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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 232**

**The Automatic Enrolment (Miscellaneous  
Amendments) Regulations (Northern Ireland) 2012**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 and shall come into operation—

- (a) for the purposes of this regulation and regulation 3(1), (2)(b) and (3) to (6), on 7th June 2012;
- (b) for the purposes of regulation 3(2)(a), on 7th June 2012 immediately after the coming into operation of the provisions mentioned in sub-paragraph (a);
- (c) for the purposes of regulations 2, 4(1), (2)(b) and (3) to (9) and 5, on 1st July 2012, and
- (d) for the purposes of regulation 4(2)(a), on 1st July 2012 immediately after the coming into operation of the provisions mentioned in sub-paragraph (c).

(2) The Interpretation Act (Northern Ireland) 1954<sup>(1)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendment of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations**

2.—(1) The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010<sup>(2)</sup> are amended in accordance with paragraphs (2) to (27).

(2) In regulation 1(2) (interpretation) in the definition of “opt out notice” for “the Schedule” substitute “Schedule 1”.

(3) For regulation 2 (enrolment information) substitute—

**“Enrolment information**

2. In these Regulations “enrolment information” means the information described in paragraphs 1 to 15, 24 and 25 of Schedule 2<sup>(3)</sup>.”

(4) In regulation 4 (pay reference periods for the purposes of section 1(1)(c))—

- (a) in the heading for “section 1(1)(c)” substitute “sections 1(1)(c), 3(1)(c)<sup>(4)</sup> and 5(1)(c)”;
- (b) in paragraph (1) for “section 1(1)(c) (jobholders), except in the case of person A,” substitute “sections 1(1)(c), 3(1)(c) and 5(1)(c) (jobholders, automatic enrolment and automatic re-enrolment)”;
- (c) omit paragraphs (2) to (7).

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(1) 1954 c. 33 (N.I.)

(2) S.R. 2010 No. 122

(3) Schedule 2 is added by regulation 2(27) of these Regulations

(4) Sections 3(1) and 5(1) were substituted by section 6(1) and (3) of the Pensions Act (Northern Ireland) 2012

(5) For regulation 5 (pay reference periods for the purposes of sections 20(1)(b) and (c) and 26(4)(b) and (5)(b)) substitute—

**“Pay reference periods for the purposes of sections 20(1)(b) and (c) and 26(4)(b) and (5)(b)”**

**5.—**(1) The pay reference periods for the purposes of sections 20(1)(and (c) and 26(4)(b) and (5)(b) (quality requirement: UK money purchase schemes and UK personal pension schemes) are as follows.

(2) In relation to any person—

(a) the person’s first pay reference period is to begin—

- (i) on the first day, on or after the staging date, that a person is both a jobholder and an active member of a qualifying scheme, or
- (ii) where there has been a period beginning after that first day, during which the requirements of section 1(1)(a) or (c) (jobholders) were not met but the person remained an active member of a qualifying scheme, on the day following the last day of that period, and

(b) the person’s subsequent pay reference periods begin on the anniversary of the employer’s staging date.

(3) The pay reference period in relation to any person ends on the day on which the person ceases to be a jobholder of the employer or ceases to be an active member of a qualifying scheme.”.

(6) In regulation 9(6)(a) (opting out) for “the Schedule” substitute “Schedule 1”.

(7) In regulation 12 (automatic re-enrolment dates)—

(a) in paragraph (1)—

- (i) for “(2) to (4)” substitute “(3) and (4)”; and
- (ii) in sub-paragraphs (a) and (b) for “of one month beginning with” substitute “beginning 3 months before, and ending at the end of the period of 3 months beginning with,”;

(b) omit paragraph (2);

(c) in paragraph (3) for the words from “which—” to the end substitute “which the jobholder ceases to be an active member of the scheme.”.

(8) For regulation 14 (jobholders excluded from automatic re-enrolment) substitute—

**“Jobholders excluded from automatic re-enrolment”**

**14.—**(1) Section 5(2) (automatic re-enrolment) does not apply in the cases to which paragraphs (2) and (3) apply.

(2) This paragraph applies where, in relation to re-enrolment in a case under section 5(1), within the period of 12 months before the automatic re-enrolment date referred to in regulation 12(1)—

- (a) the jobholder ceased to be an active member of a qualifying scheme because of an action or omission by the jobholder or by the employer at the jobholder’s request, or
- (b) the jobholder gave notice under section 8 (jobholder’s right to opt out).

(3) This paragraph applies where, in relation to re-enrolment in a case under section 5(1B)(5), the jobholder has ceased to be an active member of the qualifying scheme in question because of any action or omission by the employer and the action or omission was at the jobholder's request.”.

(9) In regulation 17 (information on the right to opt in to pension saving)—

(a) in paragraph (1) for “the information specified in paragraph (2)” substitute “, in writing, the information described in paragraphs 16, 24 and 25 of Schedule 2”;

(b) omit paragraphs (2) and (4).

(10) In regulation 21 (information)—

(a) in paragraph (1) for “the information specified in paragraph (2)” substitute “, in writing, the information described in paragraphs 17, 24 and 25 of Schedule 2”;

(b) omit paragraph (2).

(11) In Part 6 (postponement of automatic enrolment) in the heading after “Postponement” insert “or disapplication”.

(12) For regulation 24 (information) substitute—

**“Prescribed requirements for the purposes of section 4(1), (2) and (3)**

**24.**—(1) A notice under section 4(1) or (2) (postponement or disapplication of automatic enrolment) given by an employer (E) to the category of E's workers specified in Column 1 of the Table must be in writing and include the information described in the paragraphs of Schedule 2 specified in Column 2 of the Table against that category.

**Table**

<i>Category of worker</i>	<i>Paragraphs of Schedule 2</i>
all workers	18, 19, 20, 21, 24, 25
all workers who are not active members of a qualifying scheme	18, 20, 21, 24, 25
all workers who are jobholders and who are not active members of a qualifying scheme	16, 20, 21, 24, 25
all workers who are not jobholders and are not active members of a qualifying scheme	17, 20, 21, 24, 25

(2) A notice given by E under section 4(3) to a worker who is a jobholder must be in writing and include the information described in the paragraphs of Schedule 2 specified in Column 2 of the Table against that category of worker.

(3) For the purposes of section 4(5), the prescribed period is the period of one month beginning with the day after the starting day.”.

(13) For regulation 27 (information) substitute—

**“Notice to be given under section 30(3)**

**27.** Where the employer gives the jobholder the notice mentioned in section 30(3)(6) (transitional period for defined benefits and hybrid schemes), that notice must—

(a) be in writing;

(5) Section 5(1B) was inserted by section 5(2) of the Pensions Act (Northern Ireland) 2012

(6) Section 30(3) was amended by section 15(2) of the Pensions Act (Northern Ireland) 2012

- (b) be given at any time before the end of the period of one month beginning with the employer's first enrolment date, and
  - (c) include the information described in paragraphs 16, 22, 24 and 25 of Schedule 2.”.
- (14) In regulation 29 for paragraph (a) substitute—
- “(a) in regulation 6 for paragraph (1) substitute—
- “(1) An employer must meet the obligation in section 3(2) (automatic enrolment) by entering into arrangements with—
- (a) the trustees or managers of an automatic enrolment scheme which is a defined benefits scheme or a hybrid scheme, so that before the end of a period of one month beginning with the closure date a jobholder to whom section 3(7) applies becomes an active member of that scheme with effect from the closure date;
  - (b) the trustees or managers of an automatic enrolment scheme which is a money purchase scheme, so that before the end of a period of one month beginning with the closure date a jobholder to whom section 3 applies becomes an active member of that scheme with effect from the automatic enrolment date, or
  - (c) the provider of an automatic enrolment scheme which is a personal pension scheme, so that before the end of the period of one month beginning with the closure date the jobholder to whom section 3 applies receives information about the terms and conditions mentioned in paragraph (4).”;
- (aa) in regulation 6(2) and (4) for “paragraph (1)(b)”, in each place it occurs, substitute “paragraph (1)(c)”;”.
- (15) For regulation 33 (information) substitute—

**“Information**

**33.**—(1) Subject to paragraph (3), the employer of a worker who is—

- (a) on the staging date both a jobholder and an active member of a qualifying scheme, or
- (b) becomes both a jobholder and an active member of a qualifying scheme on a day after the staging date,

must, in accordance with paragraph (2), give the worker, in writing, the information described in paragraphs 7, 23 and 25 of Schedule 2.

(2) The information must be provided at any time before the end of the period of 2 months beginning with the date or day referred to in paragraph (1).

(3) Paragraph (1) does not apply where the worker becomes an active member of a qualifying scheme under section 3(2) (automatic enrolment), 5(2) (automatic re-enrolment) or 7(3) (jobholder's right to opt in) with effect from the date or day referred to in that paragraph.”.

- (16) In regulation 37 (test scheme: requirements to revalue accrued benefits and increase pensions in payment)—
- (a) in paragraph (1) for “section 23(1)(b)” substitute “section 23(1)(c)”;
  - (b) at the end of paragraph (2)(b) add “in relation to a scheme which provides for a member to be entitled to a pension commencing at the appropriate age and continuing for life”.
- (17) In regulation 38(2) (staged increase in appropriate age) in the first row in Column 1 of the Table for “6th April 2024” substitute “6th April 2020”.
- (18) In regulation 39(4)(b)(v) (requirements for meeting the test scheme standard) omit “subject to regulations 41 and 42.”.

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(7) Section 3 was amended by sections 6(1) and (2) and 7(1) of the Pensions Act (Northern Ireland) 2012

(19) After regulation 39 insert—

**“Requirement for satisfying the test scheme under section 23(2)(b)**

**39A.**—(1) The requirement relating to a sum of money which a scheme referred to in section 23(2)(test scheme) must satisfy if it is to be a test scheme is specified in—

- (a) paragraph (4) in the case of a scheme described in paragraph (2), or
- (b) paragraph (5) in the case of any other scheme to which section 23(2)(b) applies.

(2) A scheme referred to in paragraph (1)(a) is a scheme under which the sum of money to be made available for the provision of benefits is determined by reference to final pensionable pay.

(3) For the purposes of paragraph (2), “final pensionable pay” has the same meaning as in the rules of the scheme in question.

(4) Where this paragraph applies, the requirement in question is that the sum of money to be made available for the provision of benefits to a member must—

- (a) accrue at an annual rate of at least 16% of average qualifying earnings in the last 3 tax years preceding the end of pensionable service, and
- (b) be multiplied by the number of years of pensionable service up to a maximum of 40 years.

(5) Where this paragraph applies, the requirement in question is the requirement specified in paragraph (6) or (7).

(6) The requirement is that the sum of money must accrue at an annual rate of at least 16% of average qualifying earnings multiplied by the number of years of pensionable service up to a maximum of 40 years.

(7) The requirement is that the sum of money must—

- (a) accrue at an annual rate of at least 8% of average qualifying earnings, and
- (b) until the date on which the member attains the appropriate age, be increased as a minimum by 3.5% per annum, in addition to any increase that is required by virtue of regulation 37(2)(a).

(8) Where the employer makes a choice under paragraph (5) as to the requirement to be satisfied for the purposes of this regulation, that requirement must be satisfied in relation to all persons who are relevant members as defined by section 22(2) (test scheme standard).”

(20) In regulation 43 (modification allowing different quality requirements to be satisfied in aggregate)—

- (a) in paragraph (1) for “Paragraphs (2) to (5)” substitute “Paragraphs (2) to (4)”;
- (b) for paragraph (3)(b) substitute—
  - “(b) all of the paragraph (b) quality requirements are met apart from the relevant benefit requirement (“requirement Y”), and”;
- (c) for paragraph (4)(b) substitute—
  - “(b) the extent to which requirement Y is met as a proportion of—
    - (i) where the requirement in subsection (4) of section 23 (test scheme) applies, the annual rate of pension specified in that subsection, or
    - (ii) where a requirement in paragraph (4), (6) or (7) of regulation 39A applies, the sum of money to be made available for the provision of benefits as specified in the relevant paragraph.”;
- (d) for paragraphs (5) and (6) substitute—

“(5) Where paragraphs (2) to (4) have effect in relation to a hybrid scheme of the relevant description, regulation 39 is to be read as if, for paragraph (5), there were substituted—

“(5) A scheme actuary or employer may not certify that a scheme satisfies the test scheme standard if the aggregate percentage referred to in regulation 43(3) (c) is less than 100 in relation to more than 10% of relevant members.”.

(6) In this regulation “the relevant benefit requirement” means—

- (a) the requirements in subsection (4) of section 23 where that subsection applies, or
- (b) one of the requirements specified in regulation 39A where that regulation applies.”.

(21) In regulation 47 (prescribed requirements for non-UK qualifying schemes)—

- (a) in paragraph (1) for “a money purchase scheme” substitute “an occupational pension scheme”;
- (b) in paragraph (3) for “the money purchase scheme” substitute “the occupational pension scheme”;
- (c) in paragraph (7) for “money purchase schemes” substitute “any money purchase benefits applicable to the jobholder”.

(22) After regulation 47 insert—

**“Meaning of “provider”**

**47A.** For the purposes of paragraph (b) of the definition of “provider” in section 78 (interpretation of Part), a provider is a person whose normal business includes the provision of personal pensions.”.

(23) In regulation 48 (amendment of the Occupational Pension Schemes (Scheme Administration) Regulations) in substituted regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997<sup>(8)</sup>—

(a) in paragraph (1) for the words from “is 19 days” to the end substitute—

“is—

- (a) where the contribution payable on behalf of an active member is paid to the trustees or managers of the scheme by means of an electronic communication, 22 days; or
- (b) in any other case, 19 days,

commencing on the day following the last day of the month in which the amount is deducted from the earnings in question.”;

(b) in paragraph (3)—

(i) after the definition of “automatic re-enrolment date” insert—

““electronic communication” has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001<sup>(9)</sup>”;

(ii) in the definition of “opt out period” after “section 3(2)” insert “, 5(2) or 7(3)”.

<sup>(8)</sup> S.R. 1997 No. 94

<sup>(9)</sup> 2001 c. 9 (N.I.); the definition of “electronic communication” in section 4(1) was amended by paragraph 170 of Schedule 17 to the Communications Act 2003 (c. 21)

(24) In regulation 49 (amendment of the Personal Pension Schemes (Payments by Employers) Regulations) in substituted regulation 5 of the Personal Pension Schemes (Payments by Employers) Regulations (Northern Ireland) 2000<sup>(10)</sup>—

(a) in paragraph (1) for the words from “is the period” to the end substitute—

“is the period of—

(a) where the contribution payable under the direct payment arrangements is paid to the trustees or managers of the scheme by means of an electronic communication, 22 days, or

(b) in any other case, 19 days,

commencing on the day following the last day of the month in which the deduction was made from the employee’s earnings.”;

(b) in paragraph (2) for “a jobholder” substitute “an employee”;

(c) in paragraph (3)—

(i) after the definition of “automatic re-enrolment date” insert—

““electronic communication” has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001;”;

(ii) in the definition of “opt out period” after “section 3(2)” insert “, 5(2) or 7(3)”.

(25) In regulation 50(2) (due date for the purposes of section 37(3)) for “19th” substitute “22nd”.

(26) The Schedule shall become Schedule 1.

(27) After Schedule 1 add Schedule 2 as set out in the Schedule to these Regulations.

### **Amendment of the Employers’ Duties (Implementation) Regulations**

**3.—**(1) The Employers’ Duties (Implementation) Regulations (Northern Ireland) 2010<sup>(11)</sup> are amended in accordance with paragraphs (2) to (6).

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (1) for “1st September 2012” substitute “7th June 2012 immediately after the coming into operation of regulation 3(2)(a) of the Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2012”;

(b) in paragraph (2) in the definition of “PAYE scheme” for “allocated” substitute “applicable”.

(3) In regulation 2(2)(a) (application of the employers’ duties to employers) after “has” insert “, or is part of,”.

(4) In regulation 3 (early automatic enrolment)—

(a) for paragraph (1) substitute—

“(1) Where the conditions in paragraphs (3) and (4) are both satisfied, the employers’ duties apply to an employer from the early automatic enrolment date referred to in paragraph (5).”;

(b) in paragraph (2) omit “, as prescribed in the third column of the Table”;

(c) in paragraph (4)—

(i) for “(within the meaning of paragraph (1))” substitute “(referred to in paragraph (5))”;

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<sup>(10)</sup> S.R. 2000 No. 349

<sup>(11)</sup> S.R. 2010 No. 123

- (ii) omit sub-paragraph (a);
  - (iii) in sub-paragraph (b) for “trustee or manager” substitute “trustees or managers”;
  - (iv) for sub-paragraph (c) substitute—
    - “(c) notified the Regulator accordingly in writing, at any time—
      - (i) where paragraph (5)(a) applies, before the date specified in the second column of the Table corresponding to that earlier date;
      - (ii) where paragraph (5)(b) applies, before 1st November 2012, or
      - (iii) where paragraph (5)(c) applies, no later than the first day of the period of one month before the date specified in paragraph (5)(c).”;
  - (d) after paragraph (4) add—
    - “(5) The early automatic enrolment date is—
      - (a) any date in the third column of the Table which is earlier than the staging date corresponding to that employer’s description;
      - (b) 1st December 2012, or
      - (c) in the case of an employer of 50,000 or more persons by PAYE scheme size or any other description, one of the following dates to be chosen by the employer—
        - (i) 1st July 2012;
        - (ii) 1st August 2012, or
        - (iii) 1st September 2012.”.
- (5) In regulation 5(a) (transitional periods for money purchase and personal pension schemes) after “4 years” insert “and 4 months”.
- (6) In regulation 6 (transitional period for defined benefits and hybrid schemes) after “4 years” insert “and 4 months”.

### **Amendment of the Employers’ Duties (Registration and Compliance) Regulations**

4.—(1) The Employers’ Duties (Registration and Compliance) Regulations (Northern Ireland) 2010<sup>(12)</sup> are amended in accordance with paragraphs (2) to (9).

(2) In regulation 1 (citation, commencement and interpretation)—

- (a) in paragraph (1) for “1st October 2012” substitute “1st July 2012 immediately after the coming into operation of regulation 4(2)(a) of the Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2012”;
- (b) in paragraph (2)—
  - (i) in the definition of “employer pension scheme reference” for paragraph (a) substitute—
    - “(a) in relation to an occupational pension scheme (except a scheme established under section 67 of the Pensions Act 2008<sup>(13)</sup>)—
      - (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;”;

<sup>(12)</sup> S.R. 2010 No. 186

<sup>(13)</sup> 2008 c. 30; section 67 was amended by section 30(2) of the Finance (No. 3) Act 2010 (c. 33)

- (ii) in the definition of “PAYE scheme” for “allocated” substitute “applicable”.
- (3) In regulation 2(2) (registration: general) for “regulations 3 and 4” substitute “regulation 3 or 4”.
- (4) In regulation 3 (registration: after staging date and new PAYE schemes)—
  - (a) in paragraph (1)—
    - (i) in sub-paragraph (a) for “2 months” substitute “4 months”;
    - (ii) in sub-paragraph (b) for “3 months” substitute “4 months”;
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (a)—
      - (aa) in head (i) before “address” insert “name,”;
      - (bb) for head (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-head (aa) does not exist, the employer’s registered charity number;
          - (cc) but if the number mentioned in sub-head (bb) does not exist, the employer’s VAT registration number, if one exists;”;
    - (ii) for sub-paragraphs (d), (e) and (f) substitute—
      - “(d) where the employer must arrange active membership of an automatic enrolment scheme under section 3(2)—
        - (i) subject to head (iii), the number of jobholders automatically enrolled with effect from—
          - (aa) the employer’s staging date;
          - (bb) where sub-head (aa) does not apply and the employer has not used a deferral date<sup>(14)</sup>, the date the employers’ duties first apply to the employer;
        - (ii) if the employer uses more than one pension scheme under those arrangements, the number of jobholders who became active members of each pension scheme, 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;
      - (e) where an employer is subject to transitional arrangements under section 30<sup>(15)</sup> (transitional period for defined benefits and hybrid schemes), the number of jobholders to whom that section applies;
      - (f) the number of workers in an employer’s PAYE scheme who, immediately before whichever is applicable of—

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<sup>(14)</sup> See section 4 of the [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13 \(N.I.\)\)](#) for the meaning of “deferral date”; section 4 was substituted by section 7(2) of the [Pensions Act \(Northern Ireland\) 2012 \(c. 3 \(N.I.\)\)](#)

<sup>(15)</sup> Section 30 was amended by sections 7(6), 15 and 16 of the [Pensions Act \(Northern Ireland\) 2012](#)

- (i) the staging date, or
  - (ii) the day on which the employers' duties first apply to the employer, 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, and".
- (5) In regulation 4 (registration: re-registration)—
  - (a) in paragraph (1)(a) for "2 months" substitute "one month";
  - (b) in paragraph (3) for sub-paragraphs (c), (d) and (e) substitute—
    - "(c) where the employer must arrange active membership of an automatic enrolment scheme for any worker who is a jobholder under section 5(2)—
      - (i) the number of jobholders automatically re-enrolled, as at the point of re-registration;
      - (ii) if the employer uses more than one pension scheme under those arrangements, the number of jobholders automatically re-enrolled into each pension scheme, as at the point of re-registration, and
      - (iii) the automatic re-enrolment date;
    - (d) where an employer is subject to transitional arrangements under section 30 (transitional period for defined benefits and hybrid schemes) the number of jobholders to whom that section applies;
    - (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, and".
- (6) In regulation 6 (records: employers) after paragraph (2) insert—
  - "(2A) Where an employer (E) gives to a person (P) employed by E a notice under section 4(16) (postponement or disapplication of automatic enrolment) that meets the requirements prescribed in Part 6 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010(17), 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."
- (7) In regulation 7(1)(b)(i) (records: trustees, managers and providers) after "section 3 (automatic enrolment)" insert "or 7 (jobholder's right to opt in)".
- (8) In regulation 13 (escalating penalty notices)—
  - (a) in paragraph (4) after "(5)" insert ", (5A)";
  - (b) in paragraph (5)—
    - (i) for sub-paragraph (a) substitute—
      - "(a) paragraph (2)(a) or (b) applies, it is the relevant number except that—

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(16) Section 4 was substituted by section 7(2) of the Pensions Act (Northern Ireland) 2012

(17) S.R. 2010 No. 122; Part 6 is amended by regulations 2(11) and (12) and 5 of these Regulations

- (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 who 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;"
  - (ii) in sub-paragraph (b) for head (ii) and the words following that head substitute—
    - "(ii) where in the Regulator's opinion the number in head (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 who 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.";
- (c) after paragraph (5) insert—
  - "(5A) 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.";
- (d) in paragraph (6)—
  - (i) after "notice" insert ", including";
  - (ii) in sub-paragraph (a) after "applies," insert "information";
  - (iii) in sub-paragraph (b) after "applies" insert ", information";
- (e) after paragraph (7) add—
  - "(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."
- (9) In regulation 14 (penalty notices: prohibited recruitment conduct)—
  - (a) in paragraph (3) after "(4)" insert ", (4A)";
  - (b) 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 who 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.”;
- (c) in paragraph (5)(b) before “disclosed” insert “including information”;
- (d) after paragraph (6) add—
  - “(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.”.

**Revocations**

5. Regulations 25, 26, 34, 41 and 42 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 are revoked.

Sealed with the Official Seal of the Department for Social Development on 6th June 2012

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social  
Development