
STATUTORY INSTRUMENTS

2010 No. 772

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

PART 2

Automatic enrolment, opt out and refunds

Arrangements to achieve active membership

6.—(1) The arrangements the employer must make in accordance with section 3(2) (automatic enrolment) of the Act are to enter into arrangements with—

- (a) the trustees or managers of an automatic enrolment scheme which is an occupational pension scheme, so that before the end of a period of one month beginning with the automatic enrolment date the jobholder to whom section 3 of the Act applies becomes an active member of that scheme with effect from the automatic enrolment date; or
- (b) the provider of an automatic enrolment scheme which is a personal pension scheme, so that before the end of a period of one month beginning with the automatic enrolment date the jobholder to whom section 3 of the Act applies is given information about the terms and conditions of the agreement to be deemed to exist under paragraph (2).

(2) Where the employer enters into arrangements with a personal pension scheme provider under paragraph (1)(b), the jobholder is deemed to have entered into an agreement to be an active member of that scheme with effect from the automatic enrolment date, on the later of—

- (a) the date on which the personal pension scheme provider gives the information required by paragraph (1)(b); or
- (b) the date on which the employer gives the jobholder the enrolment information in accordance with regulation 7(1)(a).

(3) The terms and conditions of an agreement deemed to exist under paragraph (2) must, as a minimum—

- (a) explain the purpose of the personal pension scheme;
- (b) specify the services to be provided by the personal pension scheme provider;
- (c) specify the value of any contributions payable by the jobholder, where this information is available to the personal pension scheme provider;
- (d) specify the charges which may be payable to the personal pension scheme provider; and
- (e) in the absence of a choice made by the jobholder, explain the investment strategy adopted by the personal pension scheme provider in relation to any contributions payable to the scheme by or in respect of the jobholder.

(4) In paragraph (1)(b) the reference to “terms and conditions” is a reference to the terms and conditions mentioned in paragraph (3).

7.—(1) Subject to paragraph (2), for the purposes of the arrangements under section 3(2) of the Act, at any time before the end of a period of one month beginning with the automatic enrolment date, the employer must give—

- (a) the jobholder the enrolment information in writing; and
- (b) the trustees or managers of the occupational pension scheme or the personal pension scheme provider the jobholder information in writing.

(2) The requirement in paragraph (1)(b) does not apply in relation to the information specified in regulation 3(1)(g), (h), (i), (j) or (k), where the trustees or managers of the occupational pension scheme notify, or the personal pension scheme provider notifies, the employer that they do not require that piece of information for the purposes of arrangements under section 3(2) of the Act.

(3) Where the information referred to in regulation 3(1)(f) is not available to the employer on the automatic enrolment date, the employer must give the trustees or managers of the occupational pension scheme or the personal pension scheme provider that information within one month from the date on which the employer receives it.

8. An employer must, on or after the automatic enrolment date, deduct any contributions payable by the jobholder to the scheme, from any qualifying earnings or pensionable pay due to the jobholder in any applicable pay reference period.

Opting Out

9.—(1) A jobholder who has become an active member of an occupational pension scheme or a personal pension scheme in accordance with arrangements under section 3(2) of the Act, may opt out by giving their employer a valid opt out notice obtained and given in accordance with this regulation.

(2) Where the jobholder has become an active member of an occupational pension scheme, the jobholder must give their employer a valid opt out notice within a period of one month beginning with the later of—

- (a) the date on which the jobholder became an active member of the scheme in accordance with regulation 6(1)(a), or
- (b) the date on which the jobholder was given the enrolment information.

(3) Where the jobholder has become an active member of a personal pension scheme, the jobholder must give their employer a valid opt out notice within a period of one month beginning with the date on which the agreement was deemed to exist under regulation 6(2).

(4) Subject to paragraph (5), the jobholder may only obtain an opt out notice from the scheme in which the jobholder is an active member.

(5) Where the jobholder is an active member of a scheme which is an occupational pension scheme and that scheme has, in its trust instrument, expressly delegated its administrative functions to the employer, the jobholder may obtain an opt out notice from that employer.

(6) An opt out notice is valid if—

- (a) it is in the form set out in the Schedule;
- (b) it includes the jobholder's name;
- (c) it includes the jobholder's national insurance number or date of birth;
- (d) it is signed by the jobholder or, where the notice is in an electronic format, it must include a statement confirming that the jobholder personally submitted the notice; and
- (e) it is dated.

(7) Where the employer is given an opt out notice which is not valid—

- (a) the employer must inform the jobholder of the reason for the invalidity, and

- (b) paragraphs (2) and (3) are modified so that for the reference to “one month” there is substituted “6 weeks”.

10. Where an employer is given a valid opt out notice, the employer must inform the scheme in which the jobholder is an active member that a valid opt out notice has been received.

Refunds

11.—(1) Where an employer receives a valid opt out notice, that employer must refund to the jobholder before the refund date any contributions paid to the scheme by the jobholder and any contributions made on behalf of the jobholder, except where any of those refunds are required to be paid as tax.

(2) Where a scheme receives the information required by regulation 10, the trustees or managers of the occupational pension scheme or the provider of the personal pension scheme, as the case may be, must refund to the employer before the refund date any contributions made to the scheme by the jobholder and any contributions made to the scheme by the employer on behalf or in respect of the jobholder.

(3) For the purposes of this regulation “the refund date” is—

- (a) the date one month from the date on which the employer is given a valid opt out notice; or
- (b) where the opt out notice is given to the employer after the employer’s payroll arrangements have closed, the last day of the second applicable pay reference period following the date on which a valid opt out notice is given.