

STATUTORY INSTRUMENTS

2010 No. 772

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

PART 9

Automatic enrolment schemes

Further conditions applicable to automatic enrolment schemes

[^{F1}35.—(1) The conditions prescribed for the purposes of section 17(1)(c) (automatic enrolment schemes) of the Act are—

- (a) that the scheme must be—
 - (i) an occupational pension scheme within section 18(a)^{F2}... (occupational pension schemes) of the Act; or
 - (ii) a personal pension scheme where the operation of the scheme—
 - (aa) is regulated by a competent authority; and
 - (bb) is carried on by a person who is in relation to that activity authorised by a competent authority; and

^{F3}(b)

[^{F4}(c) except as provided in paragraph (1A), that the provisions governing any part of an occupational pension scheme or of a personal pension scheme that provides money purchase benefits must not include a provision that allows for—

- (i) any amount to be deducted from any payments made to the scheme by or on behalf or in respect of the jobholder;
- (ii) any amount to be deducted from any income or capital gain arising from the investment of such payments; or
- (iii) the value of the jobholder’s rights under the scheme to be reduced by any amount, where the amount is to be paid to a third party under an agreement between the employer and the third party.]

[^{F5}(1A) Paragraph (1)(c) does not apply where an employer has entered into a legally enforceable agreement with a third party before 10th May 2013 under which an amount is to be paid to the third party in one or more of the ways set out in paragraph (1)(c)(i) to (iii).]

(2) For the purposes of this regulation—

- [^{F6}“competent authority” means the Financial Conduct Authority or the Pensions Regulator;]
- “regulatory requirements” includes provisions of legislation that concern tax;
- “relevant benefits” means—

- (a) any money purchase benefits applicable to the jobholder; and

- (b) in relation to a defined benefits scheme, or the defined benefits element of a hybrid scheme, that provides for a sum of money to be made available for the provision of benefits to a member, that sum]

[^{F7}“third party” means any person other than—

- (a) the jobholder;
- (b) where the scheme is an occupational pension scheme, the trustee or manager of the scheme; or
- (c) where the scheme is a personal pension scheme, the provider of the scheme.]

Textual Amendments

- F1** Reg. 35 substituted (1.7.2012) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) \(Amendment\) Regulations 2012 \(S.I. 2012/1257\)](#), regs. 1(2)(a), **5**
- F2** Words in [reg. 35\(1\)\(a\)\(i\)](#) omitted (31.12.2020) by virtue of [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **33(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** [Reg. 35\(1\)\(b\)](#) and word omitted (31.12.2020) by virtue of [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **33(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** [Reg. 35\(1\)\(c\)](#) inserted (14.9.2013) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) \(Amendment\) Regulations 2013 \(S.I. 2013/2328\)](#), regs. 1(2), **2(2)**
- F5** [Reg. 35\(1A\)](#) inserted (14.9.2013) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) \(Amendment\) Regulations 2013 \(S.I. 2013/2328\)](#), regs. 1(2), **2(3)**
- F6** Words in [reg. 35\(2\)](#) substituted (31.12.2020) by [The Occupational and Personal Pension Schemes \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/192\)](#), regs. 1, **33(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in [reg. 35\(2\)](#) inserted (14.9.2013) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) \(Amendment\) Regulations 2013 \(S.I. 2013/2328\)](#), regs. 1(2), **2(4)**

Changes to legislation:

There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010, Section 35.