
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 122

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

[^{F1}PART 7A

Certification that a quality or alternative requirement is satisfied

[^{F1}Scheme not to be treated as satisfying the relevant quality requirement in certain circumstances

32H.—(1) Where—

- (a) a certificate has been given in relation to an employer and the employer's relevant jobholders with respect to a relevant quality requirement or an alternative requirement under regulation 32E, 32F or 32G;
- (b) the Regulator is of the view referred to in paragraph (3), and
- (c) one of the conditions referred to in paragraph (4) is, or both of them are, satisfied,

the Regulator may give to the employer a notice as referred to in paragraph (5).

^{F2}(1A) Where—

- (a) a certificate has been given in relation to an employer and its relevant jobholders with respect to an alternative quality requirement under regulation 32EA;
- (b) the Regulator is of the view that, when the certificate was given, there were not reasonable grounds for a person to be of the opinion that the scheme was able to satisfy the requirement referred to in regulation 32EA(2), and
- (c) in relation to all or any part of the certification period, the requirement referred to in regulation 32EA(2) was not met,

the Regulator may give to the employer a notice as referred to in paragraph (8A).]

(2) Subject to paragraphs (8) and (9), where the Regulator gives a notice as referred to in paragraph (5) [^{F3}or (8A)] and a requirement of the notice is not complied with within the time specified in the notice, the scheme is not to be treated by virtue of regulation 32A as having satisfied the relevant quality requirement in relation to the relevant jobholders.

(3) The view referred to is that, when the certificate was given, there were not reasonable grounds for a person to be of the opinion that the scheme was able to satisfy the relevant quality requirement or the applicable alternative requirement, as the case may be, with respect to one or more of the relevant jobholders throughout the certification period.

(4) The conditions referred to are that, in relation to all or any part of the certification period and one or more of the relevant jobholders—

- (a) a scheme shortfall has occurred;

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- (b) where the alternative requirement in regulation 32E(3) (including as applied by regulation 32G) or 32F(4) applied, the condition referred to in regulation 32E(3)(b) or 32F(4)(d) was not met.
- (5) The notice referred to is a notice with respect to one or more of the relevant jobholders (not necessarily all of the relevant jobholders referred to in paragraph (4)) and the relevant payment period, requiring the employer, within the period specified in the notice, to pay to the trustees, managers or provider of the scheme—
- (a) subject to sub-paragraph (b), where paragraph (4)(a) applies, the scheme shortfall, or
 - (b) where paragraph (4)(b) applies (whether or not paragraph (4)(a) also applies), the shortfall between the contributions that were required to be paid by the employer and those relevant jobholders under the requirements of the scheme or the agreements referred to in regulation 32F(4), as the case may be, and the contributions that were required to be paid by those persons under the first set of requirements in regulation 32E or 32F respectively.
- (6) A notice as referred to in paragraph (5) may also require the employer, within a period specified in the notice, to amend the certificate, under regulation 32B, so that the certification period ends on a specified day, being a day before the last day of the certification period but not before the last day of the relevant payment period.
- (7) A notice as referred to in paragraph (5) must be copied to—
- (a) in the case of a money purchase or hybrid scheme, the trustees or managers of the scheme, or
 - (b) in the case of a personal pension scheme, the provider of the scheme.
- (8) Where a notice as referred to in paragraph (5) has been given and, under regulation 32B, the employer amends the certificate so that the certification period ends before the last day of the relevant payment period—
- (a) the relevant payment period shall be treated as if it ended on the last day of the new certification period;
 - (b) the employer must, within a period of 2 weeks beginning with the day on which the certificate was amended, notify the Regulator in writing of the amendment, and
 - (c) the Regulator may decide to alter the period, as set out in the notice as referred to in paragraph (5), within which the employer must pay a shortfall of contributions as referred to in that paragraph.

^{F4}(8A) The notice referred to is a notice requiring the employer, within the period specified in the notice, to pay to the trustees or managers of the scheme the shortfall between the contributions that are required to be paid by the employer and the relevant jobholders under the scheme, and the contributions that were required to be paid to meet the requirement in regulation 32EA(2) during the certification period.

(8B) A notice as referred to in paragraph (8A) may also require the employer, within a period specified in the notice, to amend the certificate, under regulation 32B, so that the certification period ends on a specified day, being a day before the last day of the certification period but not before the last day of the relevant payment period.

(8C) A notice as referred to in paragraph (8A) must be copied to the trustees or managers of the scheme.

(8D) Where a notice as referred to in paragraph (8A) has been given and the employer amends the certificate under regulation 32B(5) so that the certification period ends before the last day of the relevant payment period—

- (a) the relevant payment period shall be treated as though it ended on the last day of the new certification period;
 - (b) the employer must, within a period of 2 weeks beginning with the day on which the certificate was amended, notify the Regulator in writing of the amendment, and
 - (c) the Regulator may decide to alter the period, as set out in the notice as referred to in paragraph (8A), within which the employer must pay a shortfall of contributions as referred to in that paragraph.]
- (9) Where the Regulator decides under paragraph (8)(c) [^{F5}or (8D)(c)] to alter the period within which the employer must pay a shortfall, the Regulator must give a notice to the employer informing the employer of the new period within which the shortfall must be paid.

(10) For the purposes of this regulation—

“the relevant payment period” means a period, set out in the notice as referred to in paragraph (5) [^{F6}or (8A)], that constitutes all or part of the certification period;

“scheme shortfall” means the shortfall between the contributions that are required to be paid by the employer and a relevant jobholder under the scheme, contribution agreements or like agreements referred to in regulation 32F, as the case may be, and the contributions that are required to be paid by those persons under the relevant quality requirement or the applicable alternative requirement (ignoring the requirements in regulations 32E(3)(b) and 32F(4)(d)), as the case may be.]

Textual Amendments

- F1** Pt. 7A inserted (1.7.2012) by The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2012 (S.R. 2012/237), regs. 1(1)(a), **2(3)**
- F2** Reg. 32H(1A) inserted (26.1.2024) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2024 (S.R. 2024/15), regs. 1, 36, **Sch. 7 para. 2(5)(a)**
- F3** Words in reg. 32H(2) inserted (26.1.2024) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2024 (S.R. 2024/15), regs. 1, 36, **Sch. 7 para. 2(5)(b)**
- F4** Reg. 32H(8A)-(8D) inserted (26.1.2024) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2024 (S.R. 2024/15), regs. 1, 36, **Sch. 7 para. 2(5)(c)**
- F5** Words in reg. 32H(9) inserted (26.1.2024) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2024 (S.R. 2024/15), regs. 1, 36, **Sch. 7 para. 2(5)(d)**
- F6** Words in reg. 32H(10) inserted (26.1.2024) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2024 (S.R. 2024/15), regs. 1, 36, **Sch. 7 para. 2(5)(e)**

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Changes and effects yet to be applied to :

- Regulations modified by [S.R. 2015/122 reg. 4](#)

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- Sch. 1 Sch. renumbered as Sch. 1 by [S.R. 2012/232 reg. 2\(26\)](#)
- Sch. 1 substituted by [S.R. 2013/243 reg. 4\(11\)](#)Sch.
- reg. 35(1)(a)(ii)(bb) word substituted by [S.R. 2013/221 reg. 2\(a\)\(i\)](#)