PENSIONS (EXTENSION OF AUTOMATIC ENROLMENT) (NO. 2) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Pensions (Extension of Automatic Enrolment) (No. 2) Bill as brought from the House of Commons on 27 March 2023 (HL Bill 128).

- These Explanatory Notes have been provided by the Department for Work and Pensions, with the consent of Baroness Altmann, the Peer in Charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

1 This Bill will amend provisions in the Pensions Act 2008 to give regulation making powers which will enable the Secretary of State to make regulations to reduce the lower age limit at which otherwise eligible workers must be automatically enrolled and re-enrolled into a pension scheme by their employers, to make regulations to remove the Lower Earnings Limit (LEL) from the qualifying earnings band so that contributions are calculated from the first pound earned and to make regulations modifying the requirements of the annual review of the qualifying earnings band.

Policy background

2 Automatic enrolment has seen over 10.8 million employees automatically enrolled into a workplace pension by January 2023. In 2021, 86% of private sector eligible employees were saving in a workplace pension, up from 42% in 2012. This Bill seeks to extend the coverage of automatic enrolment to younger people and those in lower paid employment, with all eligible workers benefitting from increased pension contributions.

3 In the 2017 Review of Automatic Enrolment, the government committed to introducing changes to automatic enrolment in the mid-2020s. This Bill would enable the Secretary of State to deliver on that commitment and extend pensions automatic enrolment by:

i. Introducing a power to make regulations to reduce the lower age limit at which otherwise eligible workers must be automatically enrolled into a pension scheme by their employers. The policy intent is to use this power to make regulations to reduce the lower age limit from 22 to 18.

ii. Introducing a power to make regulations to reduce or repeal the Lower Earnings Limit (LEL) of the qualifying earnings band so that contributions are calculated from the first pound earned.

4 This Bill will give the Secretary of State for Work and Pensions powers to make regulations which would implement these changes to eligibility for automatic enrolment following a period of consultation on the implementation approach and timing, which will help to ensure they can be implemented in a suitable way to help manage costs arising from the changes for all parties.

Legal background

5 The following notes give a brief overview of significant existing legislation that is referenced by this Bill. Further explanation, if required, is given in the clause-by-clause commentary.

6 The Pensions Act 2008 makes provision for automatic enrolment, under which employers are required to enrol qualifying jobholders into a suitable pension scheme and to make pension contributions on their behalf.

Territorial extent and application

7 Private pensions are a reserved matter in relation to both Scotland (reserved by paragraph F3 of the Scotland Act 1998) and Wales (‘occupational and personal pensions’ reserved by paragraph 134, Head F, Schedule 7A of the Government of Wales Act 2006).

8 Private pensions are devolved in Northern Ireland. However, historically the Northern Ireland Assembly has made legislation which mirrors that made in Great Britain. Under section 87 of the Northern Ireland Act 1998, there is a statutory duty for the Secretary of State and Northern Ireland Minister to consult with each other with a view to securing a single system of legislation for pensions in the United Kingdom.

9 It is anticipated that the NI Executive will take forward separate legislation.

Commentary on provisions of Bill

Clause 1: Automatic enrolment: persons and earnings affected

10 Subsections (1) to (5) of this clause amend the provisions of the Pensions Act 2008 (PA08), as follows:

11 Subsection (2) inserts a regulation making power into PA08 section 3 to enable the Secretary of State to decrease the age upon which an employer has an obligation to automatically enrol jobholders into a scheme that fulfils the criteria for an "automatic enrolment scheme" (see PA08 section 17).

12 Subsection (3) inserts a regulation making power into PA08 section 5 to enable the Secretary of State to decrease the age upon which an employer has an obligation to automatically re-enrol jobholders into a scheme that fulfils the criteria for an "automatic enrolment scheme" (see PA08 section 17).

13 Subsection (4) inserts a new section 13A into the PA08. New section 13A(1)(a) and (b) contain a regulation making power to enable the Secretary of State to either reduce the amount of the lower limit of the qualifying earnings band (contained in PA08 section 13(1)(a)), or to repeal PA08 section 9 (workers without qualifying earnings) and section 13(1)(a) (the lower limit of the qualifying earnings band).

14 New section 13A(2) allows, by regulations, the Secretary of State to modify the requirements as to the timing and subject matter of a review under PA08 section 14 (review of earnings trigger and qualifying earnings band). New section 13A(3) allows the Secretary of State to make consequential amendments.

15 Subsection (5) inserts new provisions into section 143 of the PA08 to provide that any regulations that are made under the new powers are subject to the affirmative resolution procedure, and to prevent the Secretary of State from making regulations under sections 3(1A), 5(1C) or 13A, unless he or she has carried out a consultation. Where the Secretary of State lays a draft of an instrument containing regulations under section 3(1A), 5(1C) or 13A before Parliament, this must be accompanied by a report by the Secretary of State about the consultation.

Clause 2: Extent, commencement and short title

16 Clause 2 sets out the extent of the Bill, more details on which are set out in paragraphs 7 to 9. It also makes provision for the coming into force of the Bill and sets out the Bill's short title.

Commencement

17 Clause 1 will come into force on such date as the Secretary of State appoints by regulations. Clause 2 will come into force on the day on which the Bill is passed.

Impact Assessment

18 Although the legislation will not impose any costs on business at this time, the Impact Assessment examines the impact of removing the LEL and reducing the age to 18 years old. This estimates that the first year of the full implementation of the policy would cost around £2bn in 2022 earnings terms, made up of:

- £0.8bn extra employer contributions
- £0.9bn extra employee contributions
- £0.2bn income tax relief

These costs would be lower at first if the measures were phased in over a number of years.

19 There may be further fiscal costs of around £0.3bn reflecting how employee/employers may respond to the change and a small additional business administration cost. Again, these costs would be lower at first if the measures were phased in over a number of years.

Financial implications of the Bill

20 There will be no immediate financial implications because this Bill takes enabling powers to implement these changes through secondary legislation at a later date. The consultation on the implementation approach and timing will enable consideration of choices to help manage the cost impacts arising from the measures (for example through introducing and phasing in changes at a suitable time, using learnings from the successful gradual roll-out of automatic enrolment since 2012).

Parliamentary approval for financial costs or for charges imposed

21 The Bill did not require a money resolution or a ways or means resolution in the House of Commons. A money resolution is required where a bill authorises new charges on the public revenue – broadly speaking new expenditure – and a ways and means resolution is required where a bill authorises new charges on the people – broadly speaking, new taxation or other similar charges.

Compatibility with the European Convention on Human Rights

22 As this is a Private Members' Bill, the Secretary of State is not required to make a statement under section 19 of the Human Rights Act 1998.

Related documents

23 The following documents are relevant to the Bill and can be read at the stated locations:

- Automatic Enrolment Review 2017: Maintaining the Momentum
  https://www.gov.uk/government/publications/automatic-enrolment-review-2017-maintaining-the-momentum

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Clause 1(1) and 1(5)	Yes	Yes	No	Yes	No	Yes	No
Clause 1(2) to 1(4)	Yes	Yes	No	Yes	No	No	N/A
Clause 2	Yes	Yes	No	Yes	No	Yes	No

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