

STATUTORY RULES OF NORTHERN IRELAND

2012 No. 232

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

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

4.—(1) The Employers' Duties (Registration and Compliance) Regulations (Northern Ireland) 2010^{M1} 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^{M2})—

(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;”;

(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)—

^{F1}(a)

(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;”;

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- (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 ^{M3}, 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 ^{M4} (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—
 - (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)—

^{F2}(a)

- (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^{M5} (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^{M6}, 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—
 - (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 ”;

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- (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.”.

Textual Amendments

- F1** [Reg. 4\(4\)\(a\)](#) revoked (1.4.2014 for specified purposes) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/243\)](#), regs. 1(1)(b), [6](#)
- F2** [Reg. 4\(5\)\(a\)](#) revoked (1.4.2014 for specified purposes) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/243\)](#), regs. 1(1)(b), [6](#)

Marginal Citations

- M1** [S.R. 2010 No. 186](#)
- M2** [2008 c. 30](#); [section 67](#) was amended by section 30(2) of the [Finance \(No. 3\) Act 2010 \(c. 33\)](#)
- M3** 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 \(N.I.\)\)](#)
- M4** [Section 30](#) was amended by sections 7(6), 15 and 16 of the [Pensions Act \(Northern Ireland\) 2012](#)
- M5** [Section 4](#) was substituted by section 7(2) of the [Pensions Act \(Northern Ireland\) 2012](#)
- M6** [S.R. 2010 No. 122](#); [Part 6](#) is amended by regulations 2(11) and (12) and 5 of these Regulations

Status:

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Changes to legislation:

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