Draft Regulations laid before Parliament under section 143(4) and (5)(a) and (b) of the Pensions Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

PENSIONS

The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

Made - - - - ***

Coming into force - - *1st October 2012*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 111A(15)(b), 181(**1**) and 182(2) and (3) of the Pension Schemes Act 1993(**2**), sections 49(8), 124(1)(**3**) and 174(2) and (3) of the Pensions Act 1995(**4**) and sections 2(3), 3(2), (5) and (6), 4(1) and (3), 5(2) and (4), (6), (7) and (8), 6(1)(b) and (2), 7(4), (5) and (6), 8(2)(b), (3), (4), (5) and 8(6), 9(3), 10, 15, 16(2) and (3)(c), 18(c), 22(4) to (7), 23(1)(b) and (3), 24(1)(a) and (b), 25, 27, 30(6)(c), 33(2), 37(3), 99(**5**) and 144(2) and (4) of the Pensions Act 2008.

In accordance with section 185(1) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995, the Secretary of State has consulted with such persons as the Secretary of State considers appropriate.

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

PART 1

Citation, commencement and interpretation

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 and shall come into force on 1st October 2012.

(**1**) Section 181 of the Pension Schemes Act 1993 is cited for the meaning it gives to "prescribed" and "regulations".
(**2**) 1993 c.48; section 111A(15) was inserted by section 9 of the Welfare Reform and Pensions Act 1999 (c.30).
(**3**) Section 124(1) of the Pensions Act 1995 is cited for the meaning it gives to "prescribed" and "regulations".
(**4**) 1995 c.26; section 49(8) was substituted for section 49(8) as originally enacted by section 10 of the Welfare Reform and Pensions Act 1999.
(**5**) Section 99 of the Pensions Act 2008 is cited for the meaning it gives to "prescribed" and "regulations".

(2) In these Regulations—

"the Act" means the Pensions Act 2008;

"the 1993 Act" means the Pension Schemes Act 1993;

"the 1995 Act" means the Pensions Act 1995;

"applicable pay reference period" means—

(a) a period of one week; or

(b) in the case of a jobholder who is paid their regular wage or salary by reference to a period longer than a week, that period;

"automatic enrolment date" has the meaning given by section 3(7) (automatic enrolment) of the Act;

"automatic re-enrolment date" means the date determined in accordance with regulation 12;

"enrolment date" means the date determined in accordance with regulation 18(6);

"enrolment information" has the meaning given by regulation 2;

"jobholder information" has the meaning given by regulation 3;

"joining notice" means a notice given under section 9(2) (workers without qualifying earnings) of the Act;

"opt in" means the jobholder's right under section 7(3) of the Act (jobholder's right to opt in) by notice to require the employer to arrange for the jobholder to become an active member of an automatic enrolment scheme;

"opt in notice" means a notice given under section 7(3) (jobholder's right to opt in) of the Act;

"opt out" means the jobholder's right to give notice under section 8 (jobholder's right to opt out) of the Act;

"opt out notice" means a notice in the form set out in the Schedule;

"opt out period" means the period determined in accordance with regulation 9(2) or (3);

"staging date" means the date sections 2 to 8 of the Act first apply in relation to the employer.

Enrolment information

2.—(1) In these Regulations "enrolment information" is—

(a) a statement that the jobholder has been or will be automatically enrolled, automatically re-enrolled or enrolled, as the case may be, into a pension scheme to help save for the jobholder's retirement;

(b) the jobholder's automatic enrolment date, automatic re-enrolment date or enrolment date, as the case may be, or for a jobholder to whom regulation 28 or 29 applies, the date mentioned in regulation 6(1)(a) or (b) as modified respectively by regulation 28 or 29, as the case may be;

(c) the name, address, telephone number and electronic contact details of the scheme in respect of which the jobholder is or will be an active member;

(d) the value of any contributions payable to the scheme by the employer and the jobholder in any applicable pay reference period;

(e) a statement that any contributions payable to the scheme by the jobholder have been or will be deducted from any qualifying earnings or pensionable pay due to the jobholder in any applicable pay reference period;

(f) confirmation as to whether tax relief is or will be given in accordance with section 192 (relief at source) or 193 (relief under net pay arrangements) of the Finance Act 2004(**6**);

(g) a statement that the employer may not take any action or make any omission, by which (without the jobholder ceasing to be employed by the employer) the jobholder ceases to be an active member of the scheme or the scheme ceases to be a qualifying scheme unless the jobholder is or becomes an active member of another qualifying scheme;

(h) a statement that the jobholder has a right to opt out of the scheme during the opt out period;

(i) a statement indicating the start and end date of the opt out period applicable to the jobholder, where that information is known to the employer prior to the employer giving the enrolment information to the jobholder;

(j) a statement that the opt out period is the period determined in accordance with regulation 9(2) or (3) where the start and end date of the opt out period applicable to the jobholder are not known to the employer prior to the employer giving the enrolment information to the jobholder;

(k) the source from which the opt out notice may be obtained;

(l) a statement that opting out means that the jobholder will be treated for all purposes as not having become an active member of the scheme on that occasion;

(m) a statement that after a valid opt out notice is given to the employer in accordance with regulation 9(2) or (3), any contributions paid by the jobholder will be refunded to the jobholder by the employer;

(n) a statement that where the jobholder opts out the jobholder may opt in, in which case the employer will be required to arrange for that jobholder to become an active member of an automatic enrolment scheme once in any 12 month period;

(o) a statement that after the opt out period the jobholder may cease to make contributions towards their pension in accordance with scheme rules;

(p) a statement that a jobholder who opts out or who ceases active membership of the scheme will normally be automatically re-enrolled into an automatic enrolment scheme by the employer in accordance with regulations made under section 5 (automatic re-enrolment) of the Act; and

(q) a statement giving details of where to obtain further information about pensions and saving for retirement.

(2) The information given to the jobholder under paragraph (1)(d) includes information on any change in the value of any contributions payable to the scheme by the employer or jobholder in any applicable pay reference period which will occur as a result of any changes to contributions brought about by the transitional periods for money purchase and personal pension schemes under section 29 (transitional periods for money purchase and personal pension schemes) of the Act.

(3) For the purposes of this regulation "the value" of contributions may be expressed as a fixed amount or a percentage of any qualifying earnings or pensionable pay due to the jobholder in any applicable pay reference period.

Jobholder information

3.—(1) In these Regulations "jobholder information" is the jobholder's—

(a) name;

(b) date of birth;

(c) postal residential address;

(**6**) 2004 c.12.

(d) gender;

(e) automatic enrolment date, automatic re-enrolment date or enrolment date, as the case may be, or for a jobholder to whom regulation 28 or 29 applies, the date mentioned in regulation 7(1) as modified by regulation 28 or 29, as the case may be;

(f) national insurance number;

(g) the gross earnings due to the jobholder in any applicable pay reference period;

(h) the value of any contributions payable to the scheme by the employer and the jobholder in any applicable pay reference period, where this information is available to the employer;

(i) postal work address;

(j) individual work e-mail address, where an individual work e-mail address is allocated to that jobholder; and

(k) personal e-mail address, where the employer holds this information.

(2) For the purposes of paragraph (1)(h), "the value" of contributions may be expressed as a fixed amount or a percentage of any qualifying earnings or pensionable pay due to the jobholder in any applicable pay reference period.

Pay reference periods for the purposes of section 1(1)(c) of the Act

4.—(1) The pay reference period for the purposes of section 1(1)(c) of the Act (jobholders), except in the case of person A, is—

(a) in the case of a person who is paid their regular wage or salary by reference to a period of a week, the period of one week;

(b) in the case of a person who is paid their regular wage or salary by reference to a period longer than a week, that period.

(2) Subject to paragraphs (3) and (4), in the case of person A the pay reference period for the purposes of section 1(1)(c) of the Act is a period of 12 months beginning on—

(a) the staging date; and

(b) every anniversary of that date.

(3) Where person A is employed by the employer after the staging date, person A's first pay reference period begins on the date person A is employed by the employer and ends on the same day as that relevant where paragraph (2)(a) or (b) applies.

(4) Where, on any day during the period mentioned in paragraph (2) or (3), the earnings of person A exceed the amount mentioned in section 13(1)(a) of the Act—

(a) person A's first pay reference period for the purposes of section 1(1)(c) of the Act begins on the day on which the period mentioned in paragraph (2) or (3) began and ends on the day before the day on which the earnings of person A exceeded the amount mentioned in section 13(1)(a) of the Act; and

(b) thereafter the pay reference period applicable in relation to person A for the purposes of section 1(1)(c) of the Act is the period mentioned in paragraph (1)(a) or (b).

(5) A person's earnings shall be determined by calculating or, in the case of person A estimating, the sum of any earnings payable to that person in the pay reference period prescribed in paragraph (1), (2) or (3).

(6) For the purposes of paragraph (2) or (3), person A's earnings shall be determined by adding to the regular wage or salary payable to that person under the contract of employment over the period mentioned in paragraph (2) or (3), any other earnings payable to that person paid by the employer at any time during the same period.

(7) For the purposes of this regulation—

"earnings" means any items of a description mentioned in section 13(3) of the Act that are payable to a person in connection with that person's employment;

"person A" is a person—

(a) who is employed under a contract of employment;

(b) who pursuant to that contract receives a regular wage or salary of less than the amount mentioned in section 13(1)(a) of the Act (qualifying earnings) during the period mentioned to in paragraph (2) or (3); and

(c) whose earnings during the period mentioned in paragraph (2) or (3) will not, in the estimation of the employer, exceed the amount mentioned in section 13(1)(a) of the Act.

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 period 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 is as follows.

(2) Subject to paragraphs (3) to (5), the pay reference period in relation to a jobholder is 12 months beginning on—

(a) the staging date ("the jobholder's first pay reference period"); and

(b) every anniversary of that date.

(3) Where a person becomes a jobholder after the staging date, the jobholder's first pay reference period begins on the jobholder's automatic enrolment date and ends on the same day as that of the other jobholders of the employer.

(4) Where a jobholder's automatic enrolment date is postponed in accordance with regulation 25, the first pay reference period begins on the jobholder's automatic enrolment date and ends on the same day as that of the other jobholders of the employer.

(5) The pay reference period ends on the date on which a person ceases to be a jobholder in relation to the employer.

PART 2

Automatic enrolment, opt out and refunds

Arrangements to achieve active membership

6.—(1) The arrangements the employer must make in accordance with section 3(2) (automatic enrolment) of the Act are to enter into arrangements with—

(a) the trustees or managers of an automatic enrolment scheme which is an occupational pension scheme, so that before the end of a period of one month beginning with the automatic enrolment date the jobholder to whom section 3 of the Act applies becomes an active member of that scheme with effect from the automatic enrolment date; or

(b) the provider of an automatic enrolment scheme which is a personal pension scheme, so that before the end of a period of one month beginning with the automatic enrolment date the jobholder to whom section 3 of the Act applies is given information about the terms and conditions of the agreement to be deemed to exist under paragraph (2).