STATUTORY RULES OF NORTHERN IRELAND

2017 No. 52

PENSIONS

The Employers' Duties (Implementation) (Amendment) Regulations (Northern Ireland) 2017

Made - - - -	*14th March 2017*
Coming into operation	*1st April 2017*

The Department for Communities(**1**) makes the following Regulations in exercise of the powers conferred by sections 3(2) and (5), 7(4) and (5), 9(3), 10, 12 and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008(**2**).

Citation and commencement

1. These Regulations may be cited as the Employers' Duties (Implementation) (Amendment) Regulations (Northern Ireland) 2017 and shall come into operation on 1st April 2017.

Amendment of the Employers' Duties (Implementation) Regulations

2.—(1) The Employers' Duties (Implementation) Regulations (Northern Ireland) 2010(**3**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) before the definition of "employer" insert—

""deferral date" means the date specified in a notice given by an employer under regulation 4B(1) or (2);";

(3) In regulation 2 (application of the employers' duties to employers)—

(a) in paragraph (2)(**4**) after "purposes of these Regulations" insert "(except for regulations 4B and 4C)";

(b) for paragraph (8)(**5**) substitute—

"(8) Where—

(a) an employer first pays PAYE income in respect of any worker on or after 1st October 2017, and

(**1**) *See* section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
(**2**) 2008 c. 13 (N.I.); section 10 was amended by section 37(1) of the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.))
(**3**) S.R. 2010 No. 123; relevant amending Regulations are S.R. 2012 Nos. 232 and 332
(**4**) Paragraph (2) was amended by regulation 3(3) of S.R. 2012 No. 232
(**5**) Paragraph (8) was amended by regulation 2(3)(b) of S.R. 2012 No. 332

(b) the employers' duties do not already apply to that employer,

the employers' duties apply to that employer from the day on which that employer's first worker begins to be employed by that employer.";

(c) in paragraph (10)(**6**) for "qualifying earnings are payable to any worker" substitute "the employer's first worker begins to be employed by the employer".

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

"**Deferral of automatic enrolment for post-staging employers**

4B.—(1) Where—

(a) an employer ("E") gives to a worker, on the day on which the worker begins to be employed by E, notice that E intends to defer automatic enrolment for the worker until the deferral date, and

(b) the requirements in regulation 4C in relation to the notice are met,

the worker's automatic enrolment date is the deferral date if on that date section 3(**8**) (automatic enrolment) applies to the worker as a jobholder of E.

(2) Where—

(a) a worker employed by E becomes a jobholder to whom section 3 applies,

(b) E gives the worker notice that E intends to defer automatic enrolment until the deferral date, and

(c) the requirements in regulation 4C in relation to the notice are met,

the worker's automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E.

(3) If section 3 does not apply to a worker falling within paragraph (1)(a) and (b) or (2)(a) to (c) on the deferral date, arrangements prescribed under section 3(2) do not apply in relation to any employment of the worker by E in the period beginning with the starting day and ending with the deferral date.

(4) A notice under paragraph (1) or (2) may be given on the starting day or within the period of six weeks beginning with the day after the starting day.

(5) The deferral date may be any date in the period of three months beginning with the starting day.

(6) If E gives a worker a notice under paragraph (1), E may not give the worker a notice under paragraph (2) in relation to any occasion on or before the deferral date on which the worker becomes a jobholder to whom section 3 applies.

(7) In this regulation—

(a) references to "E" (or to an "employer") are to a person within the meaning of "employer" in section 70(7)—

(i) who pays PAYE income, where E's first worker begins to be employed by E on or after 1st October 2017, or

(ii) who does not have a PAYE scheme, where E's first worker begins to be employed by E after 1st April 2017,

where the employers' duties did not apply before that date;

(**6**) Paragraphs (9) and (10) were added by regulation 2(3)(c) of S.R. 2012 No. 332
(**7**) Regulation 4A was inserted by regulation 2(6) of S.R. 2012 No. 332
(**8**) Section 3 was amended by sections 6(1) and (2) and 7(1) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)) and Article 2(1) of S.R. 2014 No. 81