

**2012 No. 266 (C. 25)**

**PENSIONS**

**The Pensions (2008 No. 2 Act) (Commencement No. 9) Order  
(Northern Ireland) 2012**

*Made* - - - -

*29th June 2012*

The Department for Social Development makes the following Order in exercise of the powers conferred by section 118(1) of the Pensions (No. 2) Act (Northern Ireland) 2008(a).

**Citation and interpretation**

1.—(1) This Order may be cited as the Pensions (2008 No. 2 Act) (Commencement No. 9) Order (Northern Ireland) 2012.

(2) In this Order “the Act” means the Pensions (No. 2) Act (Northern Ireland) 2008.

**Commencement of provisions**

2. The following provisions of the Act shall come into operation on 30th June 2012—

- (a) the provisions specified in Part 1 of the Schedule, in so far as they are not already in operation, and
- (b) the provisions specified in Part 2 of the Schedule.

Sealed with the Official Seal of the Department for Social Development on 29th June 2012

(L.S.)

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

# SCHEDULE

Article 2

## PART 1

Provisions of the Act coming into operation on 30th June 2012 in so far as they are not already in operation

<i>Provisions of the Act</i>	<i>Subject matter</i>
Section 2(a)	Continuity of scheme membership
Section 3(b)	Automatic enrolment
Section 5(c)	Automatic re-enrolment
Section 6(d)	Timing of automatic re-enrolment
Section 7(e)	Jobholder's right to opt in
Section 8	Jobholder's right to opt out
Section 9	Workers without qualifying earnings
Section 10	Information to be given to workers
Section 13(f)	Qualifying earnings
Section 15	Pay reference period
Section 16(g)	Qualifying schemes
Section 17	Automatic enrolment schemes
Section 18	Occupational pension schemes
Section 20(h)	Quality requirement: UK money purchase schemes
Section 21	Quality requirement: UK defined benefits schemes
Section 22(i)	Test scheme standard
Section 24	Quality requirement: UK hybrid schemes
Section 26(j)	Quality requirement: UK personal pension schemes
Section 29	Transitional periods for money purchase and personal pension schemes
Section 30(k)	Transitional period for defined benefits and hybrid schemes
Section 32(l)	Power of trustees or managers to modify by resolution
Section 33	Deduction of contributions
Section 37	Unpaid contributions notices
Section 38	Calculation and payment of contributions

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- (a) Section 2 was amended by section 5(1) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.))
- (b) Section 3 was amended by sections 6(1) and (2) and 7(1) of the Pensions Act (Northern Ireland) 2012 and Article 2(1) of S.R. 2012 No. 240
- (c) Section 5 was amended by sections 5(2) to (4), 6(3) and (4) and 7(3) of the Pensions Act (Northern Ireland) 2012 and Article 2(1) of S.R. 2012 No. 240
- (d) Section 6 was amended by sections 5(5), 7(4) and 8 of the Pensions Act (Northern Ireland) 2012
- (e) Section 7 was amended by section 7(5) of the Pensions Act (Northern Ireland) 2012
- (f) Section 13 was amended by Article 2(2) of S.R. 2012 No. 240
- (g) Section 16 was amended by section 11 of the Pensions Act (Northern Ireland) 2012
- (h) Section 20 was amended by regulation 3(2) of S.R. 2012 No. 120
- (i) Section 22 was amended by section 12(1) of the Pensions Act (Northern Ireland) 2012
- (j) Section 26 was amended by regulation 3(3) of S.R. 2012 No. 120
- (k) Section 30 was amended by sections 7(6), 15 and 16 of the Pensions Act (Northern Ireland) 2012
- (l) Section 32 was amended by sections 13(7) and 17 of the Pensions Act (Northern Ireland) 2012

<i>Provisions of the Act</i>	<i>Subject matter</i>
Section 40(a), except for subsection (1)(d) which is commenced for the purpose only of the exercise of the Regulator's functions under Part 1 of the Act	Fixed penalty notices
Section 41(b), except for subsection (1)(d) which is commenced for the purpose only of the exercise of the Regulator's functions under Part 1 of the Act	Escalating penalty notices
Section 43	Review of notices
Section 49	Monitoring of employers' payments to personal pension schemes
Section 52	Penalty notices
Section 54(c)	Inducements
Section 58	Restrictions on agreements to limit operation of this Part

## PART 2

### Provisions of the Act coming into operation on 30th June 2012

<i>Provisions of the Act</i>	<i>Subject matter</i>
Section 1	Jobholders
Section 19	Personal pension schemes
Section 31	Effect of freezing order or assessment period
Section 34	Effect of failure to comply
Section 35	Compliance notices
Section 36	Third party compliance notices
Section 39	Meaning of "relevant contributions"
Section 42	Penalty notices: recovery
Section 44(d)	References to First-tier Tribunal or Upper Tribunal
Section 45	Offences of failing to comply
Section 46	Offences by bodies corporate
Section 47	Offences by partnerships and unincorporated associations
Section 48	Offences of providing false or misleading information
Section 50	Prohibited recruitment conduct
Section 51	Compliance notices
Section 53(e)	Review of notices and references to the First-tier Tribunal or Upper Tribunal
Section 55	The right not to suffer detriment
Section 56	Enforcement of the right
Section 57, except for subsection (3)	Right of employee not to be unfairly dismissed

- (a) Section 40 was amended by paragraph 29 of Schedule 1 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4 (N.I.))
- (b) Section 41 was amended by paragraph 30 of Schedule 1 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010
- (c) Section 54 was amended by section 5(6) of the Pensions Act (Northern Ireland) 2012
- (d) Section 44 was amended by paragraph 31 of Schedule 1 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010
- (e) Section 53 was amended by paragraph 32 of Schedule 1 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010

<i>Provisions of the Act</i>	<i>Subject matter</i>
Section 60	Powers to require information and to enter premises
Section 64	Functions of the Pensions Ombudsman
Section 70	“Employer”, “worker” and related expressions
Section 71	Agency workers
Section 72	Directors
Section 73	Crown employment
Section 74	Armed forces
Section 75	Police
Section 76	Persons working on vessels

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into operation certain provisions of the Pensions (No. 2) Act (Northern Ireland) 2008 (“the Act”), as amended by the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)), on 30th June 2012 to give effect to the introduction of the automatic enrolment duties set out in the Act.

The requirement in Chapter 1 of Part 1 of the Act (sections 1 to 33) to enrol certain workers (referred to in the Act as “jobholders”) into a pension scheme which meets the minimum standards specified in the Act will apply to employers in stages starting with the largest first, from 1st October 2012 onwards. However, from 1st July 2012 the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 122) provide that the largest employers will be able to enrol their workers into a pension scheme early, in line with the duties set out in the Act.

Chapter 2 of Part 1 of the Act (sections 34 to 49) sets out the regime for ensuring compliance with the automatic enrolment duties.

Chapter 3 of Part 1 of the Act (sections 50 to 58) sets out safeguards during the recruitment process and during employment to ensure that an employee’s rights to become and remain a member of a qualifying pension scheme are protected.

Section 60 sets out requirements in relation to record keeping and compliance.

Section 64 gives the Pensions Ombudsman the additional function of investigating complaints relating to a jobholder opting out of pension scheme membership.

Chapter 7 of Part 1 of the Act (sections 70 to 78) sets out how the automatic enrolment duties apply to particular types of worker, and defines the terms “employer”, “worker” and related expressions for the purposes of the Act.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Pensions (No. 2) Act (Northern Ireland) 2008 have been brought into operation by earlier commencement orders as from the dates shown.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. No.</i>
Section 14 (partially)	8th June 2012	2012 No. 236 (C. 21)
Section 28 (partially)	8th June 2012	2012 No. 236 (C. 21)
Section 49 (partially)	3rd January 2012	2011 No. 441 (C. 33)
Sections 61 and 62	26th January 2009	2009 No. 22 (C. 1)
Section 63	16th March 2011	2011 No. 108 (C. 7)
Section 78 (partially)	5th July 2010	2010 No. 50 (C. 2)
Section 79	6th April 2009	2009 No. 22 (C. 1)
Section 80 (partially)	6th April 2009	2009 No. 22 (C. 1)
(partially)	6th April 2009	2009 No. 147 (C. 9)
Section 83 (partially)	3rd January 2012	2011 No. 441 (C. 33)
Section 85	6th April 2012	2012 No. 119 (C. 12)
Sections 86 to 98	6th April 2011	2011 No. 108 (C. 7)
Section 99 (partially)	16th March 2011	2011 No. 108 (C. 7)
(partially)	6th April 2011	2011 No. 108 (C. 7)
Section 100 (partially)	1st April 2009	2009 No. 147 (C. 9)
Section 101	6th April 2011	2011 No. 108 (C. 7)
Section 103 (partially)	29th June 2009	2009 No. 249 (C. 16)
Section 104 (partially)	26th February 2010	2010 No. 50 (C. 2)
Section 105	6th April 2009	2009 No. 22 (C. 1)
Sections 106 and 107	26th January 2009	2009 No. 22 (C. 1)
Section 116 (partially)	6th April 2009	2009 No. 22 (C. 1)
(partially)	6th April 2011	2011 No. 108 (C. 7)
(partially)	6th April 2012	2012 No. 119 (C. 12)
Schedule 1 (partially)	6th April 2009	2009 No. 22 (C. 1)
(partially)	6th April 2009	2009 No. 147 (C. 9)
Schedule 3 (partially)	3rd January 2012	2011 No. 441 (C. 33)
Schedule 4 (partially)	6th April 2011	2011 No. 108 (C. 7)
Schedule 5	6th April 2011	2011 No. 108 (C. 7)
Schedule 6 (partially)	1st April 2009	2009 No. 147 (C. 9)
Schedule 8 (partially)	29th June 2009	2009 No. 249 (C. 16)
Schedule 9 (partially)	26th February 2010	2010 No. 50 (C. 2)
Schedule 10 (partially)	6th April 2009	2009 No. 22 (C. 1)
(partially)	6th April 2011	2011 No. 108 (C. 7)
(partially)	6th April 2012	2012 No. 119 (C. 12)

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