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STATUTORY INSTRUMENTS

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**2010 No. 5**

**The Employers' Duties (Registration  
and Compliance) Regulations 2010**

**PART 3**

Compliance

Records and information

**Requirement to keep records**

- 5.—(1) The persons in paragraph (2) must—
- (a) keep the records listed within the regulation applicable to them;
  - (b) preserve the records for a period in accordance with regulation 8; and
  - (c) provide those records, on request, to the Regulator.
- (2) The persons are, subject to paragraphs (5) and (6), any person who is—
- (a) an employer;
  - (b) a trustee or manager of an occupational pension scheme; or
  - (c) a provider of a personal pension scheme.
- (3) Regulation 6 applies in respect of a person falling within paragraph (2)(a).
- (4) Regulation 7 applies in respect of a person falling within paragraph (2)(b) or (c).
- (5) Where a person does not fall within paragraph (2), that person may keep, preserve or provide the records listed in regulations 6 and 7 on behalf of a person falling within paragraph (2) but only where a person falling within paragraph (2) authorises the other person to do so.
- (6) A person who has ceased to act as a person falling within paragraph (2) shall not be required to keep records, where that person has transferred all the records to another person who has succeeded them in that capacity.
- (7) All records must be kept in such form and manner so that they are—
- (a) capable of being arranged according to the corresponding employer pension scheme reference; and
  - (b) legible or can be provided to the Regulator in a legible form.

**Records: Employers**

- 6.—(1) A person falling within paragraph (2)(a) of regulation 5 must keep the following records in relation to an occupational or personal pension scheme used by them to comply with the employers' duties—
- (a) where that scheme—
    - (i) is an occupational pension scheme, its name and address,

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- (ii) is a personal pension scheme, the name and address of the provider of that scheme, or
- (iii) does not have its main administration in the United Kingdom, the address of that scheme and the name of any authority which exercises functions corresponding to the functions of the Regulator in the country or territory outside the United Kingdom where that scheme is situated;
- (b) the employer pension scheme reference;
- <sup>F1</sup>(c) .....
- (d) where section 22 of the Act (test scheme standard) applies, any evidence which shows that a scheme satisfies the test scheme standard within the meaning of that section, given in accordance with any regulations made under subsection (4) of that section;
- (e) the name, national insurance number (where one exists) and date of birth of—
  - (i) every jobholder of an employer who became an active member of an automatic enrolment scheme pursuant to arrangements made under section 3 of the Act,
  - (ii) every jobholder of an employer who was not an active member of a qualifying scheme but who by notice required the employer to arrange for the jobholder to become an active member of an automatic enrolment scheme pursuant to arrangements made under section 7 of the Act, and
  - (iii) every worker who by notice required an employer to arrange for the worker to become an active member of a pension scheme pursuant to arrangements made under section 9 of the Act;
- (f) every jobholder's automatic enrolment date, and the date with effect from which every worker became an active member of a pension scheme that satisfies the requirements of section 9 of the Act, pursuant to arrangements made under that section;
- (g) an opt in notice in respect of every jobholder who gave notice under section 7(3) of the Act;
- (h) a joining notice in respect of every worker who gave notice under section 9(2) of the Act; and
- (i) an opt out notice in respect of every jobholder that gives notice under section 8 of the Act.

(2) A person falling within paragraph (2)(a) of regulation 5 must also keep the following records in respect of every jobholder or worker falling within paragraph (1)(e) where contributions fall to be deducted by an employer under section 33 of the Act and regulations made under that section—

- (a) their gross earnings in any relevant pay reference period;
- (b) evidence of the contributions that the jobholder's employer must pay in respect of the jobholder, in order to satisfy the quality requirement for the pension scheme used by the employer to comply with the employers' duties;
- (c) the contributions payable by an employer during each relevant pay reference period and, if different, the contributions made; and
- (d) the date on which the contributions made by an employer were paid to the pension scheme used by the employer to comply with the employers' duties.

<sup>F2</sup>(2A) Where an employer (E) gives to a person (P) employed by E a notice under section 4 of the Act (postponement or disapplication of automatic enrolment) that meets the requirements prescribed in Part 6 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 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.]

- (3) In this regulation—
- (a) “earnings” has the meaning given by section 13(3) of the Act; and
  - (b) “relevant pay reference period” means—
    - (i) a period of one week, or
    - (ii) in the case of a person who is paid their regular wage or salary by reference to a period longer than a week, that period.

#### Textual Amendments

- F1** Reg. 6(1)(c) omitted (6.4.2016) by virtue of [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **27(2)**
- F2** Reg. 6(2A) inserted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **13**

#### Records: Trustees, managers and providers

7.—(1) A person falling within paragraph (2)(b) or (c) of regulation 5 must keep the following records—

- (a) the employer pension scheme reference;
- (b)
  - (i) the date on which every jobholder became an active member of a pension scheme, by virtue of arrangements made under section 3 [<sup>F3</sup>or 7] of the Act, and
  - (ii) the date with effect from which every worker became an active member of a pension scheme that satisfies the requirements of section 9 of the Act, by virtue of arrangements made under that section;
- (c) where—
  - (i) a jobholder gives an opt out notice to an employer, and
  - (ii) any regulations under section 8(5)(e) of the Act require that employer to inform a pension scheme that such a notice has been received by it,the name of the jobholder mentioned in the opt out notice and the date on which that scheme was informed by virtue of that requirement; and
- (d) where a jobholder had been an active member of a qualifying scheme, the date on which the jobholder ceased active membership of that scheme.

(2) A person falling within paragraph (2)(b) or (c) of regulation 5 must also keep the following records in relation to all persons who are members of a qualifying scheme—

- (a) their full name, date of birth, gender and national insurance number (as received by the trustee or manager of an occupational pension scheme or provider of a personal pension scheme);
- (b)
  - (i) their postal residential address, and
  - (ii) where that address is in the United Kingdom, the postcode, last known by or notified to that scheme or employer; and
- (c) whether—
  - (i) a member is an active member of a scheme, or
  - (ii) a member is no longer an active member of a scheme.

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**Changes to legislation:** There are currently no known outstanding effects for the The Employers' Duties (Registration and Compliance) Regulations 2010, Records and information. (See end of Document for details)

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#### Textual Amendments

- F3** Words in [reg. 7\(1\)\(b\)\(i\)](#) inserted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **14**

#### Period of preservation of records

**8.—(1)** Except where paragraph (2) applies, a record listed in regulations 6 and 7 must be preserved for a period of 6 years, starting on the day on which the record must first be kept.

(2) Paragraph (1) does not apply to any record which is kept under paragraph (1)(i) of regulation 6 or under paragraph (1)(c) of regulation 7, in which case the record must be preserved for 4 years, starting on the day on which the record must first be kept.

[<sup>F4</sup>(3) Where a certificate issued in respect of a jobholder under section 7(1) of the Pension Schemes Act 1993 was required to be kept under regulation 6(1)(c) (as it had effect before 6th April 2016), that certificate must be preserved until 5th April 2022.]

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#### Textual Amendments

- F4** [Reg. 8\(3\)](#) inserted (6.4.2016) by [The Pensions Act 2014 \(Abolition of Contracting-out for Salary Related Pension Schemes\) \(Consequential Amendments and Savings\) Order 2016 \(S.I. 2016/200\)](#), arts. 1(2), **27(3)**

**Status:**

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**Changes to legislation:**

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