

EXPLANATORY MEMORANDUM TO
THE EMPLOYERS' DUTIES (MISCELLANEOUS AMENDMENTS)
REGULATIONS (NORTHERN IRELAND) 2017

S.R. 2017 No. 181

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 11, 12 and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations amend existing regulations relating to automatic enrolment to ensure they work as intended for newly created (PAYE and non-PAYE) employers.

3. Background

- 3.1 The Pensions (No. 2) Act (Northern Ireland) 2008 and corresponding provision in the Westminster Pensions Act 2008 introduce a duty on employers to enrol eligible jobholders into a qualifying workplace pension and to make minimum contributions into it. Under the legislation, employers are able to choose the qualifying workplace pension scheme they adopt to discharge this duty. A qualifying scheme is a scheme which meets specific criteria, for example, an occupational pension scheme (including the National Employment Savings Trust (NEST) established on a UK-wide basis under the Pensions Act 2008) or a workplace personal pension scheme.
- 3.2 The Employers' Duties (Implementation) (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017 No. 52) clarify when the automatic enrolment duties (AE) apply to newly created employers from April 2017. They amend the start date of the AE duties trigger for new employers outside the AE staging profile (the profile sets out the timetable for gradually bringing existing employers into the AE duties between October 2012 and February 2018). They also give such employers the option to defer automatic enrolment, for up to three months, from the date they take on a new worker.

- 3.3 These Regulations make further amendments to the Employers' Duties (Implementation) Regulations (Northern Ireland) 2010 to -
- align the timing of the deferral date with that specified in section 4 of the Pensions (No. 2) Act (Northern Ireland) 2008 (so that for staging and post-staging employers, the period for which automatic enrolment can be deferred is the same), and
 - ensure that employers whose first eligible worker is employed before 1st October 2017, but who first pay PAYE income tax on or after 1st October 2017, are able to defer automatic enrolment.
- 3.4 These Regulations also make minor and consequential amendments to the Employers' Duties (Registration and Compliance) Regulations (Northern Ireland) 2010. For example, they align the trigger date for the five month window for providing information to the Pensions Regulator with the date the employers' duties apply for both post-staging PAYE employers and non-PAYE employers first employing people from 1st October 2017.
- 3.5 The aim of the Regulations is to reduce burdens on post-staging employers when automatically enrolling workers for the first time and support the Pensions Regulator in its enforcement of the AE duties.

4. Consultation

- 4.1 There is no requirement to consult on these Regulations. They make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for the Regulations. As they merely ensure that the policy works as intended, the Department has concluded that they would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they have no impact on costs on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 None for the Department.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations –

- (a) are not incompatible with any of the Convention rights,
- (b) are not incompatible with Community law,
- (c) do not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are the Employers' Duties (Miscellaneous Amendments) Regulations 2017 (S.I. 2017/868) which were made on 4th September 2017 and come into force on 1st October 2017. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions in line with section 87 of the Northern Ireland Act 1998. The Regulations are necessary as there is an urgent need to clarify the existing law and allow employers and the Pensions Regulator to put arrangements in place as soon as possible. It was, therefore necessary to make the Regulations during the period of interregnum.