

Pensions – Consultation on Draft Regulations

**The Pensions (Automatic Enrolment)
Regulations 2009
and
The Pensions Regulator (Delegation of
Powers) Regulations 2009**

12 March 2009

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Part One - Foreword and consultation arrangements

Who this consultation is aimed at

1. This consultation is aimed at employers; employee representatives; pension industry professionals, including occupational pension and workplace personal pension scheme administrators; payroll administrators; accountants; payroll bureaux; Independent Financial Advisors and employee benefit consultants. Comments from workers and the general public are also welcome.

Subject of consultation

2. This consultation concerns the practical arrangements by which employers will be required to:
 - enrol workers into a workplace pension scheme, including the circumstances and arrangements for postponement of automatic enrolment, where appropriate;
 - the information which employers are required to provide to their workers and to pension schemes; and
 - the arrangements by which individuals can opt out of pension saving following automatic enrolment.
3. It is proposed that The Pensions (Automatic Enrolment) Regulations 2009 will come into force on the commencement of the employer duty, currently scheduled from 2012.
4. This consultation also covers regulations that will enable the Pensions Regulator, which is responsible for delivering the employer compliance regime, to delegate certain specified compliance powers to external public and private bodies to enable it to deliver the compliance regime efficiently and effectively. The Pensions Regulator (Delegation of Powers) Regulations 2009 are scheduled to come into force in Autumn 2009.

Purpose of the consultation

5. This document is the first in a series of three consultations seeking views on the proposed regulations to be made in exercise of powers contained in the Pensions Act 2008. This document seeks views on the draft Pensions (Automatic Enrolment) Regulations 2009 made under Chapter 1 Part 1 of the Act and the draft Pensions Regulator (Delegation of Powers) Regulations 2009 made under Part 5 of the Act.
6. Two further regulation consultations are planned for Spring and Autumn 2009 respectively to include proposals for the personal accounts scheme order and rules followed by the remaining elements of the employer duty (including re-enrolment and opt ins, staging, phasing, qualifying schemes criteria and certification) and employment safeguards and elements of the compliance regime, including information to be passed to the Pensions Regulator, sanctions and penalties.

Scope of consultation

7. This consultation applies to England, Wales and Scotland.

Duration of the consultation

8. The consultation period begins on 12 March 2009 and runs until 3 June 2009.
9. This document is available on the Department's website at:

<http://www.dwp.gov.uk/consultations/2009/>

How can you respond to this consultation?

10. Please send your response, preferably by e-mail to:

employer.duty-consultation@dwp.gsi.gov.uk

or by post to:

Lillian Coulson
Department for Work and Pensions
Enabling Retirement Savings Programme
4th Floor
Adelphi
1-11 John Adam Street
London
WC2N 6HT

Please ensure your response reaches us by 3 June 2009.

11. When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled. We will acknowledge your response.

Queries about the content of this document

12. Any queries about the subject matter of this consultation should be made to Lillian Coulson at the above address, or telephone 0207 962 8560.
13. We have sent this consultation document to a large number of people and organisations who have already been involved in this work or who have expressed an interest. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

Freedom of information

14. The information you send us may need to be passed to colleagues within the Department for Work and Pensions (DWP), published in a summary of responses received and referred to in the published consultation report.

15. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purpose of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.
16. If you want to find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Name: Charles Cushing

Address: Department for Work and Pensions, Information Policy Division,
Freedom of Information Unit, 1-11 John Adam Street, London WC2N 6HT

Phone: 0207 962 8581

Email: charles.cushing@dwp.gsi.gov.uk or carol.smith14@dwp.gsi.gov.uk

Please note that Charles and his team are unable to answer any questions about the consultation exercise itself.

More information about the Freedom of Information Act can be found on the website of the Ministry of Justice FOI pages.

The consultation criteria

17. The consultation is being conducted in line with the Government Code of Practice on Consultation - www.berr.gov.uk/files/file47158.pdf - and its seven consultation criteria, which are as follows:
- **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
 - **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.
 - **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.
 - **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
 - **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
 - **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
 - **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

Feedback on this consultation

18. We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Name: Roger Pugh

Address: Department for Work and Pensions' Consultation Coordinator, Room 2A, Britannia House, 2, Ferensway, Hull HU2 8NF

Phone: 01482 609571

Fax: 01482 609658

Email: roger.pugh@dwp.gsi.gov.uk

In particular, please tell us if you feel that the consultation does not satisfy these criteria. Please also make any suggestions as to how the process of consultation could be improved further.

19. If you have any requirements that we need to meet to enable you to comment, please let us know.
20. The responses to the consultation will be published in June 2009 in a report on the DWP website that will summarise the responses and the action that we will take as a result of them.
21. **Impact Assessment: Pensions (Automatic Enrolment) Regulations 2009**

These regulations have an impact on business and the pensions industry and an impact assessment is published alongside this consultation document. An impact assessment has not been produced for The Pensions Regulator (Delegation of Powers) Regulations 2009, as they impose no burdens on the private or voluntary sectors. An equality impact assessment was prepared for the Pensions Bill, and this is summarised in the attached impact assessment which covers the auto-enrolment regulations.

Part Two – The Pensions (Automatic Enrolment) Regulations 2009 policy and legislative background

Background

1. The Pensions Act 2008 requires employers to automatically enrol eligible jobholders into qualifying workplace pension saving, with a minimum employer contribution. Individuals who decide that they do not want to participate in pension saving have the right to opt out.
2. The Act sets out which jobholders will be eligible for automatic enrolment. It also defines the ongoing requirements of employers in respect of individuals who remain in workplace pension saving and those who opt out.
3. These regulations frame the practical arrangements underpinning automatic enrolment, including information flows; the arrangements for postponement of automatic enrolment; and the arrangements should a jobholder decide to opt out.
4. The aim is to establish the minimum level of effective regulation, which secures Government's policy objectives without over specifying process steps, which might place unnecessary burdens on employers or the pensions industry.
5. Employers will be free to choose the qualifying workplace pension scheme or schemes they adopt to discharge this new duty. The personal accounts scheme, a Group Personal Pension (GPP), a Stakeholder Pension (SHP), a Group Self-Invested Personal Pension (GSIPP) or an occupational pension scheme are all capable of being used. While the actual enrolment process for the different types of schemes may differ for practical reasons, we believe the overarching timeline should be the same. See Glossary (Annex F) for a definition of these pension terms.
6. Working with a range of stakeholders representing employers, employees and the pensions industry we have identified what we believe is the optimum collection of elements for simple, standard and effective arrangements for automatic enrolment that maximises new and appropriate workplace pension saving, without overburdening businesses or overly disrupting existing pension arrangements.
7. We are in close consultation with the Financial Services Authority (FSA) to assess the impact and interaction of these proposals with the FSA's Conduct of Business (CoBs) rules.

Key trade-offs

8. The aim has been to identify the best possible combination of arrangements and time limits to meet the objectives of the savings policy with the lightest of administration burdens.
9. For example, the longer employers and schemes are given to create active membership the less burdensome the requirement becomes, because they may be able to align the steps with an existing process such as payroll. However, once the joining window becomes more than a couple of weeks, the chance that a jobholder will have a payday increases. This may arise during a period when the jobholder

could not opt out (as opt outs are not possible until the jobholder is in pension saving). Contributions would need to be deducted, to avoid a contributions cliff-edge. This may happen before the jobholder has received any information, particularly those on weekly pay. The combination of these factors increases the risk of refunds, which are likely to be administratively intensive and therefore a high cost burden worth minimising.

10. A long opt-out period would enable more time for individuals to consider their decision. However, anything longer than 30 days would undermine consistency with existing FSA CoBs rules and would be prohibited by the Consolidated Life Directive (EU legislation), which sets a maximum of 30 days for cancellation for WPPs. It would also increase the risk that employers and schemes become dragged into the process of making refunds.
11. Our aim has been to minimise the overall employer burden. This does not mean that every component process will be the very cheapest option from the perspective of an employer. However, the choice of components has been made to form a coherent and low cost package overall. In our view, the key to doing this has been to minimise the need for refunds, both from employers to individuals and from schemes to employers. We have done this by providing for the overall automatic enrolment and opt-out processes to be carried-out relatively quickly. Although with a maximum length for the overall process of 44 days, it broadly ensures that jobholders who do not react to the enrolment information immediately are very likely to feel the impact of workplace pension saving on their pay at least once before the opt-out period ends.
12. The proposition we aim to regulate for requires opt-out notices to be returned by the jobholder to their employer, who must then forward it to the scheme. This would enable the employer to halt payroll deductions at the earliest possible opportunity, thereby reducing the likelihood that a costly refund will be needed at a later stage.
13. We believe that the provisions in these draft regulations balance the needs of savers and the burdens on employers and schemes in the most effective way.

Automatic enrolment – the core components

14. In our view, there are seven core components which make up the arrangements by which employers discharge their duties under the Act. These need to form a coherent package to provide for a seamless process to facilitate active membership and to terminate that membership if the jobholder so wishes. These are:
 - i. The maximum amount of time an employer may take in order to create active membership for a jobholder e.g., the interval between a new jobholder starting work and getting that jobholder into pensionable service.
 - ii. The timing and content of the provision of information by the employer to their scheme about jobholders who need to be automatically enrolled into workplace pension saving.
 - iii. The timing, source and content of information to be given to jobholders about the effect of the employer duty on the jobholder.
 - iv. The trigger for and duration of the opt-out period.

- v. The source, primary destination and final resting place for the opt-out notice.
- vi. Arrangements for making refunds.
- vii. Criteria that entitle an employer to postpone the automatic enrolment date of a jobholder.

Steps to be taken by employers prior to automatic enrolment

15. Prior to the commencement of the employer duty, employers will need to take some practical steps in order to put them in a position to be able to comply. For example, employers will need to have identified those workers among their workforce who fall within the jobholder criteria, and those who will be eligible for automatic enrolment. They will need to have established business arrangements with an automatic enrolment scheme into which they can automatically enrol their eligible jobholders. The need for preparation will be prompted by events such as the requirement to provide the Pensions Regulator with specified information. Details about information to be provided to the Pensions Regulator are planned for the Autumn 2009 package of draft regulations.

How automatic enrolment is triggered

16. Automatic enrolment will be triggered by:
- implementation;
 - starting work and meeting the criteria (post implementation);
 - meeting the criteria whilst in work by either:
 1. reaching age 22 (in receipt of qualifying earnings);
 2. having qualifying earnings for the first time (aged 22 to pensionable age).
17. The process of automatic enrolment must commence for workers from the first day they become an eligible³ jobholder (day-one). However, under certain circumstances, the automatic enrolment date may be postponed to a later date. The circumstances for this are described later in this section under *Postponement of automatic enrolment*.

Automatic enrolment joining process

18. The provisions for automatic enrolment in these regulations are based on three core intervals, two of which run concurrently. Employer and scheme processes will need to take place within these intervals:
- a scheme joining window of up to 14 days;
 - a concurrent information provision window of up to 14 days;
 - followed by a genuine opt-out period of 30 days.
19. The start date for the scheme joining window will be the automatic enrolment date. Post implementation, the day a jobholder starts a new job will be the most common automatic enrolment date, although there will be others. (See *How automatic enrolment is triggered* above)

³ Aged at least 22 and has not reached pensionable age.

20. The Pensions Act 2008 requires that a jobholder's automatic enrolment date must also become the effective date for active membership of a qualifying scheme once the employer and its scheme have completed whatever steps are needed to complete the process of getting the jobholder into active membership.
21. The joining window ends when the jobholder has become an active member of a scheme. Employers using an occupational pension would be free to establish scheme joining arrangements that result in active membership in a single day.
22. For employers using a (workplace personal pension) WPP⁴, the 14 day joining window must comprise two elements: a seven day period from the automatic enrolment date to provide the jobholder with information about the scheme they are joining and its contract terms⁵; followed by a further seven day period during which the jobholder may consider the contract terms before they are deemed to be a party to that contract. The information about the effect of the employer duty on the jobholder would also need to be provided within the first seven days.
23. The process which has to be followed to achieve active membership if the employer uses an occupational pension scheme will be slightly different if they use a WPP, primarily because WPPs are contract based. The provision of scheme specific information (including the contract terms) will be a key part of the joining process for those jobholders who become automatically enrolled into a WPP. This scheme specific information has been termed "Key Features Information" to allow providers to amalgamate the requirements set out in regulation 8 into the existing Key Features Document required under the FSA's CoBs rules. Our intention by allowing this is to reduce the administrative burden on pension providers of complying with both sets of rules. FSA CoBs rules on the information disclosure of packaged products will continue to apply to WPPs used for automatic enrolment under the employer duty.
24. Employers using a WPP will be free to establish arrangements that result in active membership more quickly than 14 days. This could be achieved by taking some of the steps towards active membership before the automatic enrolment date. However, unlike employers using occupational pension arrangements, the minimum joining window would still need to be seven days - even in cases where the information about the scheme and the contract terms and the information about the effect of the employer duty had been provided before the automatic enrolment date. This is because the jobholder must be given seven days from the automatic enrolment date to consider the scheme information before a contract can be deemed.

Deduction of contributions

25. Contributions need to be calculated with effect from day-one (the automatic enrolment date) and deducted on the first occasion the individual is paid (even if the payday arises before active membership is achieved) and every pay day thereafter, to avoid a contributions cliff-edge. This means the initial calculation is likely to be for a partial pay period, dependent on when automatic enrolment falls within a jobholder's pay cycle. Our expectation is scheme rules / contract terms would require contributions to be calculated and deducted once active membership has been created.

⁴ The term "workplace personal pensions" covers contract based workplace pension provision including Group Personal Pension (GPP), Stakeholder Pensions (SHP) and Group Self-Invested Personal Pension (GSIPP)

⁵ Contract terms are not required for an occupational pension

Enrolment information provided by employer to the pension schemes or the pension providers

26. The Pensions Act 2008 does not deem jobholders to be active members, it requires employers to take steps to create active membership with effect from the automatic enrolment date (most commonly the day a jobholder starts a new job). As automatic enrolment must enable a jobholder to join the pension scheme without having to do anything during the joining process, it will be the employers and their schemes that have to communicate with one another in order to create active membership. The provision of information, from the employer to the scheme or provider will be vital to the completion of the joining process.
27. Precisely what information an employer both must and may pass to their scheme or provider about jobholders is set out in regulations 4 and 5. It is divided into minimal essential information which must be provided to enable automatic enrolment, and more detailed information which may be provided if required by the specific scheme or provider.

Enrolment information provided by employers to jobholders

28. Employers using both occupational pensions and WPPs will be required to provide jobholders with written⁶ information as part of the joining process, to tell jobholders which scheme they have been enrolled into, how much they will pay, how much the employer will contribute and their other rights under Chapter 1 of the Act. The information will tell the jobholder about their right to opt out and how to do so, including where they can access the necessary form with which to give notice. The employer will not be required to give the jobholder advice or play any part in the jobholder's decision-making process.
29. Details governing the provision of information by employers to jobholders, about automatic enrolment, appear in regulation 7. Further detail about the specific information requirements in respect of WPPs is set out in regulation 8. Jobholders who are auto-enrolled into WPPs will also receive the key features scheme information in addition to the enrolment information from the employer
30. Under existing legislation, basic scheme information is available from pension schemes to jobholders who are auto-enrolled into occupational pension schemes. *The Occupational Pension Scheme (Disclosure of Information) Regulations 1996 (SI 1996/1655)* set out the information that occupational pension schemes must provide to new members. The regulations are currently being reviewed and the review will take into account the need for information to be made available to these new members during the opt out period.

Information for existing members of a qualifying scheme

31. When it comes to the provision of information to workers who are already members of a qualifying scheme on their automatic enrolment date, we originally selected 14 days to mirror the arrangements for the provision of information to jobholders that

⁶ "Writing" includes typing, printing, lithography, photography and other modes of representing or reproducing words in a visible form. Schedule 1 Interpretation Act 1978

were being automatically enrolled. As these workers are in pension saving the speed by which information is provided can be more flexible. To ease administrative burdens, we should like employers to be able to use their payroll systems to provide such information. In the circumstances, 30 days seems to be more suitable rather than mirroring the 14 day requirement.

Opt out window and opt out process

32. Automatic enrolment will not make workplace pension saving compulsory. A jobholder who has become an active member of a pension scheme under these arrangements has a right to opt out. An opt out under these regulations undoes scheme membership.
33. There will be a specified opt-out period, which cannot start until the jobholder is an active member of the pension scheme. The opt-out period must be genuine, which means the jobholder must also be in possession of sufficient information about the effect of the employer duty to make an informed and real choice. Therefore, the opt-out period cannot start until the jobholder is both an active member of a pension scheme and in possession of the information about the effect of the employer duty.
34. Employers and schemes will want to minimise the administrative burden that could be created if a jobholder attempted to start the process of opting out before the scheme was aware s/he was a member. For example, employers using an occupational pension would be able to complete the steps that create active membership then provide the information about the employer duty. Another way (for occupational schemes) would be to provide the information early but make clear that an opt out could not be processed until the process of creating active membership had completed, which would take, say, three days. Our view is that the precise arrangements should be left to employers and their schemes to decide, supported by guidance.
35. For occupational pension schemes the jobholder will always have a period of 30 days during which to opt-out. This opt out period will start from the point that information is provided to the jobholder by the employer or when active membership is established, whichever is the later e.g., if employer arrangements were such that the scheme joining process (including the provision of enrolment information) was completed in two days, then the combined joining and opt-out period would last for 32 days. It is for the employer and scheme to make the necessary arrangements to achieve active membership.
36. For WPPs the opt-out period will be 30 days from when the contract is deemed, which could be as early as day seven if both the information on the impact of the employer duty and scheme specific information have been provided to the jobholder by the automatic enrolment date (day one). In such cases the combined joining and opt-out period for a jobholder who is enrolled into a WPP would be 37 days.
37. The maximum overall window for joining and opting out using either type of pension provision would be 44 days.

Opt out notices

38. In the development of our approach to the opt out process it has been important to safeguard the interests of the jobholder to ensure that they are protected from

pressure from employers, but also that their right to cease pension saving is not hindered by an overly prescriptive and difficult opt out process. We consider that the structure described in this section strikes the right balance, but we would be interested in your views on the issue (see consultation questions relevant to Regulation 14 in Part Five)

39. To protect employers and jobholders, individuals will only be able to obtain an opt-out form from the scheme into which they have been automatically enrolled. The regulations prohibit employers from providing opt out forms. This reduces the risk that the employer may have a role in advising a jobholder about whether to participate or opt out. These regulations also prohibit opt out by letter or telephone.
40. The primary destination for an opt-out notice will be the employer. This should help to minimise the incidence of refunds, as an employer will need to stop payroll deductions quickly. The employer has no legal basis to continue deductions from pay without express consent once notice of opt out has been given. This does not preclude the completion of an opt-out notice by a jobholder on a scheme website, provided an instant e-copy is sent by the scheme to the employer. In effect, both parties are informed simultaneously.
41. Employers that receive an opt out notice on paper have seven days in which to send the notice to the scheme.
42. The regulations prescribe the opt out journey to ensure that the decision to opt out is a considered one, and one which the jobholder takes is mindful of the consequences. The process will not be complicated or difficult, but it will be a formal process. The enrolment information from the employer will give people contact details for their scheme, including address, telephone number and e-contact details.
43. If a jobholder were to try and opt out without following the formal process, perhaps by writing a letter rather than using the proper form, we believe that it is reasonable to impose a duty on the employer to inform the jobholder that their attempt to opt out has failed. Were the employer to remain silent the jobholder could be left with the impression that they had given proper notice of opt out. Subsequently they would discover that the employer had continued to make deductions from their pay. If this continued refunds could build up and the jobholder could run out of time to opt out.
44. The regulations therefore put a responsibility on the employer to bring the matter to the jobholder's attention. We have provided a time limit of 5 (calendar) days in which the employer must do this.
45. The regulations have been drafted so that the final resting place of the original opt out notice is the scheme. The reason for doing so is that without a requirement to send the original notices, schemes were concerned that employers would not communicate the fact that a jobholder had opted out. In addition, initial compliance is likely to be tested via information held by schemes rather than an approach to individual employers. However, we are conscious that the employer duties primarily bite on the employer and we would be interested in views from both schemes and employers upon whether the current approach is optimal or whether the original opt out notice should be kept in the employer's records and a copy be required to be sent to the scheme.

Refunds: employer to jobholder

46. A jobholder who opts out of pension saving during the opt-out period (as opposed to ceasing their active membership after the end of the opt-out period) is treated as never having been a member and is entitled to a full refund of any contributions they may have made.
47. It is the employer's duty to refund contributions to the jobholder. It is not a scheme duty. The refund of contributions to the jobholder is not dependent on the employer getting money back from the scheme. In many cases the accrued deductions are unlikely to have left the employer's bank account at the point when the jobholder gives notice of opt out, although arrangements will vary from scheme to scheme.
48. The regulations prescribe that the refund to a jobholder must be made by the second payday following the day the jobholder gave notice that they wanted to opt out, or within twenty-one days, whichever is the later.
49. If a jobholder opts out the employer must also get a full refund of contributions made on behalf of the jobholder – the "employer contributions". In some cases the employer will not have passed any contributions to the scheme - the money is still in the employer's bank account - and so a "refund" is a matter for internal company book-keeping⁷.

Refunds: scheme to employer

50. Some money, whether deducted from the jobholder's earnings or the employer's contributions on behalf of the jobholder, may have been passed on to the scheme by the time the jobholder gives notice. It is the employer's responsibility to get any contributions paid by or on behalf of the jobholder back from the scheme.
51. In the interest of smaller employers the draft regulations prescribe a maximum of 21 days for schemes to refund all monies held in respect of a jobholder who has opted out. This refund will be made to the employer. There is no requirement for any scheme / jobholder contact. The 21 days starts when the scheme itself has received the opt out notice from the employer and the employer in turn has seven days to get the notice to the scheme.
52. Under current arrangements some employers have an agreement with their scheme that any employer contributions may be retained by the scheme to offset scheme administrative expenses. Following an opt out the regulations will require a refund of contributions to the employer. However, we do not envisage that this would preclude an agreement between the employer and the scheme which, in legal terms, re-directed refunds back to the scheme to be used for such purposes – in practice the money may never leave the scheme.

⁷ Other employers will pay over contributions as and when deducted, or agree a variable or fixed monthly payment of pension payments to the scheme to run concurrently with payroll run. However, all employers must pay within the provisions of s49(8) of the Pensions Act 1995 and the Occupational Pension Schemes (Scheme Administration Regulations) 1996 (SI 1996/1715) – usually referred to as the 19 day rule.

Postponement of automatic enrolment

53. The regulations enable (but do not oblige) an employer to postpone the automatic enrolment of a jobholder for a maximum period of 90 calendar days if they automatically enrol the jobholder into a qualifying scheme that meets the specified conditions.
54. The conditions are:
- in an occupational defined contribution scheme or a personal pension scheme, the employer contribution in any relevant pay reference period must be equivalent to at least six per cent of qualifying earnings. The total contributions required by the scheme must be at least 11 per cent of qualifying earnings. The length of a relevant pay reference period will be set by regulations to be made under section 15, which are scheduled for consultation in the Autumn. In order to qualify for postponement a scheme must provide the requisite level of contributions on an on going basis. This maintains alignment with the minimum level quality requirement which also requires additional total contributions of five percent of qualifying earnings which can be required of the jobholder; or
 - any qualifying defined benefit scheme
55. We also intend that employers using hybrid schemes that meet specified conditions will be able to use a postponement period. The detail of this will be provided in the regulations scheduled for consultation in the autumn.
56. Once the postponement period is complete the individual jobholder must be automatically enrolled into the scheme. The employer must keep that jobholder in that scheme for a minimum period of 90 days from the first day following the end of the postponement period.
57. This minimum period provides protection for such jobholders by ensuring they make up the value of minimum employer contributions effectively foregone during the postponement period. This will minimise the risk that individuals could lose out as a result of a postponement period.
58. Employers using the personal accounts scheme will not be able to use a postponement period. This is because the postponement policy is intended to create an incentive for employers to continue to use existing higher-level provision.

Part Three - Commentary on the draft Pensions (Automatic Enrolment) Regulations 2009

Regulation 1 Citation, commencement and interpretation

This is a general provision setting out citation and commencement and defines key terms in relation to pensions and finance legislation. It gives the title of the regulations and specifies the date they are to come into force. Our aim is to commence the employer duty from 2012.

Regulation 2 Automatic enrolment into an occupational pension scheme

Paragraph (1) makes clear regulation 2 applies to employers who are using an occupational pension scheme to fulfil their obligation to automatically enrol eligible jobholders. It establishes that employers have up to 14 days from the automatic enrolment date to take the necessary steps in which to complete the automatic enrolment process. Part Two - Policy and legislative background explains the circumstances when automatic enrolment will be triggered.

Paragraph (2) makes clear that written information about automatic enrolment has to be provided by the employer to the jobholder within the same 14 day joining window

Regulation 3 Automatic enrolment into a personal pension scheme

This regulation sets out the automatic enrolment process an employer must use if they are using a workplace personal pension to meet the obligations under the employer duty.

Paragraph (1) prescribes that an employer must make arrangements with the pension provider supplying their scheme to ensure the jobholder receives key features information, the contents of which is specified under regulation 8(1), within seven days of the automatic enrolment date.

Paragraph (2) prescribes that an employer must also give the jobholder the enrolment information within seven days of the automatic enrolment date.

Paragraph (3) provides that seven days after the jobholder receives the key features and enrolment information the contract will be completed and the agreement will be “deemed”. After this time the jobholder becomes an active member of the private pension scheme their employer has enrolled them into, in accordance with the terms and conditions. Sub-paragraphs (3) (a) – (e) specifies the minimum of these terms and conditions and what is required of both the jobholder and the provider within this contractual arrangement.

Consultation question

Regulation 3 - Q.1: To what extent would the terms and conditions proposed for deeming the agreement differ from the current joining processes and what impact is this likely to have?

Regulations 4 and 5 Information provided by the employer to the scheme

Regulation 4 paragraph (1) sets out the minimum information that an employer must initially provide to trustees, managers or providers of their chosen automatic enrolment scheme to complete the membership for individual jobholders.

Paragraph (2) establishes that such information in relation to a personal pension scheme must be provided within seven days of automatic enrolment. As explained in *Part Two – Policy and legislative background* employers will have up to 14 days for information to be provided in respect of occupational pension schemes

Paragraph (3) makes clear jobholder consent is not required for the employer to provide this information.

Regulation 5 paragraph (1) provides for the remaining list of jobholder information that is likely to be required in full or in part by schemes. This may be provided by the employer to the relevant trustees, managers or providers in stages or in total.

Paragraph (2) makes clear jobholder consent is not required for the employer to provide this information.

Consultation questions

Regulation 4 - Q.2: Is there other essential information that should be included, or moved into regulation 4?

Regulation 5 - Q.3: Is there further information that is likely to be needed or should be moved into regulation 5?

Regulation 6 Contributions

Regulation 6 makes clear that employers are required to deduct pension contributions payable by a jobholder from and including the automatic enrolment date. This applies at whatever stage of a pay cycle automatic enrolment occurs.

Regulation 7 Enrolment Information

This regulation prescribes the written information the employer must give to a jobholder who is automatically enrolled into either an occupational pension scheme or a personal pension scheme.

Paragraph (a) – (c) requires the employer to provide the jobholder with information about the object of automatic enrolment which is to encourage pension saving, the effective date of automatic enrolment and details about the scheme.

Paragraphs (d)–(f) requires the employer to provide the jobholder with details of the contributions being made to pension saving⁸.

⁸ See regulation 1(3). The employer has the option of giving the value of contributions as a fixed amount or as a percentage of the jobholder's remuneration to avoid possible complications which might arise due to fluctuating wages, for example payment of overtime, bonuses etc.

Paragraphs (g)–(m) ensures the jobholder is given information about the right to opt out of the scheme, the time period in which to exercise the right to opt out, the process to be followed, where to obtain an opt out form, and the consequences of opting out, that is the jobholder is considered not to have been a member of the scheme on that occasion and any contributions deducted from wages will be refunded.

Information provided under paragraph (n) informs the jobholder that they have a right to opt back into pension saving after opting out, but that their employer will only be required to honour this right once in any 12 month period.

Information provided under paragraph (o) tells the jobholder that if they do opt out they will, in certain circumstances, be automatically re-enrolled in accordance with regulations to be made under sections 5 and 6 of the Pensions Act 2008. These regulations are scheduled for consultation in the autumn.

Paragraph (p) ensures that the employer tells the jobholder where to access information about pensions and saving for retirement. We are currently working with stakeholders and expert organisations to determine how to provide this information.

Regulation 8 Key Features Information

This regulation specifies the key information that pension providers will need to include in the scheme specific information for personal pension schemes used for automatic enrolment under the employer duty. The employer must ensure this information is provided to the jobholder within seven days of the automatic enrolment date to meet the obligations under regulation 3 paragraph (1).

Paragraph (1) specifies the key information which must be included within this document. The effect is that pension providers will be required to provide this information but the onus will be on employers to ensure this information is passed on to the jobholder.

Paragraph (2) defines a default fund.

Consultation questions

Regulation 8 - Q.4: Will the key features information requirements proposed allow people to make an informed decision about whether to remain within the personal pension contract?

Regulation 8 - Q.5: To what extent would modifications need to be made to existing information provision processes?

Regulation 9 Provision of information to active members of qualifying schemes

This regulation prescribes the written information that the employer must give a jobholder who is already an active member of a qualifying scheme. The information must be provided within 30 days after the employer duty applies and must consist of details of the scheme that they are a member of, contact details for the scheme and confirmation that the scheme meets the requirements for a qualifying scheme.

Regulation 10 Jobholders affected by postponement of automatic enrolment

This regulation requires employers who postpone automatic enrolment to inform jobholders, in writing, about the effect of this decision in relation to the jobholder including the reasons for postponing automatic enrolment; the date automatic enrolment will take place and where they may obtain further information on pensions and saving for retirement.

Consultation question

Regulation 10 - Q.6: Is there any other information to jobholders affected by postponement of automatic enrolment that is missing and needs to be included?

Regulation 11 Opting out from an occupational pension scheme

This regulation sets out how and when a jobholder who has been automatically enrolled into a workplace pension scheme may opt out.

Regulation 12 Opting out from a personal pension scheme

This regulation sets out how and when a jobholder who has been automatically enrolled into a personal pension scheme may opt out.

Regulations 13 and 14 Process of opting out

These two regulations set out how the jobholder obtains an opt out form and how and when they give notice of opt out and schemes' responsibilities to provide opt out forms.

Paragraph (1) defines the date a jobholder gives notice of opt out as the date the employer receives an opt out form completed in accordance with regulation 14.

Paragraph (2) puts the onus on the employer to alert the jobholder to a problem if their opt out form is not properly completed or signed. It sets out that the employer must tell the jobholder within 5 (calendar) days if an opt out notice does not fall within the rules set out in regulation 14.

Paragraph (3) requires employers to forward the actual opt out notice to the scheme within seven days of receipt.

Regulation 14 paragraph (1) mandates that a jobholder may only use an opt out form sourced from their scheme. Paragraph (2) prescribes that schemes must in turn provide opt out forms and may do this by paper or electronic medium.

Paragraph (3) prescribes that the jobholder must give the notice to their employer. Paragraph (4) specifies that a paper form must be completed and signed by the jobholder and paragraph (5) that an e-form must be authorised (by the jobholder).

Consultation questions

Regulation 13 - Q.7: We would welcome views on the 5 day time limit within which the employer is obliged to tell the jobholder if an opt out notice is not properly given, completed or signed.

Regulation 13 - Q.8: We would welcome views on whether the scheme or the employer should hold the original opt out notice.

Regulation 14 - Q.9: We propose that opt out forms should be sourced from pension schemes. We consider that a requirement to obtain the opt out notice from the scheme balances the need to protect jobholders from outside influences without establishing so rigid an opt out process that the ability of the jobholder to opt out is undermined. We would welcome your views on whether we have struck the right balance or whether we should relax our approach.

Regulation 14 - Q.10: Schemes are required to provide an opt out form on request. Should we prescribe a time limit for schemes to do this?

Regulation 15 Content of opt out notice

This regulation sets out that an opt out notice must either be in the form provided in the schedule to the Regulations or must contain mandatory information

Paragraph (1) applies to all schemes – including defined benefit schemes, money purchase schemes and workplace personal pensions. It specifies four of the five core minimum information requirements that must appear on opt out notices.

Paragraph (2) prescribes that the opt out form must also alert the jobholder that individuals who opt out will lose their right to pension contributions from the employer. This paragraph only applies to money purchase schemes (including workplace personal pensions.)

Consultation questions:

Regulation 15 - Q.11: Do schemes welcome a standard mandatory opt out form, or would prescribed minimum wording suffice?

Regulation 15 - Q.12: Should prescribed wording be a minimum or a maximum?

Regulation 16 Opt out refunds

This regulation prescribes time limits for refunds and how refunds are calculated.

Paragraph (1) sets out that it is the employer's responsibility to refund a jobholder's contributions in full (adjusted for tax where appropriate) within 21 days of the jobholder giving notice or by the second pay day after they gave notice, whichever is the later.

Paragraph (2) prescribes a maximum of 21 days (after the scheme has in turn received the opt out form from the employer) for the scheme to return any contributions paid by or on behalf of the jobholder to the employer.

Consultation questions:

Regulation 16 – Q.13: Is 21 days enough time for schemes to refund monies to employers and a fair period for employers to wait for the money?

Regulation 17 Postponement of the automatic enrolment date

Paragraph (1) provides for the prescribed circumstances in which an employer may postpone automatic enrolment of a jobholder into either a defined contribution or a defined benefit scheme. Only one of (1)(a), (1)(b) or (1)(c) need apply.

Paragraph (1) sub-paragraph (a) provides the circumstances for a UK money purchase scheme which was in existence on the jobholder's automatic enrolment date:

Paragraph (1) sub-paragraph (a)(i) provides that the employer's contribution must be at least 6% of the jobholder's qualifying earnings;

Paragraph (1) sub-paragraph (a)(ii) provides that the total amount of contributions paid by employer and the jobholder must be at least 11% of the amount of the jobholder's qualifying earnings.

Paragraph (1) sub-paragraph (b) provides the circumstances for a UK personal pension scheme which was in existence on the jobholder's automatic enrolment date:

Paragraph (1) sub-paragraph (b)(i) provides that the employer's contribution must be at least 6% of the jobholder's qualifying earnings;

Paragraph (1) sub-paragraph (b)(ii) provides that the total amount of contributions paid by employer and the jobholder must be at least 11% of the amount of the jobholder's qualifying earnings.

Paragraph (1) sub-paragraph (c) provides that postponement can apply to a Jobholder who is to be automatically enrolled in a UK defined benefits qualifying scheme which was in existence on the jobholder's automatic enrolment date.

Paragraph (2) provides that where a jobholder's automatic enrolment has been postponed, automatic enrolment will take place 90 days after the enrolment date.

Paragraph (3) provides that the minimum period for which an employer must continue to pay the higher level of employer contributions following the postponement period of an individual jobholder is 90 days.

Paragraph (4) provides that the postponement rules do not apply to employers using the personal accounts scheme.

Paragraph (5) defines "relevant pay period".

SCHEDULE

This is the standard opt out notice provided by regulation 15. Its use is not mandatory and we have asked consultees for their views on the best approach (See consultation question under Regulation 15)

Foot Notes

Please note that due to formatting limitations the footnotes in Part Two, Annex A and Annex C run continuously. Normal formatting will apply as the regulations are separated out.

Part Four – The Pensions Regulator (Delegation of Powers) Regulations 2009 policy and legislative background

Background

1. The Pensions Act 2008 will give the Pensions Regulator (the Regulator) an additional objective to maximise compliance with:
 - the employer duties, including those duties to automatically enrol jobholders; and
 - the new protections for workers, including the prohibition on inducing opt-out from a qualifying pension scheme.
2. The Regulator is developing a three-stage compliance regime based on educating, enabling and enforcing. The initial focus will be on educating and enabling employers to meet their new duties. The Pensions Act provides the Regulator with powers to take proportionate, graduated compliance action where those initial steps fail. Action to combat non-compliance will usually start with a statutory notice and can move to fixed penalties and/or escalating penalties if non-compliance persists. Criminal prosecution will be an option for the most serious cases of deliberate non-compliance with key employer duties.
3. These regulations will allow the Regulator to outsource certain compliance powers, in order to ensure that the compliance regime is delivered in the most efficient and cost-effective way, including by making the best use of private sector expertise where appropriate. This is consistent with Government's commitment to ensuring value for money. For example, powers to contract out functions were given to the Child Maintenance and Enforcement Commission (CMEC) in the Child Maintenance and Other Payments Act 2008, and were also provided for in the Welfare Reform Act 2007.

Delegation of powers by the Regulator

4. Section 133 of the Pensions Act 2008 amends the existing legislation (contained in the Pensions Act 2004) under which it may delegate its powers to external bodies. The amended schedule sets out the range of powers that the Regulator can delegate, which applies to functions mostly found in the Pensions Acts of 2004 and 2008 that are associated with ensuring compliance with new employer pensions duties. Regulations may allow the Regulator to delegate:
 - i. the power to determine *whether* to exercise the specified functions: for example, to decide whether to take enforcement action; and
 - ii. the power to exercise the specified functions: for example, to take enforcement action.
5. The Regulator will be able to determine the circumstances and arrangements under which these powers may be delegated, and the persons to whom they may be delegated. Alongside the ability to delegate the functions listed in Regulation 2(2), this will provide the flexibility needed to deliver the compliance regime efficiently and effectively.

6. The functions which can be delegated under this legislation are limited to those needed to deliver the regime. It is important that the Regulator is able to outsource these functions, to ensure that any external supplier is able to deliver a coordinated response to non-compliance. The list of functions which can be delegated include:
- i. The issuing of compliance notices, fixed penalty notices and escalating penalty notices. The Regulator will need to be able to outsource these functions as a package to have maximum flexibility;
 - ii. The imposition of civil penalties, under section 10 of the Pensions Act 1995, in cases of late payment of pension contributions;
 - iii. The ability to require information under section 72 of the Pensions Act 2004, which may be used in conducting enquiries and gathering evidence in connection with enforcement processes. The new legislation would enable the outsourcing of all aspects of information gathering relevant to the compliance regime;
 - iv. The review of notices (section 43 of the Pensions Act 2008). This would enable a notice to be issued and reviewed by the same supplier⁹.

Safeguards

7. Clear safeguards will be in place to ensure appropriate delegation:
- i. The Regulator may only delegate the powers to exercise compliance functions specified in these regulations. For example, the decision whether to launch a criminal prosecution will be retained by the Regulator. And whilst a supplier may be authorised to determine whether to issue a penalty, and to issue that penalty, it will not have discretion to change the penalty levels themselves, which will be set out in regulations. We will consult on regulations covering the detailed design of the sanctions regime, including penalty levels, in the autumn;
 - ii. Decisions taken by a supplier to take enforcement action will be based on a set of strictly defined business rules, written and owned by the Regulator. Decisions that fall outside the existing business rules, or where there is a particularly complex set of circumstances, will be escalated to the Regulator;
 - iii. Individuals will have the same right of appeal against decisions taken by a supplier as they would in relation to a decision made by the Regulator itself; and
 - iv. Ultimately the Regulator will retain accountability for any functions it chooses to delegate, and this will be assured through stewardship of the Regulator by DWP.

⁹ Note that review is separate from an appeal (as laid out in section 44), which is an independent process.

Part Five - Commentary on the draft Pensions Regulator (Delegation of Powers) Regulations 2009

Regulation 1 Citation and commencement

Regulation 1 is a general provision setting out citation and commencement.

Regulation 2 Delegation of powers by the Regulator

Regulation 2(1) defines the powers that may be delegated. These are:

- the power to determine whether to exercise any of the functions listed in paragraph (2);
- the power to exercise any of the functions listed in paragraph (2).

It allows the Regulator to authorise such persons, in such circumstances and under such arrangements, as the Regulator may determine, to exercise those powers on the Regulator's behalf.

Regulation 2(2) sets out the functions referred to in regulation 2(1). These include powers granted to the Pensions Regulator under the Pensions Act 2008, such as powers to issue compliance notices and penalties, which will enable the Regulator to maximise compliance with the employer duties. The functions also include powers under the Pensions Act 1995 and the Pensions Act 2004 that will support the overall delivery of the compliance regime (such as the information gathering powers referred to above).

Part Six - Summary of consultation questions

THE PENSIONS (AUTOMATIC ENROLMENT) REGULATIONS 2009

Regulation 3 Automatic enrolment into a personal pension scheme

Q.1: To what extent would the terms and condition proposed for deeming the contract differ from the current joining processes and what impact is this likely to have?

Regulations 4 and 5 Information provided by the employer to the scheme

Q.2: Is there other essential information that should be included, or moved into regulation 4?

Q.3: Is there further information that is likely to be needed or should be moved into regulation 5?

Regulation 8 key Features Information

Q.4: Will the key features information requirements proposed allow people to make an informed decision about whether to remain within the personal pension contract?

Q.5: To what extent would modifications need to be made to existing information provision processes?

Regulation 10 Jobholders affected by postponement of automatic enrolment

Q.6: Is there any other information to jobholders affected by postponement of automatic enrolment that is missing and needs to be included?

Regulations 13 and 14 Process of opting out

Q.7: Regulation 13 - We would welcome views on the 5 day time limit within which the employer is obliged to tell the jobholder if an opt out notice is not properly given, completed or signed.

Q.8: Regulation 13 - We would welcome views on whether the scheme or the employer should hold the original opt out notice.

Q.9: Regulation 14 - We propose that opt out forms should be sourced from pension schemes. We consider that a requirement to obtain the opt out notice from the scheme balances the need to protect jobholders from outside influences without establishing so rigid an opt out process that the ability of the jobholder to opt out are undermined. We would welcome your views on whether we have struck the right balance or whether we should relax our approach.

Q.10: Regulation 14 - Schemes are required to provide an opt out form on request. Should we prescribe a time limit for schemes to do this?

Regulation 15 (and Schedule) Content of opt out notice

Q.11: Do schemes welcome a standard mandatory out form, or would prescribed minimum wording suffice?

Q.12: Should prescribed wording be a minimum or a maximum?

Regulation 16 Opt out refunds

Q.13: Is 21 days a sufficient period for schemes to refund monies to employers and a fair period for employers?

Annex A – The Draft Pensions (Automatic Enrolment) Regulations 2009

Draft Regulations laid before Parliament under section 143(4) of the Pensions Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

PENSIONS

The Pensions (Automatic Enrolment) Regulations 2009

Made - - - - - ***

Coming into force - - - - - ***

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 3(2), 3(5), 3(6), 4(1) and 4(3), 8(2)(b) and 8(3), 8(4), 8(5) and 8(6), 10, 33(2) and 144(2) and (4)⁽⁸⁾ of the Pensions Act 2008⁽⁹⁾ makes the following Regulations:

A draft of these Regulations was laid before Parliament in accordance with section 143(4) of the Pensions Act 2008 and approved by resolution of each House of Parliament:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as The Pensions (Automatic Enrolment) Regulations 2009 and shall come into force on [].

(2) In these Regulations—

“the Act” means the Pensions Act 2008;

“automatic enrolment” means the process of becoming an active member of an automatic enrolment scheme under section 3(2) (automatic enrolment) of the Act;

“automatic enrolment date” has the meaning given in section 3(7) of the Act;

“enrolment information” means the information specified in regulation 7;

“net pay arrangements” means tax relief given in accordance with section 193 (relief under net pay arrangements) of the Finance Act 2004⁽¹⁰⁾;

“opt out notice” means the notice given under section 8 (jobholder’s right to opt out) of the Act;

“relief at source arrangements” means tax relief given in accordance with section 192 (relief at source) of the Finance Act 2004.

(3) For the purposes of these Regulations, “the value” of contributions may be expressed as—

(a) a fixed amount; or

(b) a percentage

of a jobholder’s remuneration.

⁽⁸⁾ See section 99 of the Pensions Act 2008 for definitions of ‘prescribed’ and ‘regulations’.

⁽⁹⁾ 2008 c.30.

⁽¹⁰⁾ 2004 c.12.

PART 1

Automatic enrolment and information provided for the purposes of automatic enrolment

Automatic enrolment into an occupational pension scheme

2.—(1) An employer may meet the obligation in section 3(2) of the Act by entering into arrangements with the trustees or managers of an occupational pension scheme so that within 14 days after the automatic enrolment date, the jobholder becomes an active member of the scheme with effect from the automatic enrolment date.

(2) An employer must give a jobholder who is being enrolled under this regulation, the enrolment information in writing within 14 days after the automatic enrolment date.

Automatic enrolment into a personal pension scheme

3.—(1) An employer may meet the obligation in section 3(2) of the Act by entering into arrangements with the provider of an automatic enrolment scheme which is a personal pension scheme so that the jobholder receives the key features information in writing within 7 days after the automatic enrolment date.

(2) An employer must give the jobholder the enrolment information in writing within 7 days after the automatic enrolment date.

(3) On the 7th day after the day on which the jobholder is in receipt of the information under paragraphs (1) and (2), the jobholder is deemed to have entered into an agreement to be an active member of the scheme with effect from the automatic enrolment date on terms and conditions which, as a minimum, specify—

- (a) the nature and aim of the product;
- (b) the services to be provided by the personal pension scheme provider;
- (c) the value, if any, of contributions payable by the jobholder;
- (d) deductions (including charges).

Information provided by the employer to the scheme

4.—(1) For the purposes of regulation 2 or 3, the employer must provide the trustees or managers of the occupational pension scheme or the personal pension scheme provider with the jobholder's—

- (a) name;
- (b) date of birth;
- (c) automatic enrolment date;
- (d) details of the jobholders remuneration;
- (e) postal or electronic work address;
- (f) national insurance number; and
- (g) gender.

(2) In relation to personal pension schemes, the information in paragraph (1) must be provided within 7 days after the automatic enrolment date.

(3) The employer may provide the information in paragraph (1) to the scheme without obtaining the jobholder's consent.

5.—(1) For the purposes of regulation 2 or 3, the employer may give the trustees or managers of the occupational pension scheme or the personal pension scheme provider—

- (a) the jobholder's postal or electronic personal address;
- (b) the jobholder's work telephone number;
- (c) the value, if any, of contributions payable by—
 - (i) the employer; and
 - (ii) the jobholder.

(2) The employer may provide the information in paragraph (1) to the scheme without obtaining the jobholder's consent.

Contributions

6. Prior to active membership of a scheme being achieved, an employer must with effect from the automatic enrolment date deduct any contributions payable by a jobholder to the scheme into which the jobholder has been automatically enrolled, from any remuneration due to the jobholder.

Enrolment information

7. For the purposes of regulations 2 and 3, “enrolment information” is the following information—

- (a) a statement which includes the words ‘the object of automatic enrolment is to encourage jobholders to make pension savings’;
- (b) the jobholder’s automatic enrolment date;
- (c) the name, physical and electronic contact details of the scheme into which the jobholder is to be enrolled;
- (d) the value of contributions that will be made into the scheme by the employer;
- (e) the value of contributions that will be deducted from the jobholder’s remuneration and made to the scheme;
- (f) confirmation as to whether tax relief will be through net pay arrangements or relief at source arrangements;
- (g) that the jobholder has a right to opt out of the scheme;
- (h) the opt out period under regulations 11 or 12 applicable to the jobholder;
- (i) that opting out can only occur through the completion of the opt out notice and its submission to the employer;
- (j) that the opt out notice must be obtained from the scheme;
- (k) an explanation of how the notice may be obtained from the scheme;
- (l) that opting out means that the jobholder will be considered not to have become an active member of the scheme on that occasion;
- (m) that after a completed opt out notice is received by the employer any contributions paid by the jobholder will be refunded to the jobholder by the employer;
- (n) that the jobholder who opts out may opt in, in which case the employer will be required to arrange for the jobholder to become an active member of an automatic enrolment scheme once in any 12 month period;
- (o) that a jobholder who opts out or who ceases active membership of an automatic enrolment scheme will be automatically re-enrolled into such a scheme by the employer in accordance with regulations made under section 5 (automatic re-enrolment) of the Act;
- (p) details of where to obtain further information about pensions and saving for retirement.

Key features information

8.—(1) For the purposes of regulation 3, “the key features information” is the following information—

- (a) the aim of the product;
- (b) that the value of investments can fall as well as rise;
- (c) the principle features of the product, including—
 - (i) its nature and complexity;
 - (ii) the investment strategy adopted in relation to the default fund;
 - (iii) other investment strategy choices available to the jobholder;
 - (iv) deductions (including charges) and the impact of deductions on investments applicable to the jobholder;
- (d) generic projections of the value of investments applicable to the jobholder at the age of 65;
- (e) that the jobholder may choose to contribute an amount greater than the contributions deducted by the employer from the jobholder’s remuneration;
- (f) the age from which the jobholder may realise any investment;
- (g) the services to be provided by the personal pension scheme provider;
- (h) an explanation of where to obtain full details of the product;

- (i) that the contract will be deemed 7 days after the day on which the jobholder is in receipt of the key features information and the enrolment information; and
- (j) that the opt out period commences on the day after the day on which the agreement is deemed.

(2) For the purposes of this regulation a “default fund” is the fund to which any contributions payable by the jobholder or the employer will automatically be allocated.

PART 2

Information provided for other purposes

Provision of information to active members of qualifying scheme

9. Where a jobholder is already an active member of a qualifying scheme on the automatic enrolment date, an employer must give the jobholder the following information in writing within 30 days after the automatic enrolment date—

- (a) the name, physical and electronic contact details of the scheme in which the jobholder is an active member;
- (b) confirmation that the scheme of which the jobholder is an active member is a qualifying scheme.

Jobholders affected by postponement of automatic enrolment

10. Where a jobholder is affected by a postponement of automatic enrolment under section 4 (postponement of automatic enrolment) of the Act, an employer must give that jobholder the following information in writing within 14 days after regulation 17 applies to the jobholder—

- (a) reasons for the postponement;
- (b) the date on which automatic enrolment will commence;
- (c) details of where to obtain further information about pensions and saving for retirement.

PART 3

Opting out

Opting out from an occupational pension scheme

11.—(1) A jobholder who has been automatically enrolled into an occupational pension scheme may opt out under section 8 (jobholder’s right to opt out) of the Act by giving the employer an opt out notice completed and submitted in accordance with regulation 14(4) and (5) or (6).

(2) The opt out notice must be given within 30 days after the later of—

- (a) the day on which the jobholder becomes an active member of the scheme in accordance with regulation 2; or
- (b) the day on which the jobholder receives the enrolment information.

Opting out from a personal pension scheme

12. A jobholder who has been automatically enrolled into a personal pension scheme may opt out under section 8 of the Act by giving the employer an opt out notice completed in accordance with regulation 14(4) and (5) or (6) within 30 days after the day on which the agreement is deemed under regulation 3(3).

Process of opting out

13.—(1) Notice is given under section 8 of the Act on the day when an opt out notice which is completed and submitted in accordance with regulation 14 (4) and (5) or (6) is received by the jobholder’s employer.

(2) The employer must, within 5 days after the day on which the notice is received, inform the jobholder if the notice is not valid because it was not completed or submitted in accordance with regulation 14(4) and (5) or (6).

(3) The employer must send a completed opt out notice to the scheme into which that jobholder was automatically enrolled within 7 days after the day on which that employer receives the notice.

14.—(1) A jobholder can only obtain an opt out notice from the scheme into which that jobholder has been automatically enrolled.

(2) On request by the jobholder the scheme must provide the jobholder with an opt out notice.

(3) An employer must not give an opt out notice to a jobholder.

(4) A completed opt out notice must be given to the employer by the jobholder.

(5) Where the notice is in writing, it must be completed and signed by the jobholder.

(6) Where the notice is on an electronic format, it must be authorised by a statement confirming that the jobholder personally completed and submitted the notice.

Content of opt out notice

15.—(1) The opt out notice provided by the scheme must [be in the form set out in the Schedule] **OR** [contain the following statements—

(a) *that opting out of pension saving may affect the level of income in retirement;*

(b) *that a jobholder cannot be lawfully induced into opting out;*

(c) *complaints of inducement to opt out should be made to the Regulator;*

(d) *that a jobholder may opt in to pension saving under section 7 (jobholder's right to opt in) of the Act and the employer will be required to arrange for the jobholder to become an active member of an automatic enrolment scheme once in any 12 month period.*

(2) *Where the scheme is a money purchase scheme or a personal pension scheme, the opt out notice must also state that by opting out the jobholder will forego rights to the employer contributions required under section 20(1)(b) (qualifying requirement: UK money purchase schemes) of the Act].*

Opt out refunds

16.—(1) Where a jobholder gives an employer a completed opt out notice that employer must, subject to any tax deductions, refund all contributions deducted from the jobholder's remuneration within—

(a) 21 days after the day on which the notice is given; or if later

(b) the second occasion on which the jobholder receives remuneration from the employer after notice is given.

(2) Where a jobholder gives an employer a completed opt out notice the scheme must, within 21 days after notice is received under regulation 13(3), refund to the employer any contributions made on behalf or in respect of the jobholder.

PART 4

Postponement of automatic enrolment

Postponement of the automatic enrolment date

17.—(1) For the purposes of section 4 (postponement of automatic enrolment) of the Act—

(a) where section 20 (quality requirement: UK money purchase schemes) of the Act applies and that scheme was in existence on the jobholder's automatic enrolment date under section 3(7) (automatic enrolment) of the Act, a prescribed case is a case in which—

(i) the employer's contribution payable under section 20(1)(b) of the Act, however calculated, must be equal to or more than 6% of the amount of the jobholder's qualifying earnings in any relevant pay reference period;

(ii) the total amount of contributions payable by the jobholder and the employer under section 20(1)(c) of the Act, however calculated, must be at least 11% of the amount of the jobholder's qualifying earnings in any relevant pay reference period;

- (b) where section 26 (quality requirement: UK personal pension schemes) of the Act applies and that scheme was in existence on the jobholder's automatic enrolment date under section 3(7) of the Act, a prescribed case is a case in which—
 - (i) the employer's contribution payable under section 26(4)(b) of the Act, however calculated, must be equal to or more than 6% of the amount of the jobholder's qualifying earnings in any relevant pay reference period;
 - (ii) the total amount of contributions payable by the jobholder and the employer under section 26(5)(b) of the Act, however calculated, must be at least 11% of the amount of the jobholder's qualifying earnings in any relevant pay reference period; or
- (c) a prescribed case is a case in which the requirements of section 21 (quality requirement: UK defined benefit schemes) are satisfied and which was in existence on the jobholder's automatic enrolment date under section 3(7) of the Act.

(2) For the purposes of section 4(1) of the Act, in a prescribed case under paragraph (1) the jobholder's automatic enrolment date is 90 days after the jobholder's automatic enrolment date under section 3(7) of the Act.

(3) For the purposes of section 4(3) of the Act, the period prescribed is 90 days after the automatic enrolment date in paragraph (2).

(4) A scheme established under Chapter 5 of Part 1 of the Act cannot be a prescribed scheme.

(5) For the purposes of this regulation, "relevant pay reference period" has the meaning given in section 15(3) of the Act.

SCHEDULE

Regulation 15

Form of opt out notice

Notice to opt out of pensions saving

This notice relates to a jobholder's right to opt out of pension saving under section 8 (jobholder's right to opt out) of the Pensions Act 2008.

TO:..... [Insert
name and address of employer]

FROM:.....[Insert
full name]

National Insurance Number OR Payroll Reference Number

I wish to opt out of active membership of the pension scheme into which I was automatically enrolled under section 3(2) (automatic enrolment) of the Pensions Act 2008.

I understand that by opting out I will forgo the right to any pension contributions payable by my employer.

I understand that opting out of pension saving may affect the level of my income in retirement.

SIGNED

DATE.....

IMPORTANT INFORMATION

- You cannot be lawfully induced into opting out.

- You may opt back into pension saving under section 7 (jobholder's right to opt in) of the Pensions Act 2008 and your employer will be required to arrange for you to become an active member of an automatic enrolment scheme once in any 12 month period.

- If you feel that you have been induced into opting out you can complain to the Pensions Regulator. For further details see www.thepensionsregulator.gov.uk, write to [address] or telephone [0870 6063636].

STATUTORY INSTRUMENTS

2009 No.

PENSIONS

**The Pensions Regulator (Delegation of Powers) Regulations
2009**

| | | |
|-------------------------------|---------|-------------|
| <i>Made</i> | - - - - | <i>2009</i> |
| <i>Laid before Parliament</i> | | <i>2009</i> |
| <i>Coming into force</i> | - - | <i>2009</i> |

The Secretary of State in exercise of the powers conferred by paragraph 21(1)(e) of Schedule 1 to the Pensions Act 2004 ^(a), makes the following Regulations:

Footnotes: These two footnotes will be inserted at the foot of this page in the normal way when the statutory instruments are published.

(a) 2004 c.35. Paragraph 21 was amended by section 133(2), (3) and (4) of the Pensions Act 2008 (c.30)

(b) 1995 c.26

Citation and commencement

1. These Regulations may be cited as the Pensions Regulator (Delegation of powers) Regulations 2009 and shall come into force on xxx 2009.

Delegation of powers by the Regulator

2.—(1) The Regulator may authorise such persons, in such circumstances and under such arrangements, as the Regulator may determine, to exercise on behalf of the Regulator—

- (a) the power to determine whether to exercise any of the functions listed in paragraph (2);
- (b) the power to exercise any of the functions listed in paragraph (2).

(2) The functions are—

- (a) the power to issue an improvement notice under section 13 of the Pensions Act 2004;
- (b) the power to issue a third party notice under section 14 of that Act;
- (c) the power to recover unpaid contributions under section 17 of that Act;
- (d) the power to require information under section 72 of that Act;
- (e) the power to vary or revoke a determination, order, notice or direction under section 101 of that Act;
- (f) the power to require payment of a penalty under section 10 of the Pensions Act 1995 ^(b);
- (g) the power to issue a compliance notice under section 35 of the Pensions Act 2008;
- (h) the power to issue a third party compliance notice under section 36 of that Act;
- (i) the power to issue an unpaid contributions notice under section 37 of that Act;
- (j) the power to issue a fixed penalty notice under section 40 of that Act;
- (k) the power to issue an escalating penalty notice under section 41 of that Act;
- (l) the power to recover penalties under section 42 of that Act;
- (m) the power to review a notice under section 43 of that Act;
- (n) the power to issue a compliance notice in respect of prohibited recruitment conduct under section 51 of that Act;
- (o) the power to issue a penalty notice in respect of prohibited recruitment conduct under section 52 of that Act.

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

Xx xxx 2009

Name
Parliamentary Under Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations permit the Pensions Regulator (“the Regulator”) to authorise such persons, in such circumstances and under such arrangements, as the Regulator may determine, to exercise certain powers on the Regulator’s behalf.

These powers will enable a number of the Regulator’s functions to be delegated.

Annex C - Impact Assessment of The Pensions (Automatic Enrolment) Regulations 2009

Summary: Intervention & Options

Department /Agency:
DWP

Title:
Impact Assessment of
Pensions (Automatic Enrolment) Regulations 2009

Stage: Consultation

Version: Consultation stage

Date: 12 March 2009

Related Publications: Pensions Act 2008; Pensions Bill Impact Assessment, April 2008; Pensions Act 2007 and RIA; May 2006 White Paper and RIA; December 2006 White Paper and RIA.

Available to view or download at:

<http://www.dwp.gov.uk/pensionsreform/>

Contact for enquiries: Daphne White

Telephone: 0207 962 8328

What is the problem under consideration? Why is government intervention necessary?

Millions of people in the UK are not saving enough for their retirement. Moderate to low earners are less likely to be saving in a private pension than other income groups. There are a number of barriers which prevent people from making a decision to start saving and these affect moderate to low earners in particular: many have a poor understanding of pensions and the need to save, inertia can prevent people from saving even when they are aware they need to do so, the traditional route to retirement is occupational pension provision and this is in long term decline, and personal pension providers do not actively target this group because they struggle to recoup high upfront selling costs.

What are the policy objectives and the intended effects?

The policy aims to enable moderate to low earners to save more for retirement. These regulations meet each of the Government's five tests: to support personal responsibility, ensure fairness and simplicity, and deliver a package that is sustainable and affordable; and builds on State Pension reforms implemented in the Pensions Act 2007. The intended effects are to improve individuals' incomes in retirement by making it easier and more attractive to save and to tackle inertia through automatic enrolment. The Government supports employers who voluntarily provide a good workplace pension scheme for their employees. These reforms could have a positive social welfare impact of £40 billion from 2012 to 2050, and a potential 0.2 per cent rise in Gross National Product in the long run.

What policy options have been considered? Please justify any preferred option.

The Pensions Act 2008 gives the Secretary of State the power through regulations to ensure that employers automatically enrol eligible jobholders into qualifying workplace pension saving. The measures set out in the consultation document and draft regulations should greatly improve retirement incomes. Inaction could lead to future pressure to increase State Pensions, and the projected growth in the number of pensioners relative to those of working age would make this very costly to fund. The Government believes, and is supported by a consensus, that the reforms set out in the Act constitute the most effective form of Government intervention.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? There will be a review of key decisions relating to the reforms in 2017. The Personal Accounts Delivery Authority will be set objectives against which it will have to report annually.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.



Signed by the responsible Minister:

Date: 12 March 2009

Summary: Analysis & Evidence

| | |
|----------------|--------------|
| Policy Option: | Description: |
|----------------|--------------|

| | | | | | |
|--|---|-----|---|--|--|
| COSTS | ANNUAL COSTS | | Description and scale of key monetised costs by ‘main affected groups’ costs shown are average annual: Transfers: Employer contributions – £5.5 billion, Individual contributions - £7 billion, Government (tax relief, income-related benefits and additional pension) - £2 billion; Resource costs: Employer administrative costs - <£0.5 billion. | | |
| | One-off (Transition) | Yrs | | | |
| | £ 0.3 billion | 1 | | | |
| | Average Annual Cost (excluding one-off) | | | | |
| | £ 10-15 billion | | Total Cost (PV) | | |
| | | | £ 200-250 billion | | |
| Other key non-monetised costs by ‘main affected groups’ Compliance and related costs (commercially sensitive). | | | | | |

| | | | |
|--|--|-----|--|
| BENEFITS | ANNUAL BENEFITS | | Description and scale of key monetised benefits by ‘main affected groups’ Transfers: Individuals – higher income in retirement (£15 billion per year of net pension income and tax revenue by 2050); Government: reduction in income-related benefit expenditure (£0.6 billion by 2050), Additional Pension (<£0.5 billion), Employers – lower revaluation cap, £250 million per year on average. |
| | One-off | Yrs | |
| | £ 0 | | |
| | Average Annual Benefit (excluding one-off) | | |
| | £ 10-15 billion | | Total Benefit (PV) |
| Other key non-monetised benefits by ‘main affected groups’ | | | |
| Benefits to individuals of consumption smoothing (equivalent to around £40 billion); | | | |
| Long run increase in UK incomes due to additional savings (0.2% of GNP in the long run). | | | |

Key Assumptions/Sensitivities/Risks The success of these reforms is sensitive to the behaviour of individuals and employers. Key assumptions are: individual participation rates, employer choice of qualifying scheme and employer pension contributions following reform. The outcomes for individuals are also dependant on the returns to investment.

| | | | |
|-------------------------|-------------------------|--|--|
| Price Base Year 2007 | Time Period Years 43 | Net Benefit Range (NPV) £ 0-5 billion resource cost, £40 billion social welfare benefit. | NET BENEFIT (NPV Best estimate) £ 3 billion resource cost, £40 billion social welfare benefit. |
|-------------------------|-------------------------|--|--|

| | | | | |
|---|--------------|--------------------|----------------|-----------------|
| What is the geographic coverage of the policy/option? | | UK | | |
| On what date will the policy be implemented? | | 2012 | | |
| Which organisation(s) will enforce the policy? | | DWP, TPR | | |
| What is the total annual cost of enforcement for these organisations? | | £ design dependent | | |
| Does enforcement comply with Hampton principles? | | Yes | | |
| Will implementation go beyond minimum EU requirements? | | N/A | | |
| What is the value of the proposed offsetting measure per year? | | £ 0 | | |
| What is the value of changes in greenhouse gas emissions? | | £ negligible | | |
| Will the proposal have a significant impact on competition? | | No | | |
| Annual cost (£-£) per organisation (excluding one-off) | Micro £70 | Small £80 | Medium £220 | Large £1,120 |
| Are any of these organisations exempt? | No | No | N/A | N/A |

| | | | | |
|---|---------------|----------|-----|---------------------------------|
| Impact on Admin Burdens Baseline (2005 Prices) | | | | (Increase - Decrease) |
| Increase of | £ 2.2 million | Decrease | £ 0 | Net Impact £ 2.2 million |

| | | |
|------|--|---------------------|
| Key: | Annual costs and benefits: Constant Prices | (Net) Present Value |
|------|--|---------------------|

Evidence Base (for summary sheets)

1. Impact Assessment for the consultation stage of Pensions (Automatic Enrolment) Regulations 2009.

Background

2. In December 2002, the Government established the Pensions Commission, chaired by Lord Turner, to consider both the long term challenges faced by the UK pensions system and whether the existing voluntary approach to savings represented an adequate response. In its Second Report, published in November 2005, the Commission concluded that whilst there was no immediate 'pensions crisis', the existing system had to be reformed to ensure that it would meet several long term challenges. The Commission put forward recommendations for reforming the current system.
3. In the May 2006 White Paper *Security in Retirement: towards a new pension system* (hereafter referred to as the May 2006 White Paper), in light of the Commission's recommendations, the Government set out its proposals for pension reform. The first part of this reform package, a fairer and more generous state pensions system, was delivered through the Pensions Act 2007. The measures now in train will improve people's incomes in retirement and provide a firmer foundation upon which people can make their own plans for their retirement.
4. The second part of the reform package was set out in the December 2006 White Paper *Personal accounts: a new way to save* (hereafter referred to as the December 2006 White Paper) and the Government's response to the subsequent consultation. These reforms are designed to enable and encourage more people to accumulate private pension wealth with the aim of supplementing income received from the State; these measures are set out in the Pensions Act 2008.
5. In order to plan and save for their futures, people need to be confident that the decisions they make today will not be undermined by frequent changes to the pensions system. The Government have therefore worked hard to build a broad-based consensus amongst political parties, the public, businesses and the pensions industry to ensure these reforms can stand the test of time.
6. The Government believes, and is supported by the consensus, that the private pension reforms introduced through the Pensions Act 2008 are the most effective way to encourage and enable more people to save for their future. In particular, they tackle the barriers identified by the Pensions Commission: making it easier and more attractive to save, extending provision to those currently not covered by the market, strengthening existing provision and simplifying the decision to save¹¹.
7. The current economic downturn is likely to have adverse impacts on public confidence in financial products and in employers' and employees' willingness and ability to save in the form of workplace pensions. The Department for Work and Pensions (DWP) believe that over the longer term the rationale for increased pension saving will become even stronger. However we will continue to assess the anticipated

¹¹ Detailed findings and analysis can be found in the 'Pensions Bill – Impact Assessment' published on 24 April 2008.

impact of these reforms in the light of developments including the evolving economic conditions.

Overall effect of pension reform

8. The May 2006 and December 2006 White Papers and previous Impact Assessments, consultation and now the Pensions Act 2008 have set out the policies for pension reform in 2012. The consultation document and draft regulations, which this Impact Assessment accompanies consults on the first set of automatic enrolment regulations to be made under the Pensions Act 2008.
9. In general, the duty on employers to automatically enrol jobholders into a qualifying workplace pension arrangement and make minimum contributions will lead to an increase in aggregate contribution and administrative costs. The size of these costs will depend on the nature of the employer's current provision and how they intend to fulfil their new duties, and it is estimated¹² that:
 - approximately 670,000 employers currently offer no provision and so will need to offer a qualifying workplace pension arrangement and enrol all jobholders;
 - approximately 240,000 employers currently offer some provision but make less than a 3 per cent employer contribution. These employers will need to increase their contribution rate in their existing scheme and ensure it meets the quality requirements or open an alternative qualifying workplace pension scheme; and
 - approximately 300,000 employers offer a contribution greater than 3 per cent. These employers will need to extend their provision to ensure that all jobholders have access to the minimum employer contribution.
10. Some employers may also choose to contribute more than the minimum, recognising contributions to a pension scheme as a useful recruitment and retention tool. However, some employers may wish to offset part of the increased cost of providing contributions for more workers by reducing their current contribution rate. It is difficult at this stage to estimate the scale of these possible effects; but the latest evidence suggests that 86 per cent of employers offering more than the minimum requirement of 3 per cent do not plan to reduce their contribution once the reforms are implemented¹³.
11. The reforms give rise to large transfers of income across an individual's lifetime, from their working life to their retirement. DWP estimates show that this income transfer should lead to large social welfare gains to society¹⁴. These benefits arise because most people value consumption more highly in times, such as retirement, when they can afford it less.

¹² DWP internal analysis of Small and Medium-sized Enterprise Statistics 2006 and Grant C, Fitzpatrick A, Sinclair P and Donovan JL, 2008, Employers' attitudes and likely reactions to the workplace pension reforms 2007: Report of a quantitative survey. DWP Research Report No. 546 and Bolling K, Grant C, Fitzpatrick A and Sexton M, 2006, Employer attitudes to personal accounts: Report of a quantitative survey, DWP Research Report No 397.

¹³ Grant C, Fitzpatrick A, Sinclair P and Donovan JL, 2008, Employers' attitudes and likely reactions to the workplace pension reforms 2007: Report of a quantitative survey. DWP Research Report No. 546.

¹⁴ DWP Pensions Technical Working Paper, Estimating economic and social welfare impacts of pension reform <http://www.dwp.gov.uk/pensionsreform/pdfs/DWPTechWorkingPaper.pdf>.

12. DWP also commissioned independent research into individuals' and employers' attitudes and likely reactions to these reforms, comprising nationally representative surveys of almost 2,400 private sector employers and over 750 workers who would be eligible for automatic enrolment. These surveys represent the latest available data and revealed strong and broad-based support for automatic enrolment and a minimum employer contribution¹⁵, where:
- 64 per cent of individuals were in favour of automatic enrolment. People see this as a good way to overcome decision-making inertia and encourage people to save for their retirement; and
 - 91 per cent of individuals found the idea of an employer contribution attractive. People see an employer contribution as an important incentive to save.
13. The Government's reform programme places employers at the heart of pension provision. Many employers in the UK are already making a substantial contribution to their own pension schemes and so are supporting their employees in saving for retirement. The Government's policies already support this in many ways and the reform package contributes to this. However, for the reforms to be successful, those employers who do not already provide pensions must also play a role.
14. The Government's proposals for automatic enrolment with a minimum employer contribution and the introduction of the personal accounts scheme have been welcomed by employers' groups as necessary measures to safeguard against pensioner poverty and to promote private saving. In particular, employers have recognised the long term economic benefits of addressing the issue now, rather than deferring action until the problems become acute. They have also recognised that increased private pension saving wealth will benefit the economy as a whole. The latest available data suggests that overall the majority (58 per cent) of employers across all firm sizes thought the reforms were a good idea, and 70 per cent of all employees worked for these employers. Among those employers currently contributing 3 per cent or more to their employees' pensions, 71 per cent thought the reforms were a good idea¹⁶.
15. In addition to the formal consultation that followed the publication of the May 2006 and December 2006 White Papers, Ministers and officials at DWP have regularly met representatives of the pensions industry, employers, and consumer groups to explain and consult on the policies outlined in the Pensions Act 2008.
16. The Government will continue to monitor trends in pension provision on a regular basis, the economic context in which these reforms will be introduced and gather evidence on the attitudes of employers, individuals and the pensions industry. As 2012 approaches, these estimates will continue to be updated in light of new evidence received.
17. An assessment of employer costs and benefits arising from these regulations are detailed below.

¹⁵ Webb, C, Pye, J, Jeans, D, Robey, R and Smith, P, 2008, Individuals' attitudes and likely reactions to the workplace pension reforms 2007: Report of a quantitative survey. DWP Research Report 550 and Hall S, Pettigrew N and Harvey P, 2006, Public attitudes to personal accounts: Report of a qualitative study, DWP Research Report No 370.

¹⁶ Grant C, Fitzpatrick A, Sinclair P and Donovan JL, 2008, Employers' attitudes and likely reactions to the workplace pension reforms 2007: Report of a quantitative survey. DWP Research Report No. 546.

Effect of Pensions (Automatic Enrolment) Regulations 2009

18. The Pensions Act 2008 gives the Secretary of State the power through regulations to ensure that employers automatically enrol eligible jobholders into qualifying workplace pension saving. The proposals are set out in the consultation document and draft regulations, which this Impact Assessment supports¹⁷, and aims to minimise the burden placed on employers, individuals and the pensions industry.
19. These regulations set out the arrangements underpinning automatic enrolment, including the flow of information from employers to their employees, deduction of contributions, arrangements for individuals to opt-out of workplace pension saving and receive refunds of any contributions that may have been taken, and finally the arrangements by which some employers can postpone automatic enrolment provided they offer more generous pension provision to their workers. A further set of regulations covering the remaining elements of the employer duty will be consulted on in Autumn 2009.
20. The analysis of the effect of these regulations is consistent with the findings presented in the Pensions Bill – Impact Assessment (published April 2008).
21. These estimates of employer costs are not in addition to costs that were previously published; rather they are a subset of those costs which have been updated to reflect the latest policy developments. Therefore these estimates are consistent with, but not directly comparable to those previously published. To estimate the total cost arising from the Pensions Act 2008 the costs of these regulations will be added to the cost of a further set of regulations which are due for consultation in Autumn 2009.
22. The administrative costs¹⁸ to employers of complying with these regulations are estimated to be £152 million in the first year and £98 million each year thereafter.
23. The benefits of these regulations arise from the overall social welfare benefits of pension reform. These reforms are designed to enable and encourage more people to accumulate private pension income for retirement and should result in consumption smoothing¹⁹. This in turn should lead to large welfare gains to society, however the benefits from these regulations cannot be separately identified from the overall gains of the reform package.

Calculation of estimates

24. This section explains the background to the analysis of the number of individuals and cost to employers.

¹⁷ This document can also be found in Annex C of the consultation document <http://www.dwp.gov.uk/consultations/2009/>.

¹⁸ Employer administrative costs are defined as the additional costs of administrative activities that businesses are required to conduct in order to comply with the obligations that are imposed through central government regulation. DWP has modelled these costs in detail on the basis of survey and other evidence – this modelling work is the source of all the cost estimates referred to in this Impact Assessment.

¹⁹ In economics, ‘consumption smoothing’ means transferring consumption from a period in someone’s life where they can afford to consume a lot to one where they could afford to consume only a little. In the context of pension saving, this means an individual forgoing a fraction of their income during their working life to have more income in retirement. A detailed explanation of consumption smoothing can be found in Chapter 2 of the Pensions Bill – Impact Assessment (published April 2008).

25. There remains a degree of uncertainty about the number of new savers that will result from these reforms and where they will be saving. This will depend on the trends in pension provision between now and 2012 and the future responses of employers and individuals to the introduction of these reforms. For this reason estimates may be presented as broad ranges.
26. The working assumptions for participation in workplace pension schemes following reform remain the same as those presented in the Pensions Bill - Impact Assessment (published April 2008) ²⁰. Following the introduction of pension reforms it is estimated that there will be:
- 6-9 million people newly participating or saving more in workplace pensions;
 - 4-8 million new savers in workplace pensions;
 - 4-7 million individuals participating in personal accounts; and
 - 1-2 million additional people saving or saving more in existing pension schemes.

Note:

- Figures represent different participation scenarios and are not intended to sum.

27. As the working assumptions for participation in workplace pension schemes remain the same as previously published; there is no change to the estimations of the total additional cost of contributions to be made by employers. These are approximately £2.5 billion²¹ per year once employers are required to make contributions of at least 3 per cent under the Pensions Act 2008. If employers choose to make contributions above the statutory minimum level, it can be assumed that these employers anticipate a benefit from the additional contributions that outweighs the costs of making them.
28. Any contribution costs incurred by the employers are considered transfers to individuals and so do not represent a net cost or benefit to the economy as a whole.
29. This Impact Assessment presents the latest estimates of the administrative costs to employers of complying with these regulations. These estimates have been updated to reflect the processes for employers resulting from the policy detail contained in the draft regulations published alongside this document. In order to estimate the costs, consideration has been given to the activities involved, who will carry out the activity, how frequently, how much they get paid and how long it will take²².
30. In estimating these costs it is assumed that all employers comply with the regulations. Any additional costs incurred by business as a result of non-compliance or failure with the duties have not been included.

²⁰ The methodology behind participation estimates is detailed in Annex F of the Pensions Bill - Impact Assessment (published April 2008).

²¹ Detailed analysis of contribution costs can be found in Chapter 2 of the Pensions Bill – Impact Assessment (published April 2008).

²² The methodology behind administrative cost estimates is detailed in Annex G of the Pensions Bill - Impact Assessment (published April 2008).

Estimated costs

31. The following tables present estimates of the employer administrative costs associated with these regulations.
32. Employers have been divided into two categories in order to estimate the administrative costs; those who use an existing scheme and those who set up a new scheme. It is estimated that five times²³ as many employers will set up a new scheme as those who will use an existing scheme. The costs of setting up a new scheme are higher than using an existing scheme, as employers using the latter have already incurred many of the fixed costs. Table 1.1 illustrates total administrative cost to firms using existing schemes and the cost to firms using a new scheme to fulfil their duties.

| Table 1.1: Employer administrative cost, by scheme type (£ million) | | |
|---|-------------|------------------------------|
| | Year 1 cost | Ongoing cost in future years |
| Employers using an existing scheme | 28 | 9 |
| Employers using a new scheme | 124 | 90 |
| Total costs | 152 | 98 |

Source: DWP modelling.

Notes:

- Figures are expressed in 2007/08 earnings and prices;
- Some figures may not sum due to rounding.

| Table 1.2: Employer administrative cost, by firm size (£ million) | | |
|---|-------------|------------------------------|
| | Year 1 cost | Ongoing cost in future years |
| Large firms (250 or more employees) | 28 | 7 |
| Medium firms (50-249 employees) | 13 | 6 |
| Small firms (5-49 employees) | 43 | 28 |
| Micro firms (1-4 employees) | 69 | 58 |
| Total costs | 152 | 98 |

Source: DWP modelling.

Notes:

- Figures are expressed in 2007/08 earnings and prices;
- Some figures may not sum due to rounding.

33. Table 1.2 shows a break down of employer administrative costs for these regulations by firm size²⁴. The overall costs are lower for large firms, even though costs per firm

²³ DWP modelling.

²⁴ Large firms are those with 250 or more employees, medium firms are those with between 50 and 249 employees, small firms are those with between 5 and 49 employees, and micro firms are those with between 1 and 4 employees.

are higher, as there are far fewer large firms (around 6,000 compared with 800,000 micro firms).

34. Table 1.3 shows that the average administrative cost per employee is estimated to be lowest for larger firms and highest for micro firms. This reflects the fact that small firms are more likely to have to set up a new pension scheme, and on average have lower participation rates in existing schemes²⁵, and so will need to enrol a larger proportion of their workforce into a pension scheme. Larger firms are also able to spread the fixed costs associated with these reforms across a greater number of employees, as well as benefiting from economies of scale.

| Table 1.3: Average administrative cost per employee, by firm size | | | |
|--|---------------------|--------------------|----------------------------------|
| | Number of employees | Cost in Year 1 (£) | Ongoing cost in future years (£) |
| Large firms | 3,400,000 | 10 | 2 |
| Medium firms | 1,282,000 | 10 | 4 |
| Small firms | 2,402,000 | 20 | 10 |
| Micro firms | 1,084,000 | 60 | 50 |
| All firms | 8,169,000* | 20* | 10* |

* total number of employees; + average administrative cost.

Source: DWP modelling.

Notes:

- Figures are expressed in 2007/08 earnings and prices;
- Figures less than £100 are rounded to the nearest £10;
- Some figures may not sum due to rounding.

35. The ongoing annual administrative burden of these regulations is estimated to be £2.2 million²⁶. The administrative burden is a subset of the administrative costs, and only includes those parts of the process which impose an information obligation on business. An information obligation is a regulation that requires a business to provide and submit information to government or to third parties such as employees and pension schemes. This estimate is smaller than the estimate published in the Pensions Bill - Impact Assessment (published April 2008). There are likely to be information obligations in a further set of regulations. Some of those regulations may relate to the processes that have been costed in these regulations, meaning that these processes would then constitute an administrative burden.

Impact on employers

36. This section identifies the impact on employers arising from these regulations.
37. The Government's aim in developing these regulations has been to minimise the overall employer burden whilst also ensuring that the needs of savers are protected. This has been achieved by providing for the overall automatic enrolment and opt-out

²⁵ Employers' Pension Provision Survey 2007.

²⁶ DWP modelling.

processes to be carried out relatively quickly and therefore minimising the need for refunds, both from employers to individuals and from schemes to employers. DWP believe that the provisions set out in these draft regulations provide a coherent and low cost package overall and balance the needs of savers and the burdens on employers and schemes in the most effective way.

38. These regulations will ensure that employers automatically enrol eligible jobholders into qualifying workplace pension saving. The duty will require a minimum 3 per cent contribution from employers. In the development of these reforms DWP has aimed to minimise the burden on employers and will continue to do so as 2012 approaches²⁷. The cost associated with the minimum contribution is estimated to be £2.5 billion per year²⁸. Employer contributions, at 3% on banded earnings, are equal to 0.6 per cent of total labour costs. Total labour costs include unbanded earnings (between £1 and £5,000; and above £33,540), bonuses, overtime and other employee benefits.
39. Most employers expect to use a range of mechanisms for managing any additional costs of pension reform. DWP research suggests that over one quarter of employers are likely to absorb the increase as part of overhead costs^{29,30}. Depending on the mechanism chosen by the employer, some of these headline costs could be dampened by either a reduction in corporation tax paid or lower employer National Insurance contributions than would otherwise have been payable. Employer attitudes will be monitored and DWP will report on this on a regular basis.
40. Changing macroeconomic conditions could affect the way in which the additional costs due to pension reform are borne. However evidence is incomplete and in particular it is difficult to foresee what conditions will look like in 2012. DWP will continue to keep this under review.
41. The Pensions Act 2008 provides a power to defer automatic enrolment; by using a postponement period³¹. The rationale for permitting employers to postpone automatic enrolment is to encourage them to maintain more generous provision by providing a way to manage their costs rather than incurring an immediate increase in costs as a result of the employer duty.
42. An employer will be able to postpone the automatic enrolment of a given employee into a pension scheme for up to three months provided they subsequently automatically enrol the employee into a workplace pension scheme and contribute at least 6 per cent of qualifying earnings³² for a minimum of three months following the postponement period. Employers in sectors with high turnover rates are the most

²⁷ The burden on employers is mitigated by limiting the band of earnings for which the duty applies and employers will be able to phase in contributions over time. Further details can be found in Chapter 2 of the Pensions Bill – Impact Assessment (published April 2008).

²⁸ Detailed analysis of contribution costs can be found in Chapter 2 of the Pensions Bill – Impact Assessment (published April 2008).

²⁹ This may include profits.

³⁰ Grant C, Fitzpatrick A, Sinclair P and Donovan JL, 2008, Employers' attitudes and likely reactions to the workplace pension reforms 2007: Report of a quantitative survey. DWP Research Report No. 546.

³¹ The term 'postponement period' refers to the power under section 4 of the Pensions Act 2008 to defer automatic enrolment and is used in this document in place of the term 'deferral period' which has been used in previously published documents.

³² The employer contribution rate was previously expressed and published in pensionable pay terms. The original analysis on postponement periods has been reviewed and redefined using the latest data, and therefore the contributions levels can now be expressed in terms of qualifying earnings.

likely to benefit as a result of a postponement period³³. This is not intended to disadvantage individuals (as most will catch-up on contributions following postponement) but is intended to aid employers offering good schemes, which in turn will benefit their employees' pension pot.

Impact on small firms

43. Most of the 1.2 million private sector enterprises in the UK are small and almost all new firms created each year are small businesses. Small enterprises, with less than 50 employees represent 97 per cent of private sector enterprises and 37 per cent of private sector jobs³⁴.
44. Around 60 per cent of micro employers thought the reforms were a good idea and only 24 per cent thought they were a bad idea. Similarly 50 per cent of employers with 5-49 employees thought the reforms were a good idea and only 36 per cent thought they were a bad idea³⁵.
45. However, the Government recognises the challenges faced by small firms and are keen to ensure that such firms are not disadvantaged by the reforms and are able to fulfil their new duties in the same way as larger firms.
46. Small firms are likely to have a number of structural differences compared with their larger counterparts. Notably, these are:
 - a business infrastructure that operates on a relatively small scale, leading to limited internal flexibility which could make it costly to adapt to new regulatory requirements;
 - limited resources which make it difficult for them to respond to government consultations; and
 - for the same reasons, proportionately very few are members of employer associations.
47. The estimated costs of these regulations appear to affect small and micro firms the most, see Table 1.2. It appears this way because there are so many more small and micro employers compared with large and medium employers. Small firms have a lower number of employees over which to spread the fixed costs of a pension scheme, and are less likely to have existing pension arrangements in place. Table 1.4 below shows the number of firms of each size and an average administrative cost per firm of these regulations. This demonstrates that the average per firm cost is greatest for the largest firms and lowest for micro firms. These per firm costs are very dependent on the number of employees, and by definition large employers have at least 250 employees while micro employers have fewer than 5 employees.

³³ DWP modelling.

³⁴ Small and Medium-Sized Enterprise Statistics 2006.

³⁵ Grant C, Fitzpatrick A, Sinclair P and Donovan JL, 2008, Employers' attitudes and likely reactions to the workplace pension reforms 2007: Report of a quantitative survey. DWP Research Report No. 546.

Table 1.4: Average administrative cost per firm, by firm size

| | Number of firms | Cost in Year 1 (£) | Ongoing cost in future years (£) |
|------------------|-------------------|------------------------|----------------------------------|
| Large firms | 6,000 | 4,800 | 1,100 |
| Medium firms | 27,000 | 500 | 200 |
| Small firms | 371,000 | 100 | 80 |
| Micro firms | 800,000 | 90 | 70 |
| All firms | 1,204,000* | 100⁺ | 80⁺ |

* total number of firms; + average administrative cost.

Source: DWP modelling.

Note:

- Figures are expressed in 2007/08 earnings and prices;
- Figures are rounded to the nearest £100, where less than £100 figures have been rounded to the nearest £10.

48. The Pensions Act 2008 now wholly excludes Worker-Director³⁶ firms from the employer duty implied by these regulations. Latest estimates suggest that this category could include up to 460,000 firms³⁷. This type of firm was included in previous estimates of administrative costs but has now been removed as there will be no administrative requirements on Worker-Director firms.
49. DWP will be engaging with small employers at the appropriate time to help make them aware of the reforms and the point at which they will be required to take action. A research project is currently underway to explore how small employers intend to cope with the employer duty³⁸.
50. DWP will also work with the relevant delivery authorities to ensure systems and processes are fully robust and user-friendly before smaller employers need to use them.

Equality impact of pension reform

51. This document provides detail on regulations for reforms set out in the Pensions Bill – Impact Assessment (published April 2008); equality assessments have been carried out to meet the requirements of the:
- gender equality duty³⁹;
 - race equality duty⁴⁰; and

³⁶ Worker-Directors pay themselves as a worker for their own company. Where they are the sole worker for their own company they will be excluded from these regulations.

³⁷ Small and Medium-Sized Enterprise Statistics 2007.

³⁸ Research by Ipsos MORI for DWP forthcoming in 2009, Information needs and preferences of small/micro employers.

³⁹ A detailed gender assessment can be found in Annex C of the Pensions Bill – Impact Assessment (published April 2008).

⁴⁰ A detailed race assessment can be found in Annex D of the Pensions Bill – Impact Assessment (published April 2008).

- disability equality duty⁴¹.

52. The equality assessments previously carried out and published are summarised below.
53. The reforms to the state pension system, implemented by the Pensions Act 2007, will significantly contribute to making future pensioners, and in particular women, better off. Automatic enrolment will be particularly useful in helping overcome decision-making inertia and lack of confidence with financial decisions, which are more significant barriers for women in saving in a private pension scheme than they are for men. If women save earlier as a result of these reforms they will be in a better position to accumulate private pension wealth with the aim of supplementing income received from the State.
54. These reforms will have a larger positive impact on black and minority ethnic (BME) groups than on individuals from white ethnic backgrounds. This reflects the fact that these groups are over-represented in the group where automatic enrolment is likely to have the greatest effect. White and BME women are both under-represented in the population of employees earning above the upper threshold of the qualifying requirement and over-represented in the population earning less than lower threshold.
55. There are major variations within the group of disabled people, depending on their characteristics and type and severity of impairment. In addition, the data sources available use different definitions of disability. Overall it is expected that these reforms will have a similar impact on disabled people in employment as on those in employment who are not disabled.
56. The equality assessments will be updated as the reforms are progressed.

Competition effects of pension reform

57. This document provides detail on the regulations for reform set out in the Pensions Bill - Impact Assessment (published April 2008); as such the competition assessment previously undertaken is still valid⁴².
58. In summary, the introduction of these regulations should not have negative impacts on competition in the pensions, labour and product markets. Instead they will lead to an expansion of the existing market, with an estimated 6-9 million more workers saving or saving more in workplace pension schemes. The expansion of pension provision is likely to make it more profitable to provide pensions to small firms as the participation and contribution rates within these firms are likely to increase.
59. In 2008 DWP received written clarification from the European Commission that they agree with our view that from 2012, under the new employer duties in the UK, automatic enrolment into workplace personal pensions (WPPs) is outside the scope of the Distance Marketing Directive and the Unfair Commercial Practices Directive.

⁴¹ A detailed disability assessment can be found in Annex E of the Pensions Bill – Impact Assessment (published April 2008).

⁴² A detailed competition assessment can be found in Annex B of the Pensions Bill – Impact Assessment (published April 2008).

Employers with qualifying workplace personal pension arrangements will therefore be able to use these to automatically enrol new members as well as continuing with these arrangements for existing members.

Summary

60. The Pensions Act 2008 gives the Secretary of State the power through regulations to ensure that employers automatically enrol eligible jobholders into qualifying workplace pension saving. The proposals are set out in the consultation document and draft regulations, which this impact assessment supports, and aims to minimise the burden placed on employers, individuals and the pensions industry.
61. DWP's latest estimates of the costs and benefits of regulations that underpin the Pensions Act 2008 have been updated to reflect policy developments since the Pensions Bill – Impact Assessment (published April 2008).
62. The current economic downturn is likely to have adverse impacts on public confidence in financial products and in employers and employees willingness and ability to save in the form of workplace pensions. DWP believe that over the longer term the rationale for increased pension saving will become even stronger. However we will continue to assess the anticipated impact of these reforms in the light of developments including the evolving economic conditions.
63. The reforms outlined give rise to large transfers of income from individuals' working lives to their retirement. The majority of the impact is therefore a transfer of income across an individual's lifetime. Estimates show that this income transfer should lead to large welfare gains to society.
64. In general, the duty on employers to automatically enrol jobholders into a qualifying workplace pension arrangement and make minimum contributions will lead to an increase in aggregate contribution and administrative costs.
65. Most employers expect to use a range of mechanisms for managing any additional costs of pension reform. In order to help employers with this process, these regulations have been designed to mitigate the risks associated with pension reform for employers, individuals and the pensions industry where possible.
66. There is no change to the previously published employer contribution estimates. Thus this document presents changes to the administrative costs as a result of the employer duty specified by these regulations. The latest estimates of the administrative costs of these regulations are £152 million in the first year and £98 million each year thereafter. To estimate the total cost arising out of Pensions Act 2008 the costs of these regulations will be added to the cost of a further set of regulations which are due for consultation in Autumn 2009.
67. The latest estimates show that in these regulations administrative costs vary according to firm size. The Government recognises the challenges faced by small firms in particular, as such reforms are not designed to disadvantage these firms compared to their larger counterparts. The Pensions Act 2008 excludes up to 460,000 Worker-Director firms from the employer duty implied by these regulations. Further, research is currently underway to explore how small firms intend to cope with pension reform.

68. The proposals set out will have a positive impact on equality. In particular automatic enrolment will help overcome decision-making inertia and lack of confidence with financial decisions, which appear to be more common amongst women. Also, these reforms are likely to have a larger positive impact on black and minority ethnic (BME) groups than on individuals from white ethnic backgrounds; highlighting that there is a race issue as well as a gender issue. Overall the reforms are expected to have a similar impact on disabled people in employment as on those in employment who are not disabled.
69. The introduction of these regulations should not have negative impacts on competition in the pensions, labour and product markets. The expansion of pension provision is likely to make it more profitable to provide pensions to small firms as the participation and contribution rates within these firms are likely to increase.
70. An Impact Assessment for a further set of regulations will be published in Autumn 2009 alongside an update for these regulations, with the relevant costs and benefits analysis.

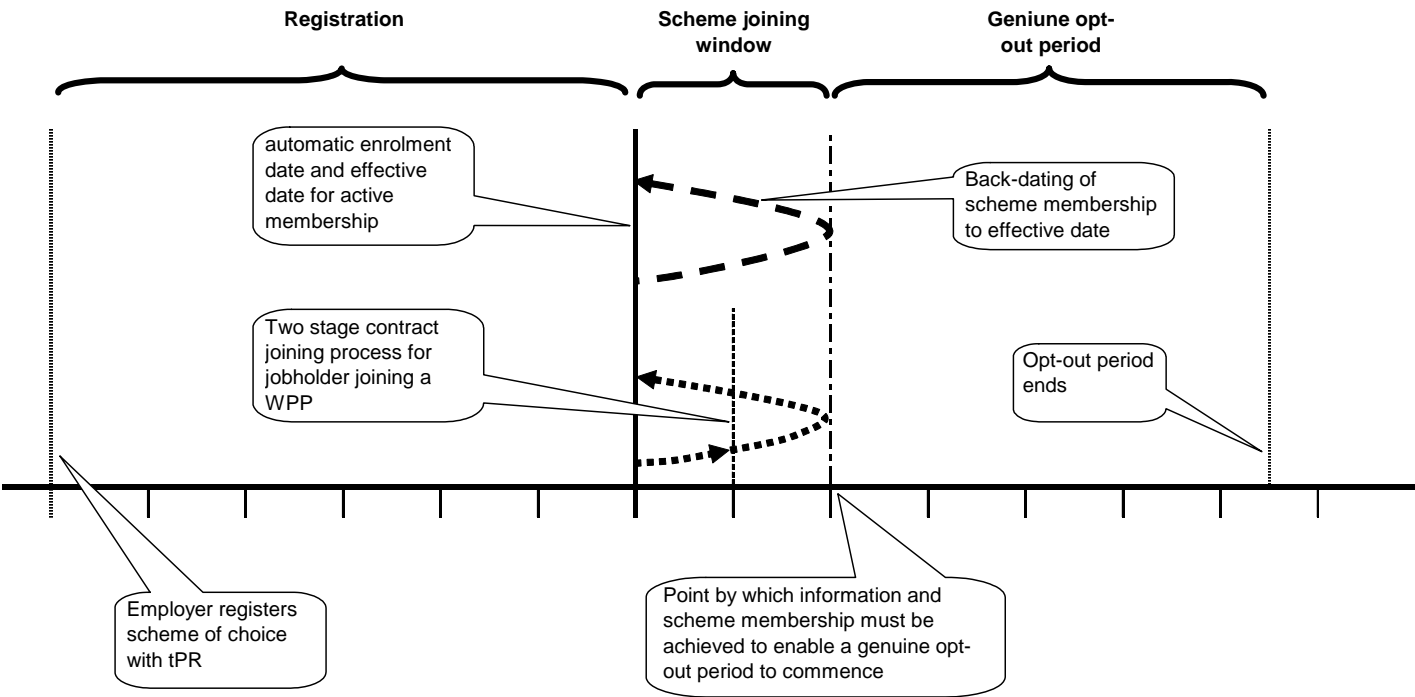
Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|----------------------------|----------------------------------|-------------------------|
| Competition Assessment | Yes | No |
| Small Firms Impact Test | Yes | No |
| Legal Aid | No | No |
| Sustainable Development | No | No |
| Carbon Assessment | No | No |
| Other Environment | No | No |
| Health Impact Assessment | No | No |
| Race Equality | Yes | No |
| Disability Equality | Yes | No |
| Gender Equality | Yes | No |
| Human Rights | No | No |
| Rural Proofing | No | No |

Annex D - The automatic enrolment and opt out model



Annex E - List of organisations consulted

Aegon
Association of British Insurers
Association of Chartered Certified Accountants
Association of Consulting Actuaries
Association of Corporate Trustees
Association of Independent Financial Advisors
Association of Pension Lawyers
Aviva
Department for Business, Enterprise & Regulatory Reform
British & Civil Engineering Benefit Scheme
Better Regulation Executive
British Chambers of Commerce
Confederation of British Industry
Department for Social Development Northern Ireland
Employment Benefit Consultants
Engineering Employers Federation
Federation of Small Businesses
Fidelity
Financial Services Authority
HBOS
HM Revenue & Customs
HM Treasury
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants of Scotland
Institute of Directors
Investment Managers Association
Law Debenture
Law Society of England and Wales
Law Society of Scotland
Legal & General
Manpower
National Association of Pension Funds
Office of Fair Trading
Pension Protection Fund
Pensions Management Institute
Pensions Ombudsman
Pensions Policy Institute
Prudential
Recruitment & Employment Confederation
Resolution
Scottish Office
Society of Pension Consultants
Standard Life
The Actuarial Profession
The Pensions Advisory Service
The Scottish Government
The Welsh Assembly Government
Trades Union Congress
Wales Office
Watson Wyatt
Which?

Annex F - Glossary of terms

Automatic enrolment

Employers will be required to make arrangements by which eligible jobholders become active members of an automatic enrolment scheme with effect from the automatic employment date. Automatic enrolment is not applicable if, the jobholder is an active member of a qualifying scheme on that date.

Automatic enrolment date

Automatic enrolment will be triggered by:

- Implementation;
- starting work and meeting the criteria (post implementation);
- meeting the criteria whilst in work by either:
 1. reaching age 22 (in receipt of qualifying earnings);
 2. having qualifying earnings for the first time (aged 22 to pensionable age).

The automatic enrolment date will be the start date for the scheme joining window, which also becomes the effective date of active membership, once the joining process has been completed.

Automatic enrolment scheme

A qualifying scheme (see below) where the rules permit all comers and does not require the jobholder to express a choice or provide information in order to become or remain an active member.

Automatic Re-enrolment

Requires employers (no more frequently than every three years) to repeat the automatic enrolment process in respect of eligible jobholders who after staged implementation have ceased pensions saving either during the 30 day opt out period or at any stage after the end of that period. There are exceptions to the minimum three years.

Certification

A process by which employers offering money purchase schemes and some hybrid schemes under the employer duty can assure themselves that their scheme meets the necessary quality requirements by having a valid certificate in place.

Compliance regime

A set of powers and processes exercisable by the Pensions Regulator, which have the ultimate goal of maximising compliance with the employer duties and employment safeguards set out in the Pensions Act 2008.

Contributions cliff-edge

Where an individual makes multiple back-dated pension contributions from one week's pay or one month's salary.

Deeming the contract

The process an employer must use if they are automatically enrolling a jobholder into a workplace personal pension to meet the obligations under the employer duty. This process will not require a signature from the jobholder and will specify that 7 days after the jobholder receives the key features and automatic enrolment information the contract will be completed and agreement will be “deemed”.

Defined benefit scheme

An occupational pension scheme under which all of the benefits that may be provided are defined benefits.

Defined contribution scheme

See money purchase scheme

Employers

Employer in relation to a worker, means the person by whom the worker is employed (see full definition in section 88 of Pensions Act 2008).

Employee representatives

A recognised independent trades union or body representing employees.

Enrolment information

Factual information which the employer must give to a jobholder who is automatically enrolled into a pension scheme about the effects of the employer duty.

Group Personal Pensions

An arrangement made by employer for employees to participate in a personal pension arrangement. Each employee has an individual contract with the pension provider. The employer may or may not make a contribution on behalf of the employee. The employer may also pay the employee’s contribution direct from his salary through direct payment arrangement.

Group Self-invested Personal Pension

A personal pension scheme arranged by an employer that allows the individual to make their own investment decisions.

Hybrid schemes

An occupational pension scheme which is neither a defined benefits scheme nor a money purchase scheme.

Impact Assessment

Impact Assessments (IAs) are prepared as part of the policy-making process and provide an assessment of the costs and benefits of a proposal on businesses, charities or the voluntary sector. They identify and assess all the options, both regulatory and non-regulatory and determine whether the benefits justify the costs. The IA process helps policy-makers think through the consequences of proposals, improving the quality of advice to Ministers and encouraging informed public debate.

Jobholders

A worker who is ordinarily works in Great Britain under a contract, who is aged at least 16 and under 75 and has gross earnings between £5,035 and £33,540 (in 2006/07 terms).

Key features information

The information that pension providers will need to include in the scheme specific information for personal pension schemes used for automatic enrolment under the employer duty.

Money purchase scheme

An occupational pension scheme under which all of the benefits that may be provided are money purchase benefits. Sometimes referred as a defined contribution scheme.

Occupational pension scheme

An United Kingdom (UK) pension scheme, defined in section 1 of the Pension Schemes Act 1993, for the purpose of providing benefits to, or in respect of, people in employment; a non-UK European Economic Area (EEA) pension scheme that is an institution for occupational retirement provision (IORP) as defined in the IORP Directive or a non-EEA scheme of a prescribed description.

Opt in

A new right under the Pensions Act 2008. An individual who is not an active member of a qualifying scheme may by notice require the employer to arrange for them to become an active member of a scheme.

Opt out

Once the joining process is concluded within 14 days, a jobholder who has become an active member of a pension scheme has the right to opt out of membership within 30 days and get this contribution back.

Opt out period

A jobholder who has been automatically enrolled into a qualifying scheme may give notice to opt out of membership within 30 days from the completion of the joining processes.

Pensions Regulator

UK regulator of work-based pension schemes.

Personal Pension

A contractual arrangement between an individual and a pension provider (such as an insurance company) which enables the individual to make provision for a pension on a money-purchase basis.

Phasing

The gradual introduction of employer contribution costs over three years - starting with 1 per cent in the first year, rising to two per cent in the second and then 3 per cent in the third year - with proportionate rates of employee contributions.

Postponement of automatic enrolment

Employers offering pension provision above the minimum qualifying level will be allowed to postpone auto enrolment for 90 days.

Qualifying earnings

An earnings band of £5,035 to £33,540 per annum (in 2006/07 earnings terms), on which pensions contributions will be calculated for money purchase schemes. Earning qualifying earnings (i.e. above £5,035) is a criterion of "jobholders" and is a factor in determining whether a worker is to be automatically enrolled.

Qualifying schemes

Qualifying schemes are pension schemes that meet a minimum standard for the level of contributions made to the scheme or the level of benefit provided. There are different quality standards depending on whether the scheme is defined benefit (DB), defined contribution (DC), or hybrid.

Staging

The employer duty will be implemented in stages over a period rather than from a single launch date.

Stakeholder Pension

Stakeholder pensions are a type of personal pension. They have to meet certain government standards to ensure they are flexible and have a limit on annual management charges.

Tax registered

For a pension scheme to qualify for tax relief it must be registered and approved by HM Revenue & Customs (HMRC).

Workers

An individual who has entered into work under a contract of employment or any other contract by which the individual undertakes to do work or perform services personally for another party to the contract.

WPP (workplace personal pension)

An umbrella term covering Group Personal Pensions, Group Self-Invested Personal Pensions and Stakeholder Pensions.