
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under the Pensions Act 2008 (the Act). They are one of a package of measures which implement Part 1 of the Act.

Part 1 of the Regulations provides definitions. Parts 2, 3, 4 and 7 prescribe the arrangements an employer must make for a jobholder to become an active member of an automatic enrolment scheme with effect from the automatic enrolment date (Part 2), the automatic re-enrolment date (Part 3), the enrolment date (Part 4) or the date applicable to jobholders affected by the transitional period for defined benefit and hybrid schemes under section 30 of the Act (Part 7), as the case may be. The process is largely similar in each case. The same Parts also provide for opting out and refunds of contributions where a jobholder has been automatically enrolled, automatically re-enrolled or opts in, as the case may be. Part 3, in addition, prescribes the automatic re-enrolment dates.

Part 5 prescribes the arrangements an employer must make for a worker (on request) to become an active member of a pension scheme.

Part 6 enables an employer to postpone a person's automatic enrolment date by 3 months provided an employer has an existing occupational money purchase or hybrid pension scheme or personal pension scheme under which the employer and jobholder contributions are at a specified greater level than the level of contributions normally required in relation to a qualifying scheme under the Act or the employer has an existing defined benefit scheme. Postponement may only apply as long as the jobholder's postponement date, in relation to previous employment with the employer, has not been postponed in the last 12 months.

Part 8 makes provision for the period (3 months) within which an employer will not breach the duty in section 2 of the Act when moving jobholders between schemes.

Parts 2 to 8 also require the employer to provide the jobholder or worker, as the case may be, with certain information about the effect of sections 2 to 9 of the Act in relation to them

Part 9 imposes a geographical restriction, the effect of which is to prescribe that only schemes established in the UK or an EEA State which fulfil certain requirements, may be used as automatic enrolment schemes for the purposes of the Act.

Part 10 provides that certain schemes which provide average salary benefits are excluded from being qualifying schemes for the purposes of the Act unless certain conditions are met.

Part 11 prescribes further requirements that apply to the test scheme described in section 23 of the Act. It also makes provision for an actuary or the employer to determine whether the pensions to be provided for the relevant members are broadly equivalent to, or better than, the pensions which would be provided for them under the test scheme, and about how such determinations are to be made.

Part 12 contains modifications of the quality requirements under section 20 or 21 of the Act so as to reflect detailed characteristics of certain hybrid schemes. The Hybrid Schemes Quality Requirements Rules 2010, made under section 24(2) of the Act, underpin the operation of Part 12 (Hybrid Schemes) of these Regulations. The Rules will be made early in 2010. They provide for the application of these quality requirements to different descriptions of hybrid schemes, subject to prescribed modifications.

Part 13 sets out the quality requirements applicable to non-UK schemes and the requirements which a non-UK scheme must meet if section 16(1)(b) (registration under Chapter 2 of Part 4 of the Finance Act 2004) of the Act is not to apply.

Part 14 sets the dates by which pension contributions must be paid by the employer to the scheme and makes provision related to the Regulator's power to issue an unpaid contribution notice.

Changes to legislation: *There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010. (See end of Document for details)*

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Work and Pensions, ERSP, Level 7, Caxton House, Tothill Street, London, SW1H 9NA and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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