STATUTORY INSTRUMENTS

2013 No. 2328

PENSIONS

The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2013

Made - - - - 13th September 2013

Coming into force in accordance with regulation 1(2)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 17(1)(c), 99, 144(2) and (4) of the Pensions Act 2008(**a**).

In accordance with section 143(4) and (5)(a) of the Pensions Act 2008, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2013.

(2) These Regulations come into force on the day after the day on which they are made.

Amendment of regulation 35 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

2.—(1) Regulation 35 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(**b**) (further conditions applicable to automatic enrolment schemes) is amended as follows.

(2) In paragraph (1), after sub-paragraph (b), insert—

"and

(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(**c**) 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,

(**a**) 2008 c.30. Section 99 is cited for the meaning it gives to "prescribed" and "regulations".
(**b**) S.I. 2010/772; regulation 35 was substituted by regulation 5 of S.I. 2012/1257.
(**c**) *see* section 99 of the Pensions Act 2008 for the meaning of "money purchase benefits".

where the amount is to be paid to a third party under an agreement between the employer and the third party.".

(3) After paragraph (1), insert—

"(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).
".

(4) In paragraph (2), after the definition of "relevant benefits" insert—

""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.".

Signed by authority of the Secretary of State for Work and Pensions.

Steve Webb
Minister of State,
Department for Work and Pensions

13th September 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 35 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (S.I. 2010/772).

Regulation 2 amends regulation 35 to include an additional condition that must be satisfied in relation to any part of an occupational pension scheme or any part of a personal pension scheme that provides money purchase benefits if the scheme is to be an automatic enrolment scheme. The scheme will not be an automatic enrolment scheme if it contains a provision allowing for any amount to be deducted from contributions or investment returns, or for the value of a jobholder's rights to be reduced by any amount, if that amount is to be paid to a third party under an agreement between the employer and the third party. A third party is any person apart from the jobholder, the trustee or manager of the scheme, or, in the case of a personal pension scheme, the provider of the scheme. New regulation 35(1A) provides that the additional condition does not apply where the employer has entered into a legally enforceable agreement with a third party before 10th May 2013 under which the third party is to be paid an amount which will be deducted from the jobholder's contributions or investment returns, or which will reduce the value of the jobholder's rights.

An impact assessment has not been produced for this instrument as it has no direct impact on businesses, the public sector or civil society organisations.

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

ISBN 978-0-11-110409-5

£4.00

UK201309137 09/2013 19585

http://www.legislation.gov.uk/id/uksi/2013/2328