STATUTORY RULES OF NORTHERN IRELAND

2010 No. 186

PENSIONS

The Employers' Duties (Registration and Compliance) Regulations (Northern Ireland) 2010

Made - - - -	*19th May 2010*
Coming into operation	*1st October 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 11, 38(2) to (4), 40(4), 41(5), 43(3), 52(3), 54(3), 59 and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008(**1**).

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Employers' Duties (Registration and Compliance) Regulations (Northern Ireland) 2010 and shall come into operation on 1st October 2012.

(2) In these Regulations—

"automatic re-enrolment date" has the same meaning as in section 5(8)(**2**);

"contributions payable by an employer" means contributions payable by the employer—

(a) on the employer's own account (but in respect of the worker), or

(b) on behalf of the worker out of deductions from the worker's earnings;

"the employers' duties" means sections 2 to 9;

"employer duty provisions" has the same meaning as in section 34(3);

"employer pension scheme reference" means—

(a) in relation to an occupational pension scheme (except a scheme established under section 67 of the Pensions Act 2008(**3**))—

(**1**) 2008 c. 13 (N.I.)
(**2**) *See* regulation 12 of S.R. 2010 No. 122
(**3**) 2008 c. 30

(i) a reference given by the Regulator (R) to the trustees or managers of a scheme (T), following the provision of registrable information to R by T, or

(ii) any reference provided to an employer by T evidencing the relationship between an employer and a qualifying scheme,

and any reference given within the meaning of this paragraph may be in respect of that scheme or any section of that scheme;

(b) in relation to a scheme established under section 67 of the Pensions Act 2008, a reference given by that scheme prior to registration to an employer using the same scheme to comply with the employer duty provisions, or

(c) in relation to a personal pension scheme, a reference given by that scheme prior to registration to an employer using the same scheme to comply with the employer duty provisions;

"HMRC" means Her Majesty's Revenue and Customs;

"the Implementation Regulations" means the Employers' Duties (Implementation) Regulations (Northern Ireland) 2010(**4**);

"joining notice" means a notice given under section 9(2);

"late payment report" means a notice given by a trustee or manager of a trust or occupational or personal pension scheme to the Regulator under—

(a) section 107A(7A) of the Pension Schemes Act(**5**);

(b) Article 49(9)(b) of the 1995 Order(**6**), or

(c) Article 86(1) of the 1995 Order(**7**);

"opt in notice" means a notice given under section 7(3);

"opt out notice" means a notice given under section 8;

"PAYE income" has the same meaning as in section 683(1) of the Income Tax (Earnings and Pensions) Act 2003(**8**);

"PAYE scheme" means the HMRC record allocated to an employer who—

(a) employs, or

(b) intends to employ,

a worker to whom PAYE income is payable;

"registrable information" has the same meaning as in Article 55 of the 2005 Order;

"registration" means the process by which employers are required to provide the Regulator with information about action they have taken or intend to take for the purposes of—

(a) any provision of sections 2 to 9, and

(b) any regulations made under those sections,

as set out in regulations 2 to 4 of these Regulations;

"retail prices index" means—

(**4**) S.R. 2010 No. 123
(**5**) Section 107A was inserted by Article 10 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and subsection (7A) was substituted by Article 245(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
(**6**) Article 49(8) was substituted with Article 49(8) to (13) by Article 11(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph (9)(b) was substituted by Article 246(1) of the Pensions (Northern Ireland) Order 2005
(**7**) Article 86(1) was substituted by Article 246(2) of the Pensions (Northern Ireland) Order 2005
(**8**) 2003 c. 1

(a) the general index of retail prices (for all items) published by the Statistics Board(**9**), or

(b) where that index is not published for a month, any substituted index or figures published by the Board;

"staging date" has the same meaning as in regulation 1(2) of the Implementation Regulations;

"the staging period" means the period which—

(a) begins when the employers' duties first apply to an employer of any description, under the Implementation Regulations, and

(b) ends when the employers' duties apply to all employers described in the Implementation Regulations.

(3) Without prejudice to any other method of service of documents, any document under these Regulations may be sent by ordinary post.

(4) In these Regulations any reference to a numbered section is a reference to the section of the Pensions (No. 2) Act (Northern Ireland) 2008 bearing that number.

PART 2

Registration

Registration: general

2.—(1) An employer must provide information to the Regulator in the following cases—

(a) after the staging date for that employer;

(b) where the staging period has ended, within a period starting from the day on which PAYE income is payable in respect of any worker, or

(c) (i) where an employer makes arrangements under section 5(2) (automatic re-enrolment) by which a jobholder becomes an active member of an automatic enrolment scheme with effect from an automatic re-enrolment date, or

(ii) where 3 years have passed since an employer last provided information to the Regulator.

(2) Where an employer must provide the Regulator with information under regulations 3 and 4 but the final day of the period in regulation 3(1) or 4(1) which applies to that employer is not a working day, an employer may provide the Regulator with information on or before the next working day (and for the purposes of this paragraph "working day" means a day which is not a Saturday, Sunday or public holiday).

(3) In this regulation "information" means the information specified in regulations 3 and 4 required to be provided to the Regulator about action employers have taken or intend to take for the purposes of—

(a) any provision of sections 2 to 9, or

(b) any regulations made under those sections.

Registration: after staging date and new PAYE schemes

3.—(1) Where—

(**9**) The Statistics Board is established by section 1 of the Statistics and Registration Service Act 2007 (c. 18)

(a) regulation 2(1)(a) applies, an employer must provide the information specified in paragraphs (2) and (3) of this regulation within the period of 2 months starting from the staging date, or

(b) regulation 2(1)(b) applies, an employer must provide the information specified in paragraphs (2) and (3) of this regulation within the period of 3 months starting from the day on which PAYE income is payable in respect of any worker,

in relation to each of its PAYE schemes.

(2) The specified information is—

(a) the employer's—

(i) address and postcode, and

(ii) registered companies house number, where one exists;

(b) (i) the name, telephone number, ordinary working address, and

(ii) the e-mail address, where one exists,

of any person providing that specified information on behalf of the employer;

(c) the capacity in which the person providing the information in sub-paragraph (a) works for (or has a relationship to) that employer;

(d) where the employer must arrange active membership of an automatic enrolment scheme under section 3(2)—

(i) the number of jobholders automatically enrolled under section 3(2), as at the end of a period of one month beginning with either the staging date or the day on which the employers' duties apply to that employer, whichever is applicable, and

(ii) if the employer uses more than one pension scheme under those arrangements, the number of jobholders who became active members of each pension scheme;

(e) where an employer is subject to—

(i) section 4 (postponement of automatic enrolment), or

(ii) section 30 (transitional period for defined benefits and hybrid schemes),

the number of jobholders to whom those sections apply;

(f) the number of workers in an employer's PAYE scheme who, before whichever is applicable of—

(i) the staging date, or

(ii) the day on which the employers' duties apply to that employer,

were active members of either an automatic enrolment scheme or, if the employer uses more than one pension scheme to comply with the employers' duties, each of those pension schemes, and

(g) the number of workers in an employer's PAYE scheme in respect of whom sub-paragraph (d), (e) or (f) does not apply.

(3) Where an employer must arrange for a jobholder to become an active member of an automatic enrolment scheme under section 3(2), that employer must also provide the following information to the Regulator about any pension scheme used to comply with those duties—

(a) where that scheme—

(i) is an occupational pension scheme, its name and, unless registrable information has already been provided to the Regulator by the trustees or managers of that scheme, its address, or

(ii) is a personal pension scheme, the name and address of the provider of that scheme, and

(b) the employer pension scheme reference.

(4) All information provided to the Regulator by (or on behalf of) an employer under this regulation must be accompanied by a declaration that the information is, to the best of the employer's knowledge and belief, correct and complete.

Registration: re-registration

4.—(1) Where—

(a) regulation 2(1)(c)(i) applies, an employer must provide the information specified in paragraph (3) of this regulation within the period of 2 months starting from an automatic re-enrolment date, in relation to each of its PAYE schemes, or

(b) regulation 2(1)(c)(ii) applies, an employer must provide the information specified in paragraph (3) of this regulation at the end of 3 years starting from the last provision of information to the Regulator, in relation to each of its PAYE schemes,

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

(2) Paragraph (1)(a) applies in the case of an automatic re-enrolment date occurring by virtue of subsection (1)(b) of section 6 but not in relation to any of the cases described in subsections (3) to (5) of that section.

(3) The specified information is—

(a) that specified in regulation 3(2)(a) to (c);

(b) that specified in regulation 3(3)(a) and (b);

(c) where the employer must arrange active membership of an automatic enrolment scheme for any worker who is a jobholder under section 5(2)—

(i) the number of jobholders automatically enrolled, as at the point of re-registration, and

(ii) if the employer uses more than one pension scheme under those arrangements, the number of jobholders automatically enrolled into each pension scheme, as at the point of re-registration;

(d) where an employer is subject to—

(i) section 4 (postponement of automatic enrolment), or

(ii) section 30 (transitional period for defined benefits and hybrid schemes),

the number of jobholders to whom those sections apply;

(e) the number of workers in an employer's PAYE scheme who, before whichever occurs first of—

(i) the automatic re-enrolment date, or

(ii) the point of re-registration,

were active members of either an automatic enrolment scheme or, if the employer uses more than one pension scheme to comply with the employers' duties, each of those pension schemes, and

(f) the number of workers in an employer's PAYE scheme in respect of whom sub-paragraph (c), (d) or (e) does not apply.