STATUTORY INSTRUMENTS

2015 No. 501

PENSIONS

The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015

Made - - - -	*4th March 2015*
Laid before Parliament	*9th March 2015*
Coming into force - -	*1st April 2015*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 3(5), 4(1), (2) and (3), 5(2), 9(3), 10, 23A(1)(a) and (b), (2) and (4)(b), 25, 30(7A), 87A(1), (3) and (4), 99 and 144(2) and (4) of the Pensions Act 2008(**1**).

Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015 and come into force on 1st April 2015.

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

2. The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(**2**) are amended in accordance with the following regulations.

Amendment of regulation 2

3. In regulation 2(**3**) (enrolment information) for "24 and 25" substitute "and 24".

Amendment of heading to Part 1A

4. In the heading to Part 1A(**4**) (exemption), after "Exemption" add "and Exceptions".

(**1**) 2008 c. 30. Section 4 was substituted by section 6(2) of the Pensions Act 2011 (c. 19). Section 10(1) and (2) was amended by section 38(1) of the Pensions Act 2014 (c. 19) ('the 2014 Act'). Section 23A was inserted by section 39(2) of the 2014 Act. Section 87A was inserted by section 38(2) of the 2014 Act. Section 99 is cited for the meaning given to "employer", "jobholder", "prescribed", "regulations" and "worker".
(**2**) S.I. 2010/772.
(**3**) Regulation 2 was substituted by S.I. 2012/215.
(**4**) Part 1A was inserted by S.I. 2012/1477.

Insertion of regulations 5B to 5F

5. After regulation 5A(**5**) (exemption of European employers) insert—

"**Notice of termination of employment**

5B.—(1) This regulation applies, subject to paragraph (3), where notice of termination of a worker's(**6**) employment is given before the end of the period of six weeks beginning with the automatic enrolment date or automatic re-enrolment date, as the case may be.

(2) Where this regulation applies—

(a) 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";

(b) section 7(3) (jobholder's right to opt in) of the Act is to be read as if there were inserted at the end—

"unless notice of termination of employment of that jobholder has been given (and the jobholder and the employer have not agreed that such notice is withdrawn)".

(c) section 9(2) (workers without qualifying earnings) of the Act is to be read as if there were inserted at the end—

"unless notice of termination of employment of that worker has been given (and the worker and the employer have not agreed that such notice is withdrawn)".

(3) Where a jobholder and employer agree that the notice of termination of the jobholder's employment referred to in this regulation is withdrawn, paragraphs (1) and (2) cease to apply on the date of that agreement and, subject to paragraph (4), for the purposes of sections 3(2) and 5(2) of the Act, as the case may be—

(a) the automatic enrolment date; or

(b) the automatic re-enrolment date,

is the date of that agreement.

(4) Where, on the date referred to in paragraph (3), section 3 or 5, as the case may be, does not apply to the jobholder, the next date on which one of those sections applies to that jobholder is to be taken as the automatic enrolment date or automatic re-enrolment date, as the case may be, in relation to that jobholder.

Former members

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

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

(b) at a time when P was a worker, but not a jobholder, ceased to be an active member of a scheme which would have been a qualifying scheme in relation to P, had P been a jobholder, because of an action or omission by P or an action by the employer at P's request.

(2) This regulation also applies where a jobholder gives notice under section 8 of the Act (jobholder's right to opt out).

(**5**) Regulation 5A was inserted by S.I. 2012/1477.
(**6**) A 'worker' includes a jobholder. *See* section 1 of the Pensions Act 2008.

(3) Where this regulation applies in relation to the jobholder mentioned in paragraphs (1) or (2)—

(a) during the period of 12 months beginning with the date that jobholder ceased to be an active member or gives notice, sections 3(2) and 5(2) of the Act are to be read as if for "must" there were substituted "may"; and

(b) after the expiry of that period, section 3(2) of the Act does not apply.

Tax protection

5D.—(1) This regulation applies where an employer has reasonable grounds to believe that one of the following provisions applies in relation to a jobholder—

(a) paragraph 7 (primary protection) or 12 (enhanced protection) of Schedule 36 (pension schemes etc: transitional provisions and savings) to the Finance Act 2004(**7**);

(b) paragraph 14 of Schedule 18 to the Finance Act 2011(**8**)(fixed protection 2012);

(c) paragraph 1 of Schedule 22 to the Finance Act 2013(**9**) (fixed protection 2014);

(d) paragraph 1 of Schedule 6 to the Finance Act 2014(**10**) (individual protection 2014).

(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".

Winding-up lump sum

5E.—(1) This regulation applies to a worker where—

(a) that worker has received a winding-up lump sum as defined in paragraph 10(**11**) of Schedule 29 to the Finance Act 2004 (winding-up lump sums) ("paragraph 10");

(b) at the time the winding-up lump sum was paid, the worker was employed by the person mentioned in sub-paragraph (1)(c) of paragraph 10; and

(c) since the winding-up lump sum was paid, the worker has ceased to be employed and been re-employed by that person.

(2) In relation to the worker to whom this regulation applies—

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

(i) sections 3(2) and 5(2) of the Act are to be read as if for "must" there were substituted "may"; and

(ii) sections 7 and 9 of the Act do not apply; and

(b) after the expiry of that period, section 3(2) of the Act does not apply.

(**7**) 2004 c. 12. Paragraph 12 was amended by the Finance Act 2005 (c. 7), Schedule 10, paragraph 53(3) to (6); the Finance Act 2007 (c. 11), Schedule 20, paragraph 17, and Schedule 27, Part 3(2); the Equality Act 2010 (c. 15), Schedule 26, Part 1, paragraph 59; and the Corporation Tax Act 2010 (c. 4), Schedule 1, paragraph 432(2).

(**8**) 2011 c. 11. Paragraph 14 was amended by the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Amendment) Regulations (S.I. 2013/1740), regulation 2(2) to (5); and the Finance Act 2013 (c. 29), section 47(2).

(**9**) 2013 c. 29.

(**10**) 2014 c. 26.

(**11**) Paragraph 10 was amended by the Finance Act 2007, Schedule 20, paragraph 12 and Schedule 27, Part 3(2); and the Finance Act 2011, Schedule 16, paragraph 30 and Schedule 18, paragraph 5.

Effect of exercise of discretion

5F.—(1) This regulation applies to an employer who—

(a) exercises a discretion under section 3(2) or 5(2) of the Act, as conferred by regulations 5B, 5C, 5D or 5E, so that the prescribed arrangements are made whereby the jobholder will become an active member of an automatic enrolment scheme;

(b) makes the arrangements referred to in section 7(3) of the Act for a jobholder, unless notice of termination of employment of that jobholder has been given (and the jobholder and the employer have not agreed that such notice is withdrawn); or

(c) makes the arrangements referred to in section 9(2) of the Act for a worker, unless notice of termination of employment of that worker has been given (and the worker and the employer have not agreed that such notice is withdrawn).

(2) In relation to the employer to whom this regulation applies, the employer is to be treated for all purposes as if the employer were acting under the duty which would apply by virtue of section 3(2) or 5(2) of the Act or were required to make the arrangements in section 7(3) or 9(2) of the Act but for the provisions of this Part.".

Revocation of regulations 14 and 17

6. Regulations 14(**12**) (jobholders excluded from automatic re-enrolment) and 17(**13**) (information on the right to opt in to pension saving) are revoked.

Substitution of regulation 21

7. For regulation 21(**14**) (information) substitute—

"**Information to be given to workers**

21. At any time before the end of the period of six weeks beginning with the date on which section 7 (jobholder's right to opt in) or section 9 (workers without qualifying earnings) of the Act, as the case may be, first applies to a worker, the employer must give—

(a) the jobholder to whom section 7 applies, in writing, the information described in —

(i) paragraphs 16 and 24 of Schedule 2; or

(ii) paragraphs 18 and 24 of Schedule 2; and

(b) the worker to whom section 9 applies, in writing, the information described in—

(i) paragraphs 17 and 24 of Schedule 2; or

(ii) paragraphs 18 and 24 of Schedule 2.".

Amendment of regulation 23

8. In regulation 23(3) for "one month" substitute "six weeks".

(**12**) Regulation 14 was substituted by S.I. 2012/215.
(**13**) Regulation 17 was amended by S.I. 2012/215 and S.I. 2013/2556.
(**14**) Regulation 21 was amended by S.I. 2012/215 and S.I. 2013/2556.

Amendment of regulation 24

9. In regulation 24(**15**) (prescribed requirements for the purposes of section 4(1), (2) and (3) of the Act)—

(a) for paragraph (1) substitute—

"(1) A notice under section 4(1), (2) or (3) of the Act (postponement or disapplication of automatic enrolment) given by an employer to all workers must be in writing and, subject to paragraphs (1A) and (1B), include the information described in paragraphs 18, 20, 21 and 24 of Schedule 2;

(1A) In the case of workers who are jobholders and who are not active members of a qualifying scheme, the notice referred to in paragraph (1) must include the information described in either paragraph 16 or 18 and in paragraphs 20, 21 and 24; and

(1B) In the case of workers who are not jobholders and are not active members of a qualifying scheme, the notice referred to in paragraph (1) must include the information described in either paragraph 17 or 18 and in paragraphs 20, 21 and 24"; and

(b) omit paragraph (2).

Amendment of regulation 27

10. In regulation 27(c)(**16**) (notice to be given under section 30(3) of the Act), for "paragraphs 16, 22, 24 and 25" substitute "paragraphs 16 or 18 and paragraphs 22 and 24".

Alternative quality requirements for UK defined benefits schemes

11. After regulation 32K(**17**) (definitions for Part 7A) insert—

"PART 7B

Alternative quality requirements: UK defined benefits schemes

Alternative quality requirements for UK defined benefits schemes

32L.—(1) A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement(**18**) in relation to a jobholder if section 23A(1)(a) of the Act (alternative quality requirements for UK defined benefits schemes) is satisfied and for the purpose of that section, the scheme is of a prescribed description if the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are—

(a) the benefits provided to the member are calculated by reference to factors which include the contributions made to the scheme by, or on behalf or in respect of, the member;

(b) the contributions referred to in sub-paragraph (a) are converted in accordance with the scheme rules, as soon as reasonably practicable and no later than one month after their receipt into the scheme, into a right to an income for life;

(c) the benefits payable to the member under the scheme are payable no later than the member's pensionable age;

(**15**) Regulation 24 was substituted by S.I. 2012/215.
(**16**) Regulation 27 was substituted by S.I. 2012/215.
(**17**) Regulation 32K was inserted by S.I. 2012/1257.
(**18**) *See* section 16(1)(c) of the Pensions Act 2008 in relation to the quality requirement.