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STATUTORY INSTRUMENTS

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**2010 No. 772**

The Occupational and Personal Pension Schemes  
(Automatic Enrolment) Regulations 2010

PART 14

Due dates

**Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996**

**48.** For regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996(1) substitute—

**“Prescribed time in which an employer must make payments to trustees or managers**

**16.**—(1) Save as provided in paragraph (2), the prescribed period for the purposes of section 49(8) of the 1995 Act (amount deducted from earnings to be paid to the trustees or managers of the scheme within a prescribed period) is 19 days commencing from the end of the month in which the amount is deducted from the earnings in question.

(2) Where a jobholder becomes an active member of an occupational pension scheme in accordance with arrangements provided for in regulation 6, 13, 18, 28 or 29 of the 2010 Regulations, in relation to any contributions deducted between the relevant date and the end of the opt out period, the prescribed period for the purposes of section 49(8) of the 1995 Act is the period commencing on the relevant date and ending on the last day of the second month after the month which includes the relevant date.

(3) For the purposes of this regulation—

“the 2008 Act” means the Pensions Act 2008;

“the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010;

“automatic enrolment date” has the meaning given by section 3(7) of the 2008 Act (automatic enrolment);

“automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations;

“enrolment date” has the meaning given by regulation 18(6) of the 2010 Regulations;

“jobholder” has the meaning given by section 1(1) of the 2008 Act (jobholders);

“opt out period” means the period prescribed by regulation 9 of the 2010 Regulations within which a jobholder who has become an active member of an occupational

pension scheme in accordance with arrangements under section 3(2) of the 2008 Act, may give notice under section 8 (jobholder's right to opt out) of that Act; and

“relevant date” means the automatic enrolment date, the automatic re-enrolment date or the enrolment date, as the case may be, or for a jobholder to whom regulation 28 or 29 of the 2010 Regulations applies, the day or date mentioned in regulation 6 of those Regulations as modified respectively by regulation 28 or 29, as the case may be.”.

### **Amendment of the Personal Pension Schemes (Payments by Employers) Regulations 2000**

**49.** For regulation 5 of the Personal Pension Schemes (Payments by Employers) Regulations 2000(2), substitute—

#### **“Prescribed period for the purpose of calculating the due date for the payment of any contribution on behalf of an employee**

**5.—(1)** Save as provided in paragraph (2), the prescribed period for the purposes of section 111A(15)(b) of the 1993 Act (meaning of “due date” where a contribution payable under the direct payment arrangements falls to be paid on behalf of the employee) is the period of 19 days commencing on the day following the last day of the month in which the deduction was made from the employee's earnings.

(2) Where a jobholder becomes an active member of a personal pension scheme in accordance with arrangements provided for in regulation 6, 13, 18, 28 or 29 of the 2010 Regulations, in relation to any contributions deducted between the relevant date and the end of the opt out period, the prescribed period for the purposes of section 111A(15)(b) of the 1993 Act is the period commencing on the relevant date and ending on the last day of the second month after the month which includes the relevant date.

(3) For the purposes of this regulation—

“the 2008 Act” means the Pensions Act 2008;

“the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010;

“automatic enrolment date” has the meaning given by section 3(7) of the 2008 Act (automatic enrolment);

“automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations;

“enrolment date” has the meaning given by regulation 18(6) of the 2010 Regulations;

“jobholder” has the meaning given by section 1(1) of the 2008 Act (jobholders);

“opt out period” means the period prescribed by regulation 9 of the 2010 Regulations within which a jobholder who has become an active member of an occupational pension scheme in accordance with arrangements under section 3(2) of the 2008 Act, may give notice under section 8 (jobholder's right to opt out) of that Act;

“relevant date” means the automatic enrolment date, the automatic re-enrolment date or the enrolment date, as the case may be, or for a jobholder to whom regulation 28 or 29 of the 2010 Regulations applies, the day or date mentioned in regulation 6 of those Regulations as modified respectively by regulation 28 or 29, as the case may be.”.

### **Due Date for the purposes of section 37(3) of the Act**

**50.**—(1) This regulation defines “due date” for the purposes of section 37 (unpaid contributions notices) of the Act.

(2) Subject to paragraphs (3) to (6), “due date” means the 19th day of the month following the month during which either—

(a) relevant contributions payable to—

- (i) the trustees or managers of an occupational pension scheme, or
- (ii) the provider of a personal pension scheme,

were deducted by an employer (whether or not under section 33 (deduction of contributions) of the Act); or

(b) relevant contributions payable to—

- (i) an occupational pension scheme under a payment schedule, or
- (ii) a personal pension scheme under direct payment arrangements,

were due but not made by an employer.

(3) Where a jobholder becomes an active member of an occupational pension scheme or a personal pension scheme in accordance with regulations 6, 13, 18, 28, or 29, paragraph (2) does not apply in respect of contributions—

(a) deducted from the relevant date to the end of the opt out period; or

(b) due but not made from the relevant date to the end of the opt out period,

in which case paragraph (4) applies.

(4) Where this paragraph applies, “due date” means the last day of the second month after the month which includes the relevant date.

(5) Paragraphs (2) and (3) do not apply where an employer uses either—

- (a) a defined benefits scheme; or
- (b) a hybrid scheme,

to comply with sections 2 to 9 of the Act, in which case paragraph (6) applies.

(6) Where a scheme used by an employer to comply with sections 2 to 9 of the Act—

(a) is a defined benefits scheme, “due date” means the due dates of relevant contributions payable by or on behalf of—

- (i) active members of a scheme, and
- (ii) an employer,

under a schedule of contributions; or

(b) is a hybrid scheme, “due date” in respect of any part of that scheme providing—

- (i) defined benefits, has the same meaning as in sub-paragraph (a); or
- (ii) money purchase benefits, has the same meaning as in paragraph (2), except where a jobholder becomes an active member of an occupational pension scheme or a personal pension scheme in accordance with regulation 6, 13, 18, 28 or 29, in which case it has the same meaning as in paragraph (4).

(7) For the purposes of this regulation—

“direct payment arrangements” has the meaning given in section 111A of the 1993 Act<sup>(3)</sup>;

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(3) Section 111A was inserted by the Welfare Reform and Pensions Act 1999, section 9 and amended by section 268 of the Pensions Act 2004.

“payment schedule” has the meaning given in section 87 (schedules of payments to money purchase schemes) of the 1995 Act<sup>(4)</sup>;

“relevant date” means the automatic enrolment date, the automatic re-enrolment date or the enrolment date, as the case may be, or for a jobholder to whom regulation 28 or 29 applies, the day or date mentioned in regulation 6 as modified respectively by regulation 28 or 29, as the case may be;

“schedule of contributions” has the meaning given in section 227(2) of the Pensions Act 2004.

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(4) Section 87 of the 1995 Act has been amended but not in a way material to these Regulations.