
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 52

**The Employers' Duties (Implementation)
(Amendment) Regulations (Northern Ireland) 2017**

Amendment of the Employers' Duties (Implementation) Regulations

2.—(1) The Employers' Duties (Implementation) Regulations (Northern Ireland) 2010(1) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) before the definition of "employer" insert—
"“deferral date” means the date specified in a notice given by an employer under regulation 4B(1) or (2);”;

(3) In regulation 2 (application of the employers' duties to employers)—

(a) in paragraph (2)(2) after "purposes of these Regulations" insert "(except for regulations 4B and 4C)";

(b) for paragraph (8)(3) substitute—

“(8) Where—

(a) an employer first pays PAYE income in respect of any worker on or after 1st October 2017, and

(b) the employers' duties do not already apply to that employer,

the employers' duties apply to that employer from the day on which that employer's first worker begins to be employed by that employer.”;

(c) in paragraph (10)(4) for "qualifying earnings are payable to any worker" substitute "the employer's first worker begins to be employed by the employer”.

(4) After regulation 4A(5) (staging of the employers' duties) insert—

“Deferral of automatic enrolment for post-staging employers

4B.—(1) Where—

(a) an employer (“E”) gives to a worker, on the day on which the worker begins to be employed by E, notice that E intends to defer automatic enrolment for the worker until the deferral date, and

(b) the requirements in regulation 4C in relation to the notice are met,

the worker's automatic enrolment date is the deferral date if on that date section 3(6) (automatic enrolment) applies to the worker as a jobholder of E.

(1) [S.R. 2010 No. 123](#); relevant amending Regulations are [S.R. 2012 Nos. 232](#) and [332](#)

(2) Paragraph (2) was amended by regulation 3(3) of [S.R. 2012 No. 232](#)

(3) Paragraph (8) was amended by regulation 2(3)(b) of [S.R. 2012 No. 332](#)

(4) Paragraphs (9) and (10) were added by regulation 2(3)(c) of [S.R. 2012 No. 332](#)

(5) Regulation 4A was inserted by regulation 2(6) of [S.R. 2012 No. 332](#)

(6) Section 3 was amended by sections 6(1) and (2) and 7(1) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)) and Article 2(1) of [S.R. 2014 No. 81](#)

(2) Where—

- (a) a worker employed by E becomes a jobholder to whom section 3 applies,
- (b) E gives the worker notice that E intends to defer automatic enrolment until the deferral date, and
- (c) the requirements in regulation 4C in relation to the notice are met,

the worker's automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E.

(3) If section 3 does not apply to a worker falling within paragraph (1)(a) and (b) or (2)(a) to (c) on the deferral date, arrangements prescribed under section 3(2) do not apply in relation to any employment of the worker by E in the period beginning with the starting day and ending with the deferral date.

(4) A notice under paragraph (1) or (2) may be given on the starting day or within the period of six weeks beginning with the day after the starting day.

(5) The deferral date may be any date in the period of three months beginning with the starting day.

(6) If E gives a worker a notice under paragraph (1), E may not give the worker a notice under paragraph (2) in relation to any occasion on or before the deferral date on which the worker becomes a jobholder to whom section 3 applies.

(7) In this regulation—

- (a) references to “E” (or to an “employer”) are to a person within the meaning of “employer” in section 70(7)—
 - (i) who pays PAYE income, where E's first worker begins to be employed by E on or after 1st October 2017, or
 - (ii) who does not have a PAYE scheme, where E's first worker begins to be employed by E after 1st April 2017,

where the employers' duties did not apply before that date;

(b) “starting day” means—

- (i) in the case of a notice under paragraph (1), the day on which the worker begins to be employed by E, or
- (ii) in the case of a notice under paragraph (2), the day on which the worker becomes a jobholder to whom section 3 applies.

Deferral of automatic enrolment: notice requirements

4C.—(1) A notice (referred to in this regulation as “the notice”) under regulation 4B(1) or (2) must be in writing.

(2) In the case of workers who are jobholders and who are not active members of a qualifying scheme, the notice must include the information described in paragraph (4) or (6) and the information described in paragraphs (7) to (9).

(3) In the case of workers who are not jobholders and who are not active members of a qualifying scheme, the notice must include the information described in paragraph (5) or (6) and the information described in paragraphs (7) to (9).

(4) The information is a statement that the jobholder may, by giving written notice to the employer, require the employer to make arrangements for the jobholder to become an active member of an automatic enrolment scheme and that the jobholder is entitled to employer's contributions.

(5) The information is a statement that the worker may, where the worker is working or ordinarily works in Northern Ireland and is aged at least 16 and under 75 and is not a member of a pension scheme that satisfies the requirements of section 9 (workers without qualifying earnings), by giving written notice to the employer, require the employer to make arrangements for the worker to become an active member of such a pension scheme.

(6) The information is a statement—

- (a) that sets out the amount of the lower qualifying earnings limit (“the lower qualifying earnings limit”) specified in section 13(1)(a)(7), and
- (b) that by giving written notice to the employer, the worker who is aged at least 16 and under 75 and—
 - (i) who earns more than the lower qualifying earnings limit and is not an active member of a qualifying scheme, may require the employer to arrange for that worker to become an active member of an automatic enrolment scheme and is entitled to employer’s contributions; or
 - (ii) who earns no more than the lower qualifying earnings limit and is not a member of a pension scheme that satisfies the requirements of section 9, may require the employer to arrange for that worker to become an active member of such a pension scheme but is not entitled to employer’s contributions.

(7) The information is a statement that the employer has deferred automatic enrolment until the deferral date and which specifies that date.

(8) The information is a statement—

- (a) that sets out the amount of earnings (“the specified amount”) that are payable as specified in section 3(1)(c)(8), and
- (b) that the employer will automatically enrol the worker into an automatic enrolment scheme on the deferral date if, on that date—
 - (i) the worker is aged 22 or more but under state pension age;
 - (ii) the worker is working, or is ordinarily working in Northern Ireland;
 - (iii) earnings of more than the specified amount are payable to the worker, and
 - (iv) the worker is not already an active member of a qualifying scheme.

(9) The information is a statement that a written notice from the worker must be signed by the worker or, if it is given by means of an electronic communication, must include a statement that the worker personally submitted the notice.

(10) In this regulation, “employer” has the meaning given in regulation 4B(7).”.

(7) Section 13(1)(a) was amended by Article 2(a) of [S.R. 2015 No. 119](#)

(8) Section 3(1) was substituted by section 6(1) of the Pensions Act (Northern Ireland) 2012 and paragraph (c) was amended by Article 2(1) of [S.R. 2014 No. 81](#)