out in paragraph (5A), the number of persons is the number of persons in the employer’s PAYE scheme or schemes that are employed by the employer; and
 - (bb) where those circumstances do not apply and, in the Regulator’s opinion, the relevant number is not known, paragraph (7) applies.î.
- (4) After paragraph (5) insert—
 - i(5A) The circumstances referred to are where—
 - (a) the Regulator is of the opinion that an employer’s PAYE scheme (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes) includes persons who are not employed by the employer; and
 - (b) the number of persons in the employer’s PAYE scheme (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes) who are employed by the employer is known to the Regulator.î.
- (5) In paragraph (6)—
 - (a) after “notice” insert “, including”;
 - (b) in sub-paragraph (a), after “apply,” insert “information”;
 - (c) in sub-paragraph (b), after “applies” insert “, information”.
- (6) After paragraph (7), insert—
 - i(8) In this regulation, “relevant number” means the number of persons within an employer’s PAYE scheme or, where the Regulator is of the opinion that the employer has more than one PAYE scheme, the total number of persons within those schemes.î.

Amendment of regulation 14

16.—c) Regulation 14 (penalty notices: prohibited recruitment conduct) is amended as follows.

- (1) In paragraph (3), after “(4)” insert “, (4A)”.
- (2) For paragraph (4), substitute—
 - i(4) It is the relevant number save that—
 - (a) in the circumstances set out in paragraph (4A), the number of persons is the number of persons in the employer’s PAYE scheme or schemes that are employed by the employer; and
 - (b) where those circumstances do not apply and, in the Regulator’s opinion the relevant number is not known, paragraph (6) applies;
- (4A) The circumstances referred to are where—

- (a) the regulator is of the opinion that an employer’s PAYE scheme (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes) includes persons who are not employed by the employer; and
 - (b) the number of persons in the employer’s PAYE scheme (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes) who are employed by the employer is known to the regulator.î.
- (3) In paragraph (5)(b), at the beginning insert “including information”.
- (4) After paragraph (6), insert—
- î(7) In this regulation, “relevant number” means the number of persons within an employer’s PAYE scheme or, where the Regulator is of the opinion that the employer has more than one PAYE scheme, the total number of persons within those schemes.î.

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(a) are amended in accordance with this Part.

Amendment of regulation 2

18. For paragraph (1)(g) of regulation 2 (enrolment information) substitute—
- î(g) a statement that if the jobholder, on a date, ceases to be an active member of a qualifying scheme (without the jobholder ceasing to be employed by the employer) by reason of something other than an action or omission by the jobholder, the employer must make arrangements by which the jobholder becomes an active member of an automatic enrolment scheme with effect from the day following that date;î.

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)”;
 - (b) in paragraph (1) omit “section 1(1)(c) of the Act (jobholders), except in the case of person A,” and 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).

Amendment of regulation 5

20. For regulation 5 substitute—

(a) S.I. 2010/772.

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 requirements: UK money purchase schemes) and section 26(4)(b) and (5)(b) (quality requirements: 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) where the person becomes an active member of an automatic enrolment scheme by virtue of arrangements made under section 3(2), 5(2) or 7(3) of the Act, as the case may be, on the date from which those arrangements have effect; or

(ii) where there has been a period beginning at any time after the automatic enrolment date during which the requirements of section 1(1)(c) of the Act were not met but the person remained an active member of an automatic enrolment scheme, on the date 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 date on which the person ceases to be a jobholder of the employer, ceases to be an active member of a qualifying scheme or a qualifying scheme of which the person was an active member ceases to be such a scheme, as the case may be.¹

Amendment of regulation 12

21. In regulation 12(1)(a) and (b) (automatic re-enrolment date) for “of one month beginning with” in both places where it appears substitute “beginning 3 months before, and ending at the end of a period of 3 months beginning with.”.

Jobholders excluded from automatic enrolment

22. For regulation 14 of the principal Regulations, substitute—

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

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

(a) the jobholder has 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) The second case is where, in relation to re-enrolment in a case under section 5(1B) of the Act^(b), 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.¹

Amendment of Part 6

23. For Part 6, substitute—

(a) Section 5(1) was substituted by section xx of the Pensions Act 2011.
(b) Section 5(1B) was inserted by section xx of the Pensions Act 2011.

iPART 6

Postponement or disapplication of automatic enrolment

Introduction

24.—(1) The provisions of this Part prescribe requirements that must be satisfied in relation to a notice given by an employer (E) to a worker employed by E (“the worker”) under section 4(a) of the Act (postponement and disapplication of automatic enrolment).

(2) A notice given by E under—

(a) section 4(1) or (2) must comply with the requirements in—

(i) regulation 2; or

(ii) regulation 3, 4 or 5 as appropriate to the worker’s circumstances; and

(b) section 4(3) must comply with regulation 3.

(3) The circumstances are whether the worker is—

(a) a jobholder to whom section 3(2) of the Act applies;

(b) a jobholder to whom section 3(2) of the Act does not apply; or

(c) a worker to whom qualifying earnings are not payable.

(4) For the purposes of section 4(5) of the Act, the prescribed period is the period of one week beginning with the day after the starting day.

General notice

25.—(1) The requirement to be complied with is that the notice must contain the following statements—

(a) that E has deferred the worker’s automatic enrolment date until the deferral date (and the date must be given);

(b) that E will automatically enrol the worker into an automatic enrolment scheme if, on the deferral date, the worker is aged 22 or more but less than state pension age and earnings of more than the amount specified in section 3(1)(c) of the Act (and the amount must be given) are payable to the worker;

(c) that the worker can opt in to an automatic enrolment scheme and may qualify for employer’s contributions if the worker’s earnings exceed the amount specified in section 13(1)(a) of the Act (and the amount must be given) or to join a pension scheme if the worker’s earnings do not exceed that amount;

(d) that if the worker wishes to opt in to, or to join, the scheme, the worker must give a written notice (which may be by means of an electronic communication) to E;

(e) that where the worker is a member of a qualifying scheme, if scheme membership ends because of something not caused by the worker, the employer must put the worker into a qualifying scheme; and

(f) where further information may be obtained.

(2) An employer giving a notice in accordance with paragraph (1) need not provide a notice in accordance with regulations 17, 21 or 33.

(3) An employer intending to provide information in accordance with regulation 33 need not include the information specified in paragraph (1)(e).

Notice given to a worker falling within regulation 24(3)(a)

26. Where E gives a notice under section 4(1), (2) or (3) to a worker falling within regulation 1(3)(a), the notice must contain the following statements—

(a) Section 4 was substituted by section xx of the Pensions Act 2011.

- (a) that the worker is a jobholder to whom section 3(2) of the Act applies;
- (b) that E has deferred the worker's automatic enrolment date until the deferral date (and the date must be given);
- (c) that E will automatically enrol the worker into an automatic enrolment scheme if, on the deferral date, the worker is aged 22 or more but less than state pension age and earnings of more than the amount specified in section 3(1)(c) of the Act (and the amount must be given) are payable to the worker; and
- (d) containing the information specified in regulation 17(2).

Notice given to a worker falling within regulation 24(3)(b)

26A. Where E gives a notice under section 4(1), (2) or (3) to a worker falling within regulation 1(3)(b), the notice must contain the following statements—

- (a) that E has deferred the worker's automatic enrolment date until the deferral date (and the date must be given);
- (b) that E will automatically enrol the worker into an automatic enrolment scheme if, on the deferral date, the worker is aged 22 or more but less than state pension age and earnings of more than the amount specified in section 3(1)(c) of the Act (and the amount must be given) are payable to the worker; and
- (c) containing the information specified in regulation 17(2).

Notice given to a worker falling within regulation 24(3)(c)

26B. Where E gives a notice under section 4(1), (2) or (3) to a worker falling within regulation 1(3)(c), the notice must contain the following statements—

- (a) that E has deferred the worker's automatic enrolment date until the deferral date (and the date must be given);
- (b) that E will automatically enrol the worker into an automatic enrolment scheme if, on the deferral date, the worker is aged 22 or more but less than state pension age and earnings of more than the amount specified in section 3(1)(c) of the Act (and the amount must be given) are payable to the worker; and
- (c) containing the information specified in regulation 21(2).¹

Amendment of regulation 27

24.—d Regulation 27 (information) is amended as follows.

- (1) For the heading to the regulation substitute-

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

- (2) For paragraph (1) substitute—

i(1) Where the employer gives the jobholder the notice mentioned in section 30(3)(a) of the Act, that notice—

- (a) must be in writing;
- (b) must include a statement that the employer intends to defer the automatic enrolment in respect of that jobholder until the end of the transitional period for defined benefit and hybrid schemes;
- (c) must be given to the jobholder by the end of the period of one week beginning with the date of the employer's first enrolment date; and
- (d) may also contain the information specified in paragraph (3).

(a) Section 30(3) was amended section xx of the Pensions Act 2001.

(1A) Where the information in paragraph (3) has been given to a jobholder by the employer as part of a notice given under paragraph (1), the employer has met the requirement in paragraph (2) in relation to that jobholder.¹

(3) At the beginning of paragraph (2) insert the words “Except where the information has been provided under paragraph (1),”.

Amendment of regulation 33

25. For sub-paragraph (c) of regulation 33 (information) substitute—

- i(c) a statement that if the jobholder, on a date, ceases to be an active member of a qualifying scheme or the scheme ceases to be a qualifying scheme (without the jobholder ceasing to be employed by the employer) by reason of something other than an action or omission by the jobholder, the employer must make arrangements by which the jobholder becomes an active member of an automatic enrolment scheme with effect from the day following that date.¹

Revocation of regulation 34

26. Regulation 34 is revoked.

Amendment of regulation 38

27. In regulation 38(a) (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 47

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

- (a) in paragraph (1), 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’.

Regulation 47A

29. After regulation 47 (prescribed requirement for non-UK qualifying schemes) insert—

iMeaning of “provider”

47A. For the purposes of paragraph (b) of the definition of “provider” in section 99 of the Act (interpretation of Part), a provider of a personal pension scheme to whom section 26 of the Act (quality requirement: UK personal pension scheme) does not apply is a person resident in a country other than the United Kingdom whose normal business includes the provision of personal pensions.¹

Amendment of regulation 50

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

(a) State pension age is specified in section 126 of, and Schedule 4 to the Pensions Act 1995 (c. 26). Relevant amendments 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 ..

PART 5

Other amendments

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996

31. In regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996(a) (prescribed time in which an employer must make payments to trustees or managers)—

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

iis—

(i) 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

(ii) 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.î; and

(b) in paragraph (3), after the definition of “automatic re-enrolment date”, insert—

î“electronic communication” has the meaning given in section 15 of the Electronic Communications Act 2000(b);”.

Amendment of the Personal Pension Schemes (Payments by Employers) Regulations 2000

32. In regulation 5 of the Personal Pension Schemes (Payments by Employers) Regulations 2000(c) (prescribed period for the purposes of calculating the due date for the payment of any contributions on behalf of an employee)—

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

iis the period of—

(i) 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

(ii) 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.î; and

(b) in paragraph (3), after the definition of “automatic re-enrolment date”, insert—

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

Signed by authority of the Secretary of State for Work and Pensions.

Date

Minister of State,
Department for Work and Pensions

(a) S.I. 1996/1715. Regulation 16 was amended by S.I. 1997/786, 2000/679 and 2010/772. The amendment by virtue of S.I. 2010/772 comes into force on 1 October 2012.

(b) 2000 c.7.

(c) S.I. 2000/2692.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Employers' Duties (Implementation) Regulations 2010, the Employers' Duties (Registration and Compliance) Regulations 2010, the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010, the Occupational Pensions Schemes (Scheme Administration) Regulations 1996 and the Personal Pension Schemes (Payments by Employers) Regulations 2000.

Part 2 amends the Employers' Duties (Implementation) (Amendment) Regulations 2011. Regulation 3 amends regulation 1 to change the date when the regulations come into force and to add new definitions. Regulation 4 makes amendments with regard to the staging date. Regulation 5 amends the early automatic enrolment provisions regulation 3. Regulation 4 amends the table of staging dates in regulation 4. Regulation 7 introduces a new staging date for micro employers. Regulation 8 amends the transitional period in regulation 5.

Part 3 amends the Employers' Duties (Registration and Compliance) Regulations 2010. Regulation 11 amends the definition of "PAYE scheme". Regulation 12 amends the information requirements imposed on employers by regulation 3. Regulation 12 amends the time limit for registration during re-enrolment and makes technical amendments. Regulation 13 adds to the record-keeping duties of employers imposed by regulation 6. Regulations 15 and 16 make changes in relation to penalties and penalty notices.

Part 4 amends the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010. Regulations 18 and 28 amend the requirements imposed on employer with regard to the substitution of section 4 of the Pensions Act 2011 ("the Act"). Regulation 19 amends regulation 4 for the purposes of sections 1(1)(c), 3(1)(1)c) and 5(1)(c) of the Pensions Act 2008. Regulation 20 substitutes regulation 5 in respect of the pay reference period for the purposes of sections 20 and 26 of the Act. Regulation 21 amends regulation 12 and 25 consequential on the amendment to section 7 of the Act. Regulation 22 substitutes regulation 14 consequential to the amendments to section 5 of the Act.

Regulation 23 replaces Part 6 concerning the contents of a notice that may be given under section 4 of the Act. .

Regulation 24 amends regulation 27. It concerns a notice by an employer to a jobholder that the employer intends to defer that jobholders automatic enrolment date until the end of the transitional period for defined benefit and hybrid schemes, and specifies the timing and content of the notice. Regulation 26 revokes regulation 34.

Regulation 27 amends the date relating to the staged increase in the appropriate age in regulation 38. Regulation 28 amends regulation 47 of the Automatic Enrolment Regulations. Regulation 3(2) amends regulation 47(1) so that occupational pension schemes to which section 25 or 27 of the Act applies are exempt from the requirement in section 16(1)(b) of the Act if they meet the relevant requirements in regulation 47(2) to (7). This means that all non-UK occupational and personal pension schemes are potentially included in the exemption. Regulation 29 inserts a new definition for the purposes of non-UK personal pension schemes. Regulation 30 amends regulation 50 with regard to the due date for the purposes of section 37(3) of the Act.

Regulation 31 amends regulation 5 the Payments by Employers Regulations, as amended by regulation 49 of the Automatic Enrolment Regulations. This prescribes a period, for the purposes of the meaning of 'due date' in section 115A(15) of the Pension Schemes Act 1993 (c.48), in respect of contributions that are deducted by means of electronic communications. The period is 22 days commencing on the day following the last day of the month in which the deduction was made from the employee's earnings.

Regulation 32 amends regulation 50 of the Automatic Enrolment Regulations, so that the due date for the purposes of section 37(3) of the Pensions Act 2008 (c.30) is the 22nd day of the month either following the month in which employee contributions were deducted, or in respect of which

the contributions were due but not made. This follows on from the changes made in regulations 2 and 3 in respect of payments by means of electronic communications.