STATUTORY RULES OF NORTHERN IRELAND

2010 No. 123

PENSIONS

The Employers' Duties (Implementation) Regulations (Northern Ireland) 2010

Made - - - -	*19th March 2010*
Coming into operation	*1st September 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 12, 29(2) and (4), 30(8) and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008(**1**).

Citation, commencement and interpretation

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

(2) In these Regulations—

"employer" has the meaning given by regulation 2(2);

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

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

"PAYE income" has the meaning given in section 683(1) of the Income Tax (Earnings and Pensions) Act 2003(**2**);

"PAYE reference number" means a number issued by HMRC to a corresponding PAYE scheme, enabling an employer to pay over amounts deducted to HMRC;

"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;

"scheme administrator" has the same meaning as in section 270 of the Finance Act 2004(**3**);

"staging date" means the date when the employers' duties apply to employers, prescribed in the third column of the Table;

(**1**) 2008 c. 13 (N.I.)
(**2**) 2003 c. 1
(**3**) 2004 c.12

"the Table" means the Table in regulation 4.

(3) 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.

Application of the employers' duties to employers

2.—(1) Except where an employer satisfies the conditions for early automatic enrolment in regulation 3, the employers' duties do not apply to employers described in the first column of the Table until the corresponding staging dates prescribed in the third column of the Table.

(2) For the purposes of these Regulations, an employer is a person within the meaning of section 70(7) who—

(a) has a PAYE scheme of any size, determined by the Regulator in accordance with paragraphs (3) and (4), or

(b) meets any other description contained in the first column of the Table (including having no PAYE scheme).

(3) The size of an employer's PAYE scheme means the number of persons within that scheme.

(4) The number of persons within a PAYE scheme is based on the latest information available to the Regulator, as at 1st April 2012.

(5) Where—

(a) the employers' duties first apply to an employer in accordance with the Table, and

(b) for any reason, an employer has another PAYE scheme (or schemes),

the employers' duties apply to that employer in respect of the scheme (or schemes) mentioned in sub-paragraph (b) from the staging date applicable in relation to sub-paragraph (a) (and this is so even where the staging date mentioned in the Table for any such scheme (or schemes) is later than the staging date referred to in sub-paragraph (a)).

(6) Any employer who first pays PAYE income in respect of a worker between—

(a) 1st April 2012, and

(b) up to (but not including) 1st April 2016,

is to be treated as a new employer in accordance with the relevant entry in the first column of the Table.

(7) Where paragraph (6) applies, the employers' duties do not apply to such an employer until PAYE income is first payable in respect of any worker and then only in accordance with the Table.

(8) Where—

(a) an employer pays PAYE income in respect of any worker from 1st April 2016, and

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

the employers' duties apply to that employer from the day on which PAYE income is payable.

Early automatic enrolment

3.—(1) Where the conditions in paragraphs (3) and (4) are both satisfied, the employers' duties apply to an employer from—

(a) any date in the third column of the Table which is earlier than the staging date corresponding to that employer's description, or

(b) 1st December 2012,

and, for the purposes of this regulation, that date is the early automatic enrolment date.

(2) Where the condition in paragraph (3) is satisfied but the condition in paragraph (4) is not satisfied, the employers' duties apply to an employer from the staging date corresponding to that employer's description, as prescribed in the third column of the Table.

(3) The first condition is that an employer must fall within any description in the first column of the Table.

(4) The second condition is that an employer has chosen an early automatic enrolment date (within the meaning of paragraph (1)) for the employers' duties to apply, which is earlier than the date mentioned in the third column of the Table corresponding to that employer, and has—

(a) contacted a pension scheme which the employer considers could be used to comply with the employers' duties;

(b) secured the agreement of the trustee or manager (or scheme administrator or provider) of that scheme that that scheme was to be used by the employer to comply with those duties from that early automatic enrolment date, and

(c) notified the Regulator accordingly in writing, at any time before either—

(i) where paragraph (1)(a) applies, the date specified in the second column of the Table corresponding to that earlier date, or

(ii) where paragraph (1)(b) applies, 1st November 2012.

Staging of the employers' duties

4.—(1) The Table in this regulation sets out the application of the employers' duties.

(2) Where a date prescribed in the second column of the Table falls on a day which is not a working day, that date is to be treated as 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).

Table

Employer (by PAYE scheme size or other description)	*Date before which notification to automatically enrol early must be sent*	*Staging date*
120,000 or more	1st September 2012	1st October 2012
50,000-119,999	1st October 2012	1st November 2012
30,000-49,999	1st December 2012	1st January 2013
20,000-29,999	1st January 2013	1st February 2013
10,000-19,999	1st February 2013	1st March 2013
6,000-9,999	1st March 2013	1st April 2013
4,100-5,999	1st April 2013	1st May 2013
4,000-4,099	1st May 2013	1st June 2013
3,000-3,999	1st June 2013	1st July 2013
2,000-2,999	1st July 2013	1st August 2013
1,250-1,999	1st August 2013	1st September 2013
800-1,249	1st September 2013	1st October 2013
500-799	1st October 2013	1st November 2013