STATUTORY INSTRUMENTS

2016 No. 311

PENSIONS

The Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016

Made - - - -	*7th March 2016*
Laid before Parliament	*10th March 2016*
Coming into force - -	*6th April 2016*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 11, 12, 23A(1)(b), 87A(1), (3) and (4), 99 and 144(2) and (4) of the Pensions Act 2008 (**1**), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016 and come into force on 6th April 2016.

(2) In these Regulations, "the Automatic Enrolment Regulations" means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(**2**).

Amendment of the Employers' Duties (Implementation) Regulations 2010

2.—(1) The Employers' Duties (Implementation) Regulations 2010(**3**) are amended as follows.

(2) In regulation 3 (early automatic enrolment)(**4**)—

(a) in paragraph (4)—

(i) at the beginning of sub-paragraph (b) insert—

"where, on the date the employer notifies the Regulator in accordance with sub-paragraph (c), the duty in section 3(2) of the Act (automatic enrolment) applies in relation to at least one of that employer's jobholders,";

(ii) in sub-paragraph (b) for "was" substitute "is"; and

(**1**) 2008 c. 30. Section 23A was inserted by section 39 of, and section 87A was inserted by section 38(2) of, the Pensions Act 2014 (c.19). Section 99 is cited for the meaning given to "prescribed".
(**2**) S.I. 2010/772.
(**3**) S.I. 2010/4.
(**4**) Regulation 3 has been amended by S.I. 2012/215 and 1813.

(iii) for head (i) of sub-paragraph (c) substitute—

"(i) where paragraph (5)(a) or (d) applies, on or before the early automatic enrolment date;"; and

(b) in paragraph (5)—

(i) in sub-paragraph (b), omit "or"; and

(ii) at the end of sub-paragraph (c), insert—

"or

(d) in the case of an employer who has no jobholder to whom the duty in section 3(2) of the Act applies on the date the employer notifies the Regulator in accordance with paragraph (4)(c)(i), any date which is earlier than the staging date corresponding to that employer's description.".

(3) In regulation 4 (staging of the employers' duties)(**5**)—

(a) omit paragraphs (2) and (3); and

(b) omit the second column of the table (date before which notification to automatically enrol early must be sent).

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

3.—(1) The Employers' Duties (Registration and Compliance) Regulations 2010(**6**) are amended as follows.

(2) In paragraph (1) of regulation 2 (registration: general)(**7**)—

(a) at the beginning of sub-paragraph (a), insert "on or";

(b) at the end of sub-paragraph (b), for "or" substitute "and"; and

(c) for sub-paragraph (c) substitute—

"(c) on or after an automatic re-enrolment date for that employer.".

(3) After paragraph (3) of regulation 2, insert—

"(4) In this Part, "automatic re-enrolment date" means an automatic re-enrolment date occurring by virtue of section 6(1)(b) of the Act (timing of automatic re-enrolment).".

(4) For paragraph (1) of regulation 4 (registration: re-registration)(**8**) substitute—

"(1) Where paragraph (1)(c) of regulation 2 applies, an employer must provide the information specified in paragraph (3) of this regulation in relation to each of its PAYE schemes—

(a) where it is the employer's first automatic re-enrolment date, within the period of 5 months beginning with the third anniversary of the employer's staging date; and

(b) in any other case, within the period of 5 months beginning with the third anniversary of the employer's previous automatic re-enrolment date,

and the time at which an employer provides that information is referred to in this regulation as the "point of re-registration".".

(5) Omit paragraph (2) of regulation 4.

(6) In paragraph (3) of regulation 4—

(**5**) Regulation 4 has been amended by S.I. 2012/1813.
(**6**) S.I. 2010/5.
(**7**) Regulation 2 was amended by S.I. 2012/215.
(**8**) Regulation 4 was amended by S.I. 2012/215 and 2013/2556.

(a) omit head (iii) in sub-paragraph (c) and the preceding "and";

(b) after sub-paragraph (c) insert—

"(ca) the automatic re-enrolment date;"; and

(c) for paragraph (e) substitute—

"(e) the number of workers in the employer's PAYE scheme who, immediately before the point of re-registration, were active members of a qualifying scheme or, if the employer uses more than one qualifying scheme to comply with the employers' duties, the number of workers in each of those schemes;".

Amendment of Part 1A of the Automatic Enrolment Regulations

4.—(1) Part 1A of the Automatic Enrolment Regulations(**9**) (exemptions and exceptions) is amended as follows.

(2) In paragraph (1) of regulation 5E (winding-up lump sum), for sub-paragraph (c) substitute—

"(c) during the period of 12 months beginning with the date on which the winding-up lump sum was paid—

(i) the worker has ceased to be employed and been re-employed by that person; and

(ii) after re-employment, either section 3(1) (automatic enrolment) or 5(1A) or (1B) (automatic re-enrolment) of the Act applies to the worker.".

(3) After regulation 5E, insert—

"**Company directors**

5EA.—(1) This regulation applies to a jobholder who holds office as a director of the company by which that jobholder is employed.

(2) In relation to the jobholder to whom this regulation applies, sections 3(2) (automatic enrolment) and 5(2) (automatic re-enrolment) of the Act are to be read as if for "must" there were substituted "may".

Limited liability partnerships

5EB.—(1) This regulation applies where a person (P) is a jobholder and—

(a) P is a member of a limited liability partnership;

(b) qualifying earnings are payable to P by that limited liability partnership; and

(c) P is not treated for income tax purposes as being employed by that limited liability partnership under section 863A of the Income Tax (Trading and other Income) Act 2005 (limited liability partnerships: salaried members)(**10**).

(2) Where this regulation applies, in relation to the jobholder referred to in paragraph (1), sections 3(2) and 5(2) of the Act are to be read as if for "must" there were substituted "may".".

(4) In sub-paragraph (a) of paragraph (1) of regulation 5F (effect of exercise of discretion) for "or 5E" substitute ", 5E, 5EA or 5EB".

(**9**) Part 1A was inserted by S.I. 2012/1477 and amended by S.I. 2015/501.
(**10**) 2005 c. 5. Section 863A was inserted by section 74 of, and paragraph 1 of Schedule 17 to, the Finance Act 2014 (c. 26).