
STATUTORY INSTRUMENTS

2012 No. 215

The Automatic Enrolment (Miscellaneous
Amendments) Regulations 2012

PART 3

Amendment of the Employers' Duties
(Registration and Compliance) Regulations 2010

Amendment of the Employers' Duties (Registration and Compliance) Regulations 2010

8. The Employers' Duties (Registration and Compliance) Regulations 2010(1) are amended in accordance with this Part.

Amendment of regulation 1

9. In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (1) for "1st October 2012" substitute "1st July 2012, immediately after the time when the amendments to these Regulations made by the Automatic Enrolment (Miscellaneous Amendments) Regulations 2012 come into force"; and

(b) in paragraph (2)—

(i) in the definition of "employer pension scheme reference" for sub-paragraph (a) substitute—

"(a) in relation to an occupational pension scheme (except a scheme established under section 67 of the Act)—

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

(ii) any reference provided to the employer by T evidencing the relationship between the employer and the scheme;"; and

(ii) in the definition of "PAYE scheme", for "allocated" substitute "applicable".

Amendment of regulation 2

10. In regulation 2(2) (registration: general) for the words from "regulations 3" to "regulations 3(1)" substitute "regulation 3 or 4 but the final day of the period in regulation 3(1)".

Amendment of regulation 3

11.—(1) Regulation 3 (registration: after staging date and new PAYE schemes) is amended as follows.

- (2) In paragraph (1)—
- (a) in sub-paragraph (a) for “2 months” substitute “4 months”; and
 - (b) in sub-paragraph (b) for “3 months” substitute “4 months”.
- (3) In paragraph (2)—
- (a) in sub-paragraph (a)—
 - (i) in paragraph (i) before “address” insert “name,”; and
 - (ii) for paragraph (ii) substitute—
 - “(ii) registered companies house number where one exists or, where such a number does not exist—
 - (aa) the employer’s industrial and provident society number;
 - (bb) but if the number mentioned in sub-paragraph (aa) does not exist, the employer’s registered charity number;
 - (cc) but if the number mentioned in sub-paragraph (bb) does not exist, the employer’s VAT registration number, if one exists;”;
 - (b) in sub-paragraph (d)—
 - (i) for paragraph (i) substitute—
 - “(i) subject to paragraph (iii) the number of jobholders automatically enrolled with effect from—
 - (aa) the employer’s staging date;
 - (bb) where sub-paragraph (aa) does not apply and the employer has not used a deferral date(2) the date the employer’s duties first apply to the employer;”;
 - (ii) after paragraph (i) omit “and”; and
 - (iii) after paragraph (ii) insert—
 - “and
 - (iii) on the deferral date—
 - (aa) the deferral date or the last such date where the employer uses more than one; and
 - (bb) the number of jobholders automatically enrolled with effect from that date;”;
 - (c) for sub-paragraph (e) substitute—
 - “(e) where an employer is subject to transitional arrangements under section 30 of the Act (transitional period for defined benefits and hybrid schemes) the number of jobholders to whom that section applies;”;
 - (d) for sub-paragraph (f) substitute—
 - “(f) the number of workers in an employer’s PAYE scheme who, immediately before whichever is applicable of—
 - (i) the staging date; or
 - (ii) the day on which the employers’ duties first apply to the employer,

(2) See section 4 of the Pensions Act 2008 for the meaning of “deferral date”. Section 4 was substituted by the Pensions Act 2011, section 6.

were active members of a qualifying scheme or, if the employer uses more than one qualifying scheme to comply with the employers' duties, each of those schemes;”.

Amendment of regulation 4

12. In regulation 4 (registration: re-registration)—

(a) in paragraph (1)(a) for “2 months” substitute “1 month”; and

(b) in paragraph (3)—

(i) in sub-paragraph (c)—

(aa) in paragraphs (i) and (ii) for “enrolled” in both places where it appears, substitute “re-enrolled”.

(bb) after paragraph (i) omit “and”; and

(cc) after paragraph (ii) insert—

“and

(iii) the automatic re-enrolment date;”;

(ii) in sub-paragraph (d) for “sections 4 or 30” substitute “section 30”; and

(iii) for sub-paragraph (e) substitute—

“(e) the number of workers in an employer’s PAYE scheme who, immediately before whichever is applicable of—

(i) the automatic re-enrolment date; or

(ii) the point of re-registration,

were active members of a qualifying scheme or, if the employer uses more than one qualifying scheme to comply with the employers’ duties, each of those schemes;”.

Amendment of regulation 6

13. After regulation 6(2) (records: employers) insert—

“(2A) Where an employer (E) gives to a person (P) employed by E a notice under section 4 of the Act (postponement or disapplication of automatic enrolment) that meets the requirements prescribed in Part 6 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(3) E must keep a record of—

(a) P’s full name;

(b) P’s national insurance number (where available); and

(c) the date E gave the notice to P.”.

Amendment of regulation 7

14. In regulation 7(1)(b)(i) (records: trustees, managers and providers) after “section 3” insert “or 7”.

Amendment of regulation 13

15.—(1) Regulation 13 (escalating penalty notices) is amended as follows.

- (2) In paragraph (4) after “(5)” insert “, (5A)”.
- (3) In paragraph (5)—
- (a) for sub-paragraph (a) substitute—
- “(a) paragraph (2)(a) or (b) applies, it is the relevant number except that—
- (i) in the circumstances set out in paragraph (5A) the number of persons is the number of persons in the employer’s PAYE scheme or schemes that are employed by the employer; or
- (ii) where the circumstances set out in paragraph (5A) do not apply and, in the Regulator’s opinion the relevant number is not known, paragraph (7) applies;”;
- (b) in sub-paragraph (b) for the words after “or” substitute—
- “(ii) where in the Regulator’s opinion the number in paragraph (i) is not known, the relevant number except that—
- (aa) where paragraph (5A) applies the number of persons is the number of persons in the employer’s PAYE scheme or schemes that are employed by the employer; or
- (bb) where paragraph (5A) does not apply and, in the Regulator’s opinion, the relevant number is not known, paragraph (7) applies.”.
- (4) After paragraph (5) insert—
- “(5A) This paragraph applies where—
- (a) the Regulator is of the opinion that an employer’s PAYE scheme (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes) includes persons who are not employed by the employer; and
- (b) the number of persons in the employer’s PAYE scheme (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes) who are employed by the employer is known to the Regulator.”.
- (5) In paragraph (6)—
- (a) after “notice” insert “, including”;
- (b) in sub-paragraph (a) after “apply,” insert “information”;
- (c) in sub-paragraph (b) after “applies” insert “, information”.
- (6) After paragraph (7) insert—
- “(8) In this regulation, “relevant number” means the number of persons within an employer’s PAYE scheme or, where the Regulator is of the opinion that the employer has more than one PAYE scheme, the total number of persons within those schemes.”.

Amendment of regulation 14

- 16.**—(1) Regulation 14 (penalty notices: prohibited recruitment conduct) is amended as follows.
- (2) In paragraph (3) after “(4)” insert “, (4A)”.
- (3) For paragraph (4) substitute—
- “(4) It is the relevant number except that—
- (a) where paragraph (4A) applies the number of persons is the number of persons in the employer’s PAYE scheme or schemes that are employed by the employer;
- (b) where paragraph (4A) does not apply and, in the Regulator’s opinion the relevant number is not known, paragraph (6) applies.

(4A) This paragraph applies where—

- (a) the Regulator is of the opinion that an employer’s PAYE scheme includes (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes include) persons who are not employed by the employer; and
- (b) the number of persons in the employer’s PAYE scheme (or where the Regulator is of the opinion that the employer has more than one PAYE scheme, the schemes) who are employed by the employer is known to the Regulator.”.

(4) In paragraph (5)(b) at the beginning insert “including information”.

(5) After paragraph (6) insert—

“(7) In this regulation, “relevant number” means the number of persons within an employer’s PAYE scheme or, where the Regulator is of the opinion that the employer has more than one PAYE scheme, the total number of persons within those schemes.”.