
D R A F T S T A T U T O R Y I N S T R U M E N T S

2012 No.

PENSIONS

The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 2) Regulations 2012

Made - - - - - *******

Coming into force - - - - - *1st November 2012*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 16(3)(c), 99 and 144(2)(a) and (4) of the Pensions Act 2008(a), makes the following Regulations.

A draft of these Regulations was laid before Parliament in accordance with section 143(4) and (5)(a) of the Pensions Act 2008 and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 2) Regulations 2012.

(2) These Regulations shall come into force on 1st November 2012.

Amendment of regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

2.—(1) Regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(b) (Certain schemes providing average salary benefits excluded from being qualifying schemes) is amended in accordance with the following provisions of this Regulation:

(2) In paragraph (2)—

(a) in sub-paragraph (b), omit “or”;

(b) in sub-paragraph (c), after “discretionary power”, insert —

“; or

(d) such benefits are required to be revalued at less than the minimum rate, but there is a discretionary power to revalue at or above the minimum rate”.

(3) In paragraph (3), for “paragraph 2(c)”, substitute “paragraph 2(c) or (d)”.

(a) 2008 c. 30. Section 16 was amended by section 10 of the Pensions Act 2011 (c. 19). Section 99 is cited for the meaning it gives to “prescribed” and “regulations”.

(b) S.I. 2010/772. Regulation 36 was amended by the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2012 (S.I. 2012/xxx).

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

Date

Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 amends regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (SI 2010/772) ('the Automatic Enrolment Regulations') so as to provide that an average salary scheme which requires benefits to be revalued at a rate below the minimum rate specified in regulation 36(4), but where the trustees have a discretionary power to revalue benefits at or above that rate, is not a qualifying scheme. However, where both the scheme's funding and statement of funding principles or equivalent takes account of the exercise of the discretionary power in providing for revaluation at or above the statutory minimum, the scheme is not prevented from being a qualifying scheme.

A separate impact assessment for this instrument has not been published. However, an assessment of the impact of the provisions in these regulations is included in the impact assessment that accompanied the Automatic Enrolment Regulations. A copy of this impact assessment is available in the libraries of both Houses of Parliament. Copies of this impact assessment may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1H 9NA, or from the DWP website: <http://www/dwp.gov.uk/publications/impact-assessments>.