STATUTORY RULES OF NORTHERN IRELAND

2012 No. 232

PENSIONS

The Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2012

Made - - - - 6th June 2012
Coming into operation in accordance with regulation 1(1)

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 107A(15)(b) and 177(2) to (4) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 49(8) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and sections 2(3), 3(2), (5) and (6), 4(1) to (3) and (5), 5(4), (6) and (8), 6(1)(b) and (2), 7(5), 10, 11, 12, 15(1) and (2), 16(2), 22(4), 23(1)(b) and (c), (3) and (6), 24(1), 29(2) and (4), 30(5), (7A) and (8), 37(3), 38(2) to (4), 40(4), 41(4) and (5), 43(3), 52(3), 54(3), 59, 78 and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008(**4**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 and shall come into operation—

(a) for the purposes of this regulation and regulation 3(1), (2)(b) and (3) to (6), on 7th June 2012;

(b) for the purposes of regulation 3(2)(a), on 7th June 2012 immediately after the coming into operation of the provisions mentioned in sub-paragraph (a);

(c) for the purposes of regulations 2, 4(1), (2)(b) and (3) to (9) and 5, on 1st July 2012, and

(d) for the purposes of regulation 4(2)(a), on 1st July 2012 immediately after the coming into operation of the provisions mentioned in sub-paragraph (c).

(**1**) 1993 c. 49; section 107A was inserted by Article 10 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); *see also* subsection (18) of that section as added by section 49 of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))

(**2**) S.I. 1995/3213 (N.I. 22); Article 49(8) was substituted by Article 11(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**3**) *See* Article 8(b) of S.R. 1999 No. 481

(**4**) 2008 c. 13 (N.I.); section 2(3) was substituted by section 5(1) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)); section 4 was substituted by section 7(2) of that Act; section 5(4) was substituted by section 5(3) of that Act; section 5(8) was amended by section 5(4) of that Act; section 6(1)(b) was amended by section 8 of that Act; section 23 was substituted by section 12(2) of that Act; section 30(5) was amended by section 16(2) of that Act; section 30(7A) was inserted by section 15(4) of that Act; section 59 is amended by section 33(2) of that Act; *see also* paragraph (b) of the definition of "provider" in section 78

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Assembly.

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

2.—(1) The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010(**6**) are amended in accordance with paragraphs (2) to (27).

(2) In regulation 1(2) (interpretation) in the definition of "opt out notice" for "the Schedule" substitute "Schedule 1".

(3) For regulation 2 (enrolment information) substitute—

"**Enrolment information**

2. In these Regulations "enrolment information" means the information described in paragraphs 1 to 15, 24 and 25 of Schedule 2(**7**).".

(4) In regulation 4 (pay reference periods for the purposes of section 1(1)(c))—

(a) in the heading for "section 1(1)(c)" substitute "sections 1(1)(c), 3(1)(c)(**8**) and 5(1)(c)";

(b) in paragraph (1) for "section 1(1)(c) (jobholders), except in the case of person A," substitute "sections 1(1)(c), 3(1)(c) and 5(1)(c) (jobholders, automatic enrolment and automatic re-enrolment)";

(c) omit paragraphs (2) to (7).

(5) For regulation 5 (pay reference periods for the purposes of sections 20(1)(b) and (c) and 26(4)(b) and (5)(b)) substitute—

"**Pay reference periods for the purposes of sections 20(1)(b) and (c) and 26(4)(b) and (5)(b)**

5.—(1) The pay reference periods for the purposes of sections 20(1)(and (c) and 26(4)(b) and (5)(b) (quality requirement: UK money purchase schemes and UK personal pension schemes) are as follows.

(2) In relation to any person—

(a) the person's first pay reference period is to begin—

(i) on the first day, on or after the staging date, that a person is both a jobholder and an active member of a qualifying scheme, or

(ii) where there has been a period beginning after that first day, during which the requirements of section 1(1)(a) or (c) (jobholders) were not met but the person remained an active member of a qualifying scheme, on the day following the last day of that period, and

(b) the person's subsequent pay reference periods begin on the anniversary of the employer's staging date.

(3) The pay reference period in relation to any person ends on the day on which the person ceases to be a jobholder of the employer or ceases to be an active member of a qualifying scheme.".

(**5**) 1954 c. 33 (N.I.)
(**6**) S.R. 2010 No. 122
(**7**) Schedule 2 is added by regulation 2(27) of these Regulations
(**8**) Sections 3(1) and 5(1) were substituted by section 6(1) and (3) of the Pensions Act (Northern Ireland) 2012

(6) In regulation 9(6)(a) (opting out) for "the Schedule" substitute "Schedule 1".

(7) In regulation 12 (automatic re-enrolment dates)—

(a) in paragraph (1)—

(i) for "(2) to (4)" substitute "(3) and (4)";

(ii) in sub-paragraphs (a) and (b) for "of one month beginning with" substitute "beginning 3 months before, and ending at the end of the period of 3 months beginning with,";

(b) omit paragraph (2);

(c) in paragraph (3) for the words from "which—" to the end substitute "which the jobholder ceases to be an active member of the scheme.".

(8) For regulation 14 (jobholders excluded from automatic re-enrolment) substitute—

"**Jobholders excluded from automatic re-enrolment**

14.—(1) Section 5(2) (automatic re-enrolment) does not apply in the cases to which paragraphs (2) and (3) apply.

(2) This paragraph applies where, in relation to re-enrolment in a case under section 5(1), within the period of 12 months before the automatic re-enrolment date referred to in regulation 12(1)—

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

(b) the jobholder gave notice under section 8 (jobholder's right to opt out).

(3) This paragraph applies where, in relation to re-enrolment in a case under section 5(1B)(**9**), the jobholder has ceased to be an active member of the qualifying scheme in question because of any action or omission by the employer and the action or omission was at the jobholder's request.".

(9) In regulation 17 (information on the right to opt in to pension saving)—

(a) in paragraph (1) for "the information specified in paragraph (2)" substitute ", in writing, the information described in paragraphs 16, 24 and 25 of Schedule 2";

(b) omit paragraphs (2) and (4).

(10) In regulation 21 (information)—

(a) in paragraph (1) for "the information specified in paragraph (2)" substitute ", in writing, the information described in paragraphs 17, 24 and 25 of Schedule 2";

(b) omit paragraph (2).

(11) In Part 6 (postponement of automatic enrolment) in the heading after "Postponement" insert "or disapplication".

(12) For regulation 24 (information) substitute—

"**Prescribed requirements for the purposes of section 4(1), (2) and (3)**

24.—(1) A notice under section 4(1) or (2) (postponement or disapplication of automatic enrolment) given by an employer (E) to the category of E's workers specified in Column 1 of the Table must be in writing and include the information described in the paragraphs of Schedule 2 specified in Column 2 of the Table against that category.

(**9**) Section 5(1B) was inserted by section 5(2) of the Pensions Act (Northern Ireland) 2012

Table

Category of worker	*Paragraphs of Schedule 2*
all workers	18, 19, 20, 21, 24, 25
all workers who are not active members of a qualifying scheme	18, 20, 21, 24, 25
all workers who are jobholders and who are not active members of a qualifying scheme	16, 20, 21, 24, 25
all workers who are not jobholders and are not active members of a qualifying scheme	17, 20, 21, 24, 25

(2) A notice given by E under section 4(3) to a worker who is a jobholder must be in writing and include the information described in the paragraphs of Schedule 2 specified in Column 2 of the Table against that category of worker.

(3) For the purposes of section 4(5), the prescribed period is the period of one month beginning with the day after the starting day.".

(13) For regulation 27 (information) substitute—

"**Notice to be given under section 30(3)**

27. Where the employer gives the jobholder the notice mentioned in section 30(3)(**10**) (transitional period for defined benefits and hybrid schemes), that notice must—

(a) be in writing;

(b) be given at any time before the end of the period of one month beginning with the employer's first enrolment date, and

(c) include the information described in paragraphs 16, 22, 24 and 25 of Schedule 2.".

(14) In regulation 29 for paragraph (a) substitute—

"(a) in regulation 6 for paragraph (1) substitute—

"(1) An employer must meet the obligation in section 3(2) (automatic enrolment) by entering into arrangements with—

(a) the trustees or managers of an automatic enrolment scheme which is a defined benefits scheme or a hybrid scheme, so that before the end of a period of one month beginning with the closure date a jobholder to whom section 3(**11**) applies becomes an active member of that scheme with effect from the closure date;

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

(c) the provider of an automatic enrolment scheme which is a personal pension scheme, so that before the end of the period of one month beginning with the closure date the jobholder to whom section 3 applies receives information about the terms and conditions mentioned in paragraph (4).";

(**10**) Section 30(3) was amended by section 15(2) of the Pensions Act (Northern Ireland) 2012

(**11**) Section 3 was amended by sections 6(1) and (2) and 7(1) of the Pensions Act (Northern Ireland) 2012

(aa) in regulation 6(2) and (4) for "paragraph (1)(b)", in each place it occurs, substitute "paragraph (1)(c)";".

(15) For regulation 33 (information) substitute—

"**Information**

33.—(1) Subject to paragraph (3), the employer of a worker who is—

(a) on the staging date both a jobholder and an active member of a qualifying scheme, or

(b) becomes both a jobholder and an active member of a qualifying scheme on a day after the staging date,

must, in accordance with paragraph (2), give the worker, in writing, the information described in paragraphs 7, 23 and 25 of Schedule 2.

(2) The information must be provided at any time before the end of the period of 2 months beginning with the date or day referred to in paragraph (1).

(3) Paragraph (1) does not apply where the worker becomes an active member of a qualifying scheme under section 3(2) (automatic enrolment), 5(2) (automatic re-enrolment) or 7(3) (jobholder's right to opt in) with effect from the date or day referred to in that paragraph.".

(16) In regulation 37 (test scheme: requirements to revalue accrued benefits and increase pensions in payment)—

(a) in paragraph (1) for "section 23(1)(b)" substitute "section 23(1)(c)";

(b) at the end of paragraph (2)(b) add "in relation to a scheme which provides for a member to be entitled to a pension commencing at the appropriate age and continuing for life".

(17) In regulation 38(2) (staged increase in appropriate age) in the first row in Column 1 of the Table for "6th April 2024" substitute "6th April 2020".

(18) In regulation 39(4)(b)(v) (requirements for meeting the test scheme standard) omit "subject to regulations 41 and 42,".

(19) After regulation 39 insert—

"**Requirement for satisfying the test scheme under section 23(2)(b)**

39A.—(1) The requirement relating to a sum of money which a scheme referred to in section 23(2)((test scheme) must satisfy if it is to be a test scheme is specified in—

(a) paragraph (4) in the case of a scheme described in paragraph (2), or

(b) paragraph (5) in the case of any other scheme to which section 23(2)(b) applies.

(2) A scheme referred to in paragraph (1)(a) is a scheme under which the sum of money to be made available for the provision of benefits is determined by reference to final pensionable pay.

(3) For the purposes of paragraph (2), "final pensionable pay" has the same meaning as in the rules of the scheme in question.

(4) Where this paragraph applies, the requirement in question is that the sum of money to be made available for the provision of benefits to a member must—

(a) accrue at an annual rate of at least 16% of average qualifying earnings in the last 3 tax years preceding the end of pensionable service, and

(b) be multiplied by the number of years of pensionable service up to a maximum of 40 years.