

2013 No. 2556

PENSIONS

The Automatic Enrolment (Miscellaneous Amendments) Regulations 2013

Made - - - - 5th October 2013

Laid before Parliament 11th October 2013

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 111A(15)(b), 181 and 182(2) of the Pension Schemes Act 1993(a), sections 49(8), 124(1) and 174(2) of the Pensions Act 1995(b) and sections 3(2), 4(5), 5(2), 8(4), (5) and (6), 10(1), 11, 15, 23(1)(c), (3) and (6), 33(2), 37(3), 99 and 144(2) and (4) of the Pensions Act 2008(c).

In accordance with section 185(1) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995, the Secretary of State has consulted with such persons as the Secretary of State considers appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Automatic Enrolment (Miscellaneous Amendments) Regulations 2013 and, except in relation to regulations 4 and 5(4) and (7), come into force on 1st November 2013.

(2) Regulations 4 and 5(4) and (7) come into force on 1st April 2014.

[Regulation 2 substitutes regs.16(2) and (3) of S.I. 1996/1715.]

[Regulation 3 amends S.I. 2000/2692 which is not reproduced in our volumes.]

[Regulation 4 substitutes words in regulations 3(1) and 4(1) to S.I. 2010/5.]

[Regulation 5 makes various amends to S.I. 2010/772.]

Signed by authority of the Secretary of State for Work and Pensions

5th October 2013

Steve Webb
Minister of State
Department for Work and Pensions

(a) 1993 c. 48. Section 181 is cited for the meaning given to “prescribe” and “regulations”.

(b) 1995 c. 26. Section 124(1) is cited for the meaning given to “prescribed” and “regulations”.

(c) 2008 c. 30. Section 99 is cited for the meaning given to “prescribed” and “regulations”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715), the Personal Pension Schemes (Payments by Employers) Regulations 2000 (S.I. 2000/2692), the Employers' Duties (Registration and Compliance) Regulations 2010 (S.I. 2010/5) and the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (S.I. 2010/772) ("the Automatic Enrolment Regulations").

Regulation 2 amends regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 which specifies the time limit within which an employer must pay contributions deducted from the member's earnings into an occupational pension scheme. The amendment applies a different time limit in respect of contributions deducted in the first three months of membership where these are paid into a scheme being used to fulfil automatic enrolment duties. Regulation 3 makes similar changes to regulation 5 of the Personal Pension Schemes (Payments by Employers) Regulations 2000 in relation to personal pension schemes.

Regulation 4 amends regulations 3 and 4 of the Employers' Duties (Registration and Compliance) Regulations 2010, extending the deadlines for information to be provided to the Regulator when duties first apply to an employer or on re-registration of information.

Regulation 5 amends the Automatic Enrolment Regulations.

Paragraph (2) amends regulation 4 of the Automatic Enrolment Regulations, inserting a new definition of pay reference period for the purposes of the Pensions Act 2008. This provides an alternative definition of pay reference period for assessment purposes allowing the length of a pay reference period to be determined by reference to the usual interval between payments of a person's wages. In such cases, the pay reference period will begin on the first day of a tax month (where a person is paid monthly or in multiples of months) or tax week (where a person is paid weekly or in multiples of weeks).

Paragraph (3) replaces regulation 5 which relates to pay reference periods for the purposes of determining whether an occupational money purchase scheme or personal pension scheme meets the quality requirement. This sets out that the pay reference period may be a year, ending the day before an anniversary of the employer's staging date, or the same length as the period by reference to which a person is paid commencing on the first day of that period, or the period equal to the interval between payments of a person's wages, commencing on the first day of a tax week or tax month (depending on the basis of pay). The new regulation also makes provision in respect of the first and last pay reference periods in respect of a person.

Paragraphs (4) and (7) extend from one month to six weeks the period within which an employer under a duty to enrol a person into a scheme (pursuant to obligations in the Pensions Act 2008) must achieve active membership for that person.

Paragraph (5) amends the wording of regulation 8 of the Automatic Enrolment Regulations

Paragraph (6) makes a clarificatory amendment to regulation 9(6)(a) providing that an opt out notice is valid if it includes the information for workers set out in Schedule 1 and certain statements. In case the amendment casts doubt on the validity of an opt out notice previously accepted as valid by the employer, paragraph (6)(b) inserts a deeming provision into regulation 9 whereby opt out notices served prior to the coming into force of these Regulations and accepted as valid by the employer are deemed to be valid.

Paragraph (8) makes certain amendments to regulation 37 to allow for test schemes which revalue by the average salary method.

Paragraph (9) makes amendments to regulation 38 to ensure that increases in the appropriate age in a test scheme can be taken into account in determinations made under section 22 of the Pensions Act 2008 before the dates set out in the regulation and to bring the appropriate age prescribed into line with pensionable age for state pension purposes.

Paragraph (10) replaces regulation 39A, clarifying the requirements to be met in relation to the lump sum for the provision of benefits to a member under a test scheme. The amendments make clear that there are three different types of test scheme under this regulation and ensure that there is consistency across the test schemes and that average salary lump sum test schemes include revaluation in service and deferment at a consistent level.

Paragraph (11) makes consequential amendments to regulation 50 to ensure that the due date for the purposes of the Regulator issuing unpaid contributions notices takes account of the changes made in the Occupational Pension Schemes (Scheme Administration) Regulations 1996 and the Personal Pension Schemes (Payments by Employers) Regulations 2000 made in regulations 2 and 3.

There is no impact assessment associated with these regulations as the changes do not affect policy which has been previously agreed and supported by an impact assessment. A summary of the net impact of the workplace pension reforms was published in July 2012 at <https://www.gov.uk/government/publications/workplace-pension-reform-summary-of-net-impact-on-business-july-2012>.

