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Pensions: Automatic enrolment - current issues

Summary

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What is auto-enrolment?

Employers must enrol eligible employees into a pension scheme. Unless the employee opts-out, both the employee and employer contribute to the pension.

Employees eligible for auto-enrolment are those who:

- are not already in a workplace pension scheme;
- are between 22 years old and State Pension age; and
- earn more than the minimum earnings threshold (£10,000 since 2015/16).

In 2025/26, employers must make contributions on earnings between £6,240 (the lower earnings limit) and £50,270 (the upper earnings limit).

What has been the impact of auto-enrolment?

The government phased-in auto-enrolment by employer size (number of employees) between October 2012 and February 2018.

The minimum amounts employees and employers contribute also increased gradually. Contributions reached the full amount, 8% of earnings, in April 2019. Employers contribute a minimum 3% and employees 5% (including tax relief).

The policy reversed the decline in workplace pension saving. There was a tenfold increase in members contributing to defined contribution occupational pension schemes, from 0.9 million in 2011 to 10.6 million in 2019.

How might auto-enrolment change?

Auto-enrolment is widely agreed to have been a success. However, there are concerns that many are still under-saving for retirement. A review of the policy in 2017 proposed lowering the age threshold for auto-enrolment from 22 years to 18 and removing the lower limit of the ‘qualifying earnings band,’ so that contributions are paid from the first pound earned.

The Pensions (Extension of Automatic Enrolment) Act 2023 gave the Secretary of State the power to:

- reduce the lower age limit for auto-enrolment.
- remove the Lower Earnings Limit for qualifying earnings. People would make auto-enrolment contributions from the first pound of earnings.

During the passage of the Act, the Conservative government confirmed its intention to reduce the lower age limit to 18 years old. The government has not yet introduced the changes. Following the 2024 election, the Labour government said in November 2024 that it would consider "if and when to make changes to [auto enrolment], balancing the need for improved pension outcomes with the effects on businesses."

1 Background

1.1 Overview

The government introduced auto-enrolment in October 2012. Initially it phased in auto-enrolment for the largest employers only. By February 2018 it covered all employers.

Employers must enrol certain employees into a workplace pension scheme. Broadly, auto-enrolment covers "workers" who:

- are not already in a workplace pension scheme,
- are between 22 years old and State Pension age, and
- earn more than £10,000 in 2025/26.[1]

Employees can choose to opt-out. If they do not opt-out, both the employee and employer contribute to a pension. Contributions are based on the employee's qualifying earnings (earnings between £6,240 and £50,000 in 2025/26):

- Employers contribute at least 3% of qualifying earnings to the pension.
- Employees contribute at least 5% of qualifying earnings to the pension.

These contributions include pensions tax relief. Section 4.2 has further information on pensions tax relief.

Employers cannot opt-out of auto-enrolling eligible employees.

1.2 Impact of auto-enrolment

Early estimates September 2013

In September 2013, the government estimated that auto-enrolment, combined with the introduction of the new state pension in April 2016, and increases to the state pension age would:

1 Pensions Act 2008, s1 and 3

- Lead to 1 million fewer people facing inadequate retirement incomes.
- Increase the incomes of 73% of people facing inadequate retirement income.
- Reduce the proportion of future pensioners retiring with no private income at all from 27% to 12% in 2050.[2]

Annual evaluation reports 2012-2019

The Department for Work and Pensions published annual evaluation reports while it phased in auto-enrolment between October 2012 and April 2019. The last report in 2019 found that employers automatically enrolled over 10.2 million workers.[3]

1. Types of pension scheme

There are two main types of pension schemes in the UK:

- Defined benefit schemes pay a promised pension based on factors, such as salary and length of service. A sponsor, usually an employer, guarantees the payment of the promised benefits. The pension provides an income for life and may include a lump sum.
- Defined contribution schemes provide a pot of money for retirement instead of a guaranteed pension. The value of the pension pot can increase or decrease depending on factors, including investment returns and contributions made.

Section 1 of the Library briefing Pension FAQs: Occupational and personal pensions has more information about types of pension schemes.

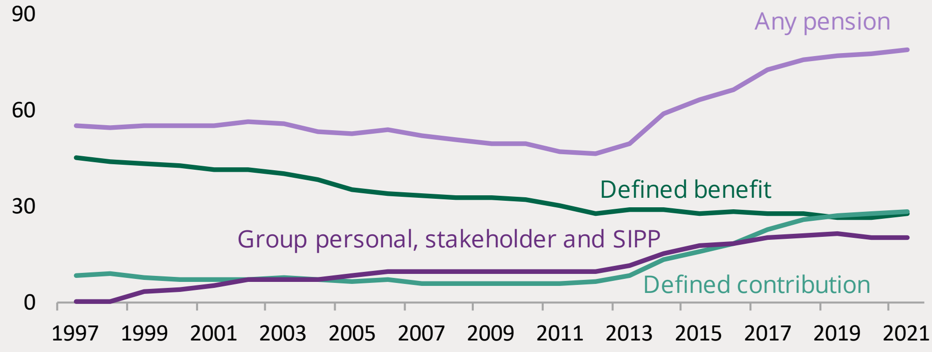
Pension scheme memberships

Auto-enrolment resulted in a significant increase in pension scheme memberships, particularly for defined contribution schemes.[4] As shown in the figure below, 78% of employees participated in a pension in 2020, compared to 47% immediately before auto-enrolment was introduced:

2 Department for Work and Pensions, Framework for the analysis of future pension incomes, September 2013; See also Department for Work and Pensions, Scenario analysis of future pension incomes, August 2014
3 Department for Work and Pensions, Automatic Enrolment evaluation report 2019, February 2020
4 Office for National Statistics, Employee workplace pensions in the UK, 20 April 2022

The proportion of employees with a pension has increased

% of employees with workplace pension

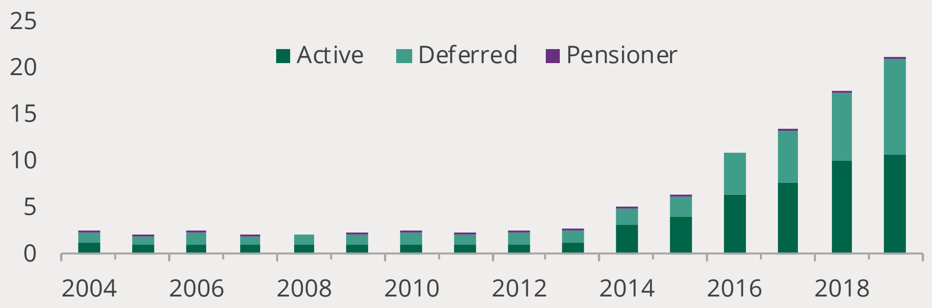


Source: Office for National Statistics, Employee workplace pensions in the UK: 2021 provisional and 2020 final results, 20 April 2022

According to Office for National Statistics data there was a tenfold increase in membership of defined contribution occupational pension schemes following the introduction of automatic enrolment, from 2.1 million in 2011 to 21 million in 2019 (see box 1 above). Members actively contributing to their pension rose from 0.9 million in 2011 to 10.6 million in 2019.[5]

Membership of defined contribution schemes has increased since the introduction of auto-enrolment

Millions of members



Note: includes occupational money purchase DC schemes but not group personal pensions.

Source: Office for National Statistics, Occupational pension schemes in the UK, 13 January 2021, Table 3

[5] Note that an individual can have more than one pension scheme membership – as people move from job to job, they may accumulate several pension pots in different occupational schemes.

2 Who does auto-enrolment cover?

2.1 Who should be automatically enrolled?

Employer duties apply differently to three categories of workers:

- Eligible jobholders
- Non-eligible jobholders
- Entitled workers.

Eligible jobholders

A jobholder is a person who "is working or ordinarily works in Great Britain under the workers' contract" is aged between 16 and 75 and has "qualifying earnings" (between £6,240 and £50,270 in 2025/26), under Section 1 of the Pensions Act 2008.[6]

Broadly, auto-enrolment covers eligible jobholders who:

- are not already in a workplace pension scheme;
- are between age 22 and State Pension age;
- earn more than a minimum earnings threshold (£10,000 since 2015/16).[7]

Non-eligible jobholders

A jobholder is not eligible for auto-enrolment if they do not meet one of the three criteria to be an eligible jobholder. For example, if they are under 22 or over State Pension age, or if they have qualifying earnings (above £6,240) but do not earn above the earnings trigger (£10,000 in any one job).

Employers do not need to auto-enrol non-eligible jobholders. However, they have the right to opt-in to a pension and receive the same minimum employer contribution that they would have if their employer had auto-enrolled them.[8]

6 Pensions Act 2008, s1
7 As above, s1 and 3
8 The Pensions Regulator, Detailed guidance for employers, Employer duties and defining the workforce, April 2017, para 48 and 68

Entitled workers

An entitled worker is aged between 16 and 74 but does not have "qualifying earnings". They also have the right to opt in, but the employer does not have to make pension contributions.[9]

2.2 Employment status

Not everyone in employment counts as a jobholder for the purposes of auto-enrolment. The definition in the Pensions Act 2008 covers workers where:

> "Worker" means an individual who has entered into or works under:
>
> a) a contract of service or apprenticeship whether express or implied, whether oral or in writing; or
>
> b) any other contract by which he undertakes to work or perform services personally for another party to the contract.[10]

The Secretary of State has power to bring individuals into the definition of worker.[11]

In 2007, the then Labour Government, which legislated for auto-enrolment, said its intention was to "align the eligibility for automatic enrolment into private pension saving with coverage of the Working Time Directive and the National Minimum Wage Act."[12]

Self-employed people

Auto-enrolment does not apply to self-employed people.[13]

In 2004, the Pensions Commission found that the self-employed had inadequate pension provision.[14] The then Labour government concluded that self-employed people should decide how much they should save. A new low-cost national pension scheme, now known as the National Employment Savings Trust (Nest), allowed self-employed people to make contributions at a level of their choosing.[15]

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9 The Pensions Regulator, Detailed guidance for employers, Employer duties and defining the workforce, para 50 and 76

10 Pensions Act 2008, Section 88

11 Pensions Act 2008, Section 98

12 Department for Work and Pensions, Pensions Bill – Impact Assessment, 5 December 2007, para 2.10 to 2.11

13 Pensions Act 2008, s1 and 3

14 The Pensions Commission, Pensions: Challenges and Choices: The First Report of the Pensions Commission (PDF), October 2004, p165

15 Department for Work and Pensions, Personal accounts: a new way to save, CM 6975, Dec 2006, para 1.25-7

Many reports since then have highlighted concerns about declining rates of pension saving for self-employed people.[16] The 2017 review of auto-enrolment said that a large proportion of self-employed people experienced significant gaps in pension coverage.[17]

In December 2021, the National Employment Savings Trust (Nest) said that around 4.3 million people in the UK were in some form of self-employment. Only an estimated 16% were actively saving in a workplace or personal pension, compared to 88% of employees eligible for auto-enrolment.[18]

Policy options

Following the 2017 review of auto-enrolment, the Department for Work and Pensions said it would test targeted interventions, with trials focusing on three key areas:

- Movements between self-employment and employment;
- Maximising the existing communications and systems used by self-employed people to facilitate or create nudges towards saving;
- The accessibility of savings products.[19]

In November 2022, the Nest Insight Unit, part of the master trust set up by the government to support employers meeting their auto-enrolment duties, said that around 4.2 million people in the UK were in some form of self-employment but that only an estimated 18% of them were actively saving in a workplace or personal pension.[20] This compared to 88% of employees eligible for auto enrolment.[21] The Institute for Fiscal Studies similarly found that the proportion of self-employed people contributing to a pension had fallen from 48% in 1998 to 16% in 2018 when it analysed Office for National Statistics data.[22]

In December 2018, the government published plans for a programme of research and trialling activity which commenced in 2018-19.[23] The Nest Insight

16 Pensions Policy Institute, The under-pensioned 2016, March 2016; Royal London, Britain's forgotten army (PDF), April 2016

17 Department for Work and Pensions, Automatic Enrolment Review 2017: Maintaining the Momentum, Cm 9546, December 2017, p7

18 Innovative pilots explore flexible ways for self-employed people to save for retirement, Nest, December 2021

19 Department for Work and Pensions, Automatic Enrolment Review 2017: Maintaining the Momentum, Cm 9546, December 2017, p7; Department for Work and Pensions, Enabling pension savings for the self-employed: pensions and long-term savings trials, December 2018

20 Nest Insight Unit, Innovative trials of retirement saving solutions for self-employed people show promise and will help to inform future solution design, 29 November 2022

21 Nest Insight Unit, Innovative trials of retirement saving solutions for self-employed people show promise and will help to inform future solution design, 29 November 2022

22 Institute for Fiscal Studies, Retirement saving of the self-employed, 16 October 2020

23 Department for Work and Pensions, Pensions and long-term savings trials for self-employed people, 18 December 2018

Unit published the findings from a series of trials in November 2022. The trials covered:

- Saving nudges
- Flexible saving mechanisms
- Pension scheme messaging trials[24]

The trials found that increased engagement with pensions did not result in higher savings.[25]

In September 2022, the Work and Pensions Committee published a report on saving for later life. It recommended trials of default saving for self-employed people. It also called for a consultation on raising National Insurance contributions for the self-employed. Under this proposal, the extra contributions would go into a pension if the individual also contributed 5% of their earnings.[26]

In January 2023 the government responded saying it was working with software developers to explore ways to nudge and encourage self-employed people to save into a pension. It also said HMRC was not actively considering auto-enrolling self-employed people through National Insurance.[27]

Multiple jobs

People with multiple jobs earning below the auto-enrolment threshold in each do not qualify, even if their combined earnings would meet the requirement.[28]

When the 2008 Act was before Parliament, the then Pensions Minister, Mike O'Brien said the government had not been able to find an easy way to resolve this issue.[29]

However, in debate on the Pensions Act 2014, the late Baroness Hollis of Heigham argued that real-time information, such as that built into universal credit, removed obstacles.[30] For the government, Lord Freud responded aggregating wages would be an additional burden for employers.[31]

24 Nest Insight Unit, Summary report: Exploring practical ways to support self-employed people to save for retirement, 29 November 2022
25 Nest Insight Unit, Summary report: Exploring practical ways to support self-employed people to save for retirement, 29 November 2022
26 Work and Pensions Committee, Protecting pension savers – five years on from the pension freedoms: Saving for later life, 30 September 2022, HC 126, para 74
27 Work and Pensions Committee, Protecting pension savers—five years on from the pension freedoms: Saving for later life: Government, Financial Conduct Authority and Money and Pensions Service Responses, 23 January 2023, HC 1057
28 TUC, Evidence to the Work and Pensions Select Committee, February 2016; Pensions Policy Institute, The under-pensioned 2016, March 2016
29 PBC Deb 22 January 2008 c136
30 HL Deb 24 February 2014 c713
31 HL Deb 24 February 2014 c725

The 2017 review considered the needs of those not currently benefiting from automatic enrolment, including employees with multiple jobs.[32] At March 2017, there were 975,000 multiple job-holders (MJH) between 22 and State Pension age. Overall, 632,000 (65%) were women and around 421,000 (67%) were already eligible for auto-enrolment in at least one job.[33]

In its 2017 review, the Department for Work and Pensions estimated that removing the lower limit of the qualifying earnings band would increase incentives for people in multiple jobs to opt-in. They would "get an employer contribution for every pound they earn in every job."[34]

The Pensions (Extension of Automatic Enrolment) Act 2023 gave the Secretary of State the power to remove the Lower Earnings Limit for qualifying earnings. This would mean people making auto-enrolment contributions from their first pound of earnings.[35]

Gig economy

There is no single definition of the 'gig economy', but the term usually refers to businesses that operate digital platforms – typically apps – which allow individuals to undertake discrete jobs, or 'gigs', for end-users.

Employment status can sometimes be hard to determine and will depend on individual circumstances. Broadly, there are three main types of employment status:

- Employees, who work under a contract of employment and have a full set of employment rights including protection against unfair dismissal and access to maternity leave and pay.
- Workers (also known as 'limb (b) workers'), who work for an organisation but do not have a contract of employment, who have access to some employment rights such as holiday pay and the national minimum wage.
- Self-employed persons, in business on their own account, who largely do not have employment rights and manage their own relationships with their clients.[36]

32 HCWS339, 12 December 2016

33 Department for Work and Pensions, Automatic Enrolment Review 2017 –analytical findings, December 2017; Department for Work and Pensions, Automatic Enrolment Review 2017: Maintaining the Momentum, December 2017, p44

34 Department for Work and Pensions, Automatic Enrolment Review 2017: Maintaining the Momentum, December 2017, p41

35 Pensions (Extension of Automatic Enrolment) Act 2023

36 See the Commons Library research briefing CBP-8045, Employment status

Each type of employment status has different rights and employer responsibilities.[37] Employment tribunals and higher courts are sometimes asked to rule on the employment status of a particular group of people, in order to determine what rights they are entitled to. The employment status of gig economy workers has been a matter of some legal dispute, which tends to revolve around whether these people are 'workers' or genuinely self-employed

A range of factors and tests are used to make these decisions. However, the outcome of any one case can be difficult to predict and no one case is exactly the same as another. In addition, someone could be considered self-employed for one purpose (for example, in calculating income tax) but workers for another purpose (for example, the National Minimum Wage).

In a 2021 case, the UK Supreme Court found that a group of Uber drivers were 'workers' for the purpose of the National Minimum Wage Act 1998.[38] The judgment did not explicitly mention pensions rights. However, the definitions of "worker" and "contract of employment" under the Employment Rights Act 1996 are broadly the same as under the automatic enrolment legislation, namely the Pensions Act 2008.[39] Following the judgment, commentators questioned whether it would "open the doors to auto-enrolment for all gig workers."[40]

In September 2021, Uber announced that its drivers would be auto-enrolled into a pension scheme provided by NOW: Pensions. [41] It invited other operators to join with it to create a cross-industry scheme. The GMB called on other platform-based operators to follow this lead.[42]

In August 2021, the Pensions Regulator called on all employers in the sector to check if their staff were eligible for auto-enrolment and ensure they received the pensions they were entitled to.[43] It repeated this call in November 2021, saying it would "continue to keep a close eye on the 'gig economy'".[44]

In its report on saving for later life the Work and Pensions Committee outlined the challenges faced by the Pensions Regulator in enforcing auto-enrolment in the gig economy:

> We are concerned that many people working in the gig economy may be missing out on their right as a worker to build up a pension through auto-enrolment. The Pensions Regulator (TPR) told us it faces considerable

37 GOV.UK, Employment status (accessed 13 November 2023)
38 Uber BV v Aslam [2021] UKSC 5
39 Pensions Implications of the Uber judgment, Gillian McCue, Blake Morgan, 24 February 2021
40 Supreme Court Uber ruling a step towards 'opening the doors' to AE for all gig workers, Pensions Age, 19 February 2021
41 Uber launches first pension scheme for drivers, September 2021
42 As above
43 The Pensions Regulator blog post, Employers don't neglect your auto-enrolment duties, August 2021
44 The Pensions Regulator blog post, A pension revolution but more work to do, November 2021

> challenges in enforcement, with employers challenging its decisions at every stage and having to meet a high evidential burden at tribunals.[45]

In response to the committee's report the then government said that it was "seeing that gig economy workers who meet the definition of a jobholder are already being brought within the scope of [auto-enrolment] through the compliance work carried out by the Pensions Regulator and the government's efforts to clarify guidance on employment status."[46]

The September 2023 Independent Review of the Pensions Regulator commented that the Department for Work and Pensions' view is that "many gig economy workers are already eligible" for automatic enrolment. It added that the regulator "acts primarily on the basis of findings of Employment Tribunals on the status of workers."[47]

The 2024-25 Employment Rights Bill does not include any measures to change the law on employment status, however, the government has promised to consult separately on simplifying the three-tiered employment status framework, with the aim of moving towards a simpler two-part framework that differentiates between workers and the genuinely self-employed.[48]

Further detail is available in the Library briefing Employment status.[49]

Seafarers and offshore workers

Persons working on vessels and offshore workers were initially excluded from automatic enrolment under the 2008 Act, with provision for them to be included by Statutory Instrument.[50] The Labour Government of the time explained that the intention was to include them but that there were complex and difficult issues of international and European law to consider first.[51]

In June 2011, the Coalition Government announced that "seafarers and offshore workers should be covered by auto-enrolment if they work, or ordinarily work, in Great Britain."[52] It would continue to exclude share fishermen as they are self-employed and thus outside the scope of these

45 Work and Pensions Committee, Protecting pension savers – five years on from the pension freedoms: Saving for later life, 21 September 2022, HC 126 2022–23, para 85

46 Work and Pensions Committee, Protecting pension savers—five years on from the pension freedoms: Saving for later life: Government, Financial Conduct Authority and Money and Pensions Service Responses to the Committee's Third Report of Session 2022–23, 18 January 2023, HC 1057 2022–23

47 Department for Work and Pensions, Independent Review of the Pensions Regulator (TPR), September 2023

48 PQ 12855 [on Fast Food: Delivery Services], 11 November 2024

49 Commons Library briefing CBP-8045, Employment Status

50 Explanatory Notes to the Pensions Act 2008, sections 96-7

51 HL Deb, 10 July 2008, c 953-4

52 Explanatory memorandum to the Automatic Enrolment (Offshore Employment) Order 2012

reforms.[53] This was provided for in the Automatic Enrolment (Offshore Employment) Order 2012.

These provisions were subject to a "sunset clause", it being practice at the time to do this when there was a net burden (or cost) on business or civil society organisations. Following a post-implementation review in 2018, the sunset clause was lifted by regulations so that auto-enrolment could continue to apply to eligible seafarers and offshore workers after July 2020. In debate on the regulations in May 2020, the then Work and Pensions Minister, Baroness Stedman-Scott stressed the importance of the workplace pension reforms in helping employees save for retirement, including "an estimated additional 26,000 seafarers and offshore workers saving into a workplace pension in 2019 as a result of automatic enrolment.[54]

Contributions on fluctuating earnings

The duty to automatically enrol applies to "eligible jobholders".[55] According to the Pensions Regulator, employers must first assess whether an employee has qualifying earnings in the relevant pay reference period. Employers have flexibility to use different pay reference periods for workers with different pay arrangements, even within the same company.[56]

For workers with fluctuating earnings, income may sometimes exceed the threshold and at other times fall below it. The Pensions Regulator states that employers must enrol workers once they meet the earnings criteria. After enrolment, earnings in each pay reference period determine employer and employee contributions. Employers can also postpone enrolment for up to three months in such cases.[57]

In September 2014, the then Pensions Minister, Steve Webb, said the provisions were intended to work "as smoothly as possible for the whole diversity of employment scenarios".[58]

2.3 Age limits

The duty for employers to automatically enrol jobholders applies to those aged between 22 and the state pension age. Those aged between 16 and 22 or between the state pension age and 75 have the right to opt in to pension

53 Department for Work and Pensions, Workplace Pension Reform – Completing the legislative framework for Automatic Enrolment, July 2011; HL Deb, 13 March 2012, c44GC
54 HL Deb 19 May 2020 c1002
55 The Pensions Regulator, Employer duties and defining the workforce: An introduction to the employer duties (accessed 7 April 2025)
56 Pensions Act 2008, section 13; PBC Deb 24 January 2008 c221-2
57 The Pensions Regulator, Assessing staff whose hours and pay varies (accessed 7 April 2025)
58 HC Deb 1 September 2014 c5

saving and receive employer contributions on qualifying earnings (between £6,240 and £50,270 in 2025/26).

The Pensions (Extension of Automatic Enrolment) Act 2023 gave the Secretary of State the power to reduce the lower age limit for auto-enrolment.[59] During the passage of the Act, the Conservative Government confirmed its intention to reduce the lower age limit to 18 years old.[60] The current government has not set a timetable for implementing these changes.

Lower age limit

In 2008, MPs debated the minimum age for auto-enrolment when the legislation was before Parliament. The then Conservative Opposition spokesperson Andrew Selous argued that people could face “six wasted years” between ages 16 and 22, starting work but not covered by auto-enrolment. [61] Labour Pensions Minister Mike O’Brien responded that many 16 to 22-year-olds frequently changed jobs or worked short-term as students. He warned that automatic enrolment would create a greater administrative burden for this group than for older workers.[62]

The 2017 review of automatic enrolment recommended lowering the age threshold from 22 to 18. It found broad support for reducing the age limit, though there was no consensus on the exact age.[63]

The initial lower age limit of 22 was based on National Minimum Wage criteria which later changed in 2010.[64] The 2017 review considered that “reducing the age to 18 would re-align the lower age with the National Minimum Wage age brackets (18 to 20) thereby providing consistency, removing the arbitrary age 22 assessment and simplifying processes for most employers who would not have 16 to 17 year olds as part of their workforce.”[65] The 2017 review said this would bring a further 900,000 people into automatic enrolment.[66]

Upper age limit

The government’s review of auto-enrolment in 2017 decided that the upper age limit for auto-enrolment should remain aligned to the state pension age. People can opt to continue contributing.[67]

59 Pensions (Extension of Automatic Enrolment) Act 2023
60 HC Deb 24 March 2023, vol 730 c606
61 PBC Deb 22 January c168
62 As above, c171
63 Department for Work and Pensions, Automatic enrolment Review 2017: maintaining the momentum, Cm 9546, p37
64 As above; Commons Library Briefing Paper CBP-6898, National Minimum Wage – rates and enforcement
65 Department for Work and Pensions, Automatic enrolment Review 2017: maintaining the momentum, Cm 9546, December 2017, p37
66 As above
67 As above, p40

2.4 Earnings trigger

Pensions Act 2008

The Pensions Commission originally proposed aligning the auto-enrolment earnings threshold with the National Insurance primary threshold, where employees start paying National Insurance. Minimum contributions would apply to earnings between this level and the upper earnings limit, where employees begin paying the lower rate. [68] The then Labour Government said it would broadly follow this approach.[69]

The Pensions Act 2008, set the lower and upper limits of the qualifying earnings band at the corresponding National Insurance levels of £5,035 to £33,540.

The Pensions Act 2008 also provided for both automatic enrolment limits to be increased in line with the general level of earnings.[70] However, because different arrangements applied to the National Insurance thresholds, the two moved out of alignment over time.[71]

Pensions Act 2011

The Coalition Government's 2010 "Making Automatic Enrolment Work" review recommended aligning the earnings threshold with the income tax personal allowance. It also proposed that pension contributions should start from the National Insurance primary threshold. [72] Workers earning between these two thresholds would have the option to opt in.[73]

The review argued that aligning auto-enrolment thresholds with tax or National Insurance thresholds would simplify administration for employers. It would also ensure that only those earning enough to qualify for a basic State Pension were automatically enrolled.[74] Although the proposals excluded some low earners, it would "avoid automatically enrolling those not earning enough to pay income tax" and avoid "very tiny levels of pension contribution".[75]

The Pensions Act 2011 introduced a separate earnings trigger for automatic enrolment and a 'qualifying earnings band' for pension contributions. [76] It

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68 Pensions Commission, A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission (PDF), November 2005, p355 and p276

69 Department for Work and Pensions, Security in retirement: towards a new pensions system (PDF), Cm 6841, May 2006, para 1.103

70 Pensions Act 2008, s14

71 Department for Work and Pensions, Making automatic enrolment work- a review for the Department for Work and Pensions, Cm 7954, October 2010, para 5.2.1

72 As above

73 HC Deb 27 October 2010 c12WS

74 Department for Work and Pensions, Making automatic enrolment work, Cm 7954, October 2010, p4

75 As above, Executive Summary and chapter 5

76 Pensions Act 2011, s5

also required the Secretary of State to review these annually and decide whether to adjust them.[77]

During the parliamentary debates, some raised concerns about the disproportionate impact of these increases on women. Labour peer Baroness Drake, a former Pensions Commission member, argued that most people were not persistently low earners. [78] Baroness Hollis added that even small contributions made early could be valuable, helping to build a habit of saving. She also noted that, even if someone accumulated only a small pension pot, it could provide a modest but useful capital sum in retirement—possibly for the first time in their lives.[79]

The government defended its approach, arguing that it struck the right balance and that the threshold in the 2008 Act had been set too low.[80] The opposition, however, was concerned about the flexibility given to the Secretary of State to raise the auto-enrolment threshold in the future, potentially reducing the number of people enrolled. [81] Steve Webb, the then Pensions Minister, maintained that flexibility was essential for future adjustments to the earnings trigger.[82]

77 Pensions Act 2011, s8
78 HL Deb, 30 March 2011, c1295-1304
79 HL Deb, 30 March 2011, c1298-9; See also PBC Deb 12 July 2011 c172-3
80 PBC Deb 12 July 2011 c203; Pensions Act 2008, s13
81 See for example, HL Deb 30 March 2011 c1295
82 PBC Deb 12 July 2011 c237

3 Annual review of earnings thresholds

The Secretary of State must review and revise the automatic enrolment earnings trigger and qualifying earnings band annually.[83] They can consider:

- National Insurance earnings limits and thresholds
- Income tax personal allowances
- The level of the basic state pension for single adults
- The general level of prices and earnings.[84]

The table below sets out thresholds since 2012/13:

Table 1 Automatic enrolment earnings thresholds

	Earnings trigger for auto-enrolment	Qualifying earnings band	
		Lower limit	Upper limit
2011/12	£7,475		
2012/13	£8,195	£5,564	£42,474
2013/14	£9,440	£5,720	£41,450
2014/15	£10,000	£5,772	£41,865
2015/16	£10,000	£5,824	£42,385
2016/17	£10,000	£5,824	£43,000
2017/18	£10,000	£5,876	£45,000
2018/19	£10,000	£6,032	£46,350
2019/20	£10,000	£6,136	£50,000
2020/21	£10,000	£6,240	£50,000
2021/22	£10,000	£6,240	£50,270
2021/22	£10,000	£6,240	£50,270
2022/23	£10,000	£6,240	£50,270
2023/24	£10,000	£6,240	£50,270
2024/25	£10,000	£6,240	£50,270
2025/26	£10,000	£6,240	£50,270

Source: The Pensions Regulator, Earnings Thresholds (accessed 7 April 2025)

Between 2011/12 and 2021/22, the qualifying earnings band was aligned with the lower and upper earnings limits for National Insurance. In 2021/22, the lower limit was frozen at £6,240 to ensure that everyone automatically enrolled continued to contribute a meaningful portion of their income.[85]

83 Pensions Act 2008, s14
84 Pensions Act 2011 – Explanatory Notes, para 83
85 Department for Work and Pensions, Review of automatic enrolment trigger and qualifying earnings bands for 2022/23: supporting analysis, 8 February 2022

From 2012/13 to 2014/15, the earnings trigger was aligned with the pay-as-you-earn (PAYE) income tax threshold. Since 2015/16, it has been frozen at £10,000 instead of rising with the personal tax allowance.[86]

Annual reviews of the auto-enrolment trigger found that past increases reduced the number of people eligible, while freezing it at £10,000 increased eligibility as earnings have risen in nominal terms.[87] The reviews also showed that these changes have affected significantly more women than men.[88]

86 Gov.UK, Income tax: rates and allowances

87 Department for Work and Pensions, Review of the Automatic Enrolment Earnings Trigger and Qualifying Earnings Band for 2025/26: Supporting Analysis, 21 January 2025

88 As above

4 Contributions

4.1 Rates

Minimum contribution rates are payable on a band of qualifying earnings (between £6,240 and £50,270 in 2025/26).[89] They were phased-in, with full contributions payable from April 2019:

Table 2: Auto-enrolment contributions (%)

	Minimum employer contribution	Employee contribution (inc. tax relief)	Total contribution
October 2012 to March 2018	1	1	2
April 2018 to March 2019	2	3	5
April 2019 onwards	3	5	8

Source: The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2018 (SI 2018/367); Pensions Act 2008, s20; The Occupational and Personal Pension Schemes (Automatic Enrolment) 2010 (SI 2010/772), reg 32E

4.2 Tax relief on contributions

In the UK, private pension saving is taxed on an "exempt, exempt, taxed" (EET) model. This means:

- When people and their employers pay into a pension, the contributions are exempt from taxation. Both the saver and any contributing employer receive tax relief, up to set limits.
- If the pension savings grow through investments, this is exempt from taxation.
- When the savings are withdrawn as pension payments, these are taxed like other income. People are allowed access up to 25% of their pension savings as a tax free lump sum.[90]

89 Department for Work and Pensions, Review of the Automatic Enrolment Earnings Trigger and Qualifying Earnings Band for 2023/24: Supporting Analysis, 26 January 2023

90 HM Revenue and Customs, Pensions Tax Manual, PTM024100 – General principles: overview of pensions taxation: the basics, 7 April 2025

Tax relief is often received at someone's marginal rate of income tax.[91] Employers can also receive tax relief on the contributions they make to registered pension schemes.[92]

Further information is available in the Library briefing on Pensions tax.[93]

Administering pensions tax relief

How employers administered income tax relief on pension contributions affected the amount of tax relief people received. The government introduced measures to reduce these differences in the 2024/25 tax year.

Difference between net pay and relief at source

Employers use one of two arrangements to administer income tax relief on pension contributions:

- Net pay arrangements deduct pension contributions from earnings before income tax. People then pay income tax on their remaining earnings.[94] Because the person has not paid income tax on their pension contribution, they have received tax relief at their marginal rate of income tax.

- Relief at source arrangements pay income tax before deducting pension contributions from earnings. The scheme then claims tax relief at the basic rate of income tax – 20%.[95]

Impact on different tax payers

People paying the basic rate of income tax – 20% – will receive the same tax relief in a net pay scheme arrangement and a relief at source arrangement.

People who pay more or less than the basic rate of income tax would receive higher tax relief in one arrangement than the other without additional measures being in place.

Top-up payments for low earners in net pay arrangements

From the 2024/25 tax year the government introduced top-up payments for people paying below the basic rate of income tax in net pay arrangements. The government will make the first payments in the 2025/26 tax year once HMRC has identified eligible individuals.

HMRC will notify eligible individuals, who would need to provide the necessary details to receive the top-up payment into their bank account. This means

91 Exceptions to this are covered in sections 5 and 6 of this paper.

92 HM Revenue and Customs, Pensions Tax Manual, PTM043100 - Contributions: tax relief for employers: introduction, 7 April 2025

93 Commons Library briefing CBP 625, Pensions Tax

94 HMRC, Pensions Tax Manual, PTM044230 - Contributions: tax relief for members: methods: net pay, 7 April 2025

95 As above

that from 2024/25 someone who does not pay income tax contributing £100 to a pension scheme through a net pay arrangement would pay the full £100 themselves, then they would receive a £20 payment to their bank account from HMRC the following tax year.[96]

Further information is available in the Library briefing on Pensions tax.[97]

4.3 Concerns about 'levelling down'

One concern during the development of the proposals was the risk of employers 'levelling down.' This meant that, to manage the cost of auto-enrolment, employers might review their pension schemes and choose to lower their contribution levels.

In April 2006, the Pensions Commission acknowledged in its final report that the risk of "levelling down" existed. However, it argued that this risk did not justify rejecting automatic enrolment or the minimum matching employer contribution.[98] The then Labour Government recognised the risk and took steps to mitigate it. These included allowing a deferral period for employers offering higher contributions and introducing simple qualifying tests for existing schemes.[99]

Research for the 2017 review suggested that employers were mostly absorbing the cost of contributions. [100] A 2020 evaluation found that median contribution rates initially fell when auto-enrolment was introduced but began to rise as minimum contribution requirements increased.[101]

4.4 Adequacy of minimum contributions

Research before auto-enrolment's rollout

In October 2013, the Pensions Policy Institute (PPI) published research on the likelihood of individuals achieving an adequate retirement income if they contributed at the minimum auto-enrolment rate from age 22 to State Pension age.

96 As above
97 Commons Library briefing CBP 625, Pensions Tax
98 Pensions Commission, Implementing an integrated package of pension reforms: The Final Report of the Pensions Commission, April 2006, p37-8
99 Department for Work and Pensions, Pensions Bill – Impact Assessment (PDF), 5 December 2007, para 2.107-8
100 Department for Work and Pensions, Automatic enrolment review 2017: Analytical Report, December 2017
101 Department for Work and Pensions, Automatic enrolment evaluation 2019, Feb 2020, para 4.4.5

The PPI stated that the contribution rate required for an adequate retirement income depended on several factors, such as career breaks, late entry into saving, or retiring after State Pension age. [102] It recommended considering 'inertia mechanisms' like auto-escalation, which would gradually increase contributions over time without requiring active decisions from savers.[103]

In September 2013, the Department for Work and Pensions said there were limits on the government prescribing additional saving as this depended on each individual's circumstances [104] In August 2014, it published further analysis showing that almost half of adults below State Pension age were not saving enough for their retirement.[105] The key reasons were not having a full work history and not contributing enough to private pensions. It expected its auto-enrolment reforms to improve pension adequacy for most of the working age population.[106] However, there were many who needed to do more. Those in the middle incomes groups could see huge improvements to their pension adequacy by increasing contribution rates.[107]

Work and Pensions Committee 2016 report

In its May 2016 report on auto-enrolment, the Work and Pensions Committee recommended that the government consider approaches to increasing contributions beyond 8% of qualifying earnings, including mandatory increases in employee and employer contribution rates and means of encouraging greater voluntary contributions.[108] In February 2017, the then chair of the Committee, Frank Field, described the government's decision not to propose contribution rate increases in its 2017 review as a "missed opportunity to help millions of workers save properly for their retirement."[109]

Proposals to remove the lower earnings limit

In 2017, the government proposed removing the lower earnings limit from which contributions are paid.[110] This would in effect increase the overall contribution rates under autoenrollment. The government said it would look

102 Pension Policy Institute, What level of pension contribution is needed to obtain an adequate retirement income?, 20 October 2013

103 As above

104 Department for Work and Pensions, Framework for the analysis of future pension incomes, September 2013

105 Department for Work and Pensions, Scenario analysis of future pension incomes, August 2014, Executive Summary

106 As above

107 As above

108 Work and Pensions Committee, Automatic enrolment, HC 579, May 2016, para 81

109 Work and Pensions Committee, Pensions automatic enrolment review: Government incorporates Committee's work, 8 February 2017

110 Department for Work and Pensions, Automatic enrolment review 2017: Analytical Report, December 2017

again at wider contribution rates once it had evidence of the increases already planned.[111]

In February 2018, the then Pensions Minister Guy Opperman accepted that contribution rates would need to increase.[112]

In September 2021, the then Minister of Pensions and Financial Inclusion, Guy Opperman, said the government was focussed on expanding the benefits of auto-enrolment, as it had proposed in the 2017 review.[113]

The Pensions (Extension of Automatic Enrolment) Act 2023 gave the Secretary of State the power to remove the lower earnings limit for qualifying earnings.[114]

111 Department for Work and Pensions, Automatic enrolment review 2017 – maintaining the momentum, December 2017, p35

112 HC Deb 28 February 2018 636 c416WH

113 PQ52550 27 September 2021

114 Pensions (Extension of Automatic Enrolment) Act 2023

5 Policy development

5.1 Pensions Commission 2002 to Pensions Act 2008

The previous Labour Government established the Pensions Commission in 2002 to review the adequacy of private pension saving. It had a remit to advise on whether there was a need to "move beyond the voluntary approach."[115]

In its first report, published in October 2004, the Commission said that over "nine million working people will face pensions they may consider inadequate, unless they save more or retire much later than their parents."[116] It suggested a mix of:

- A major revitalisation of voluntary pension contributions system.
- Changes to the state pension.
- Increased compulsion to contribute to pension saving.[117]

In its Second Report, published in November 2005, the Commission recommended requiring employers to automatically enrol workers into a workplace pension saving scheme.[118] To encourage participation, employers would be required to make a minimum contribution.[119]

The Commission also recommended the creation of a low cost, national, funded pension savings scheme, available to any employer who chose to use it. This was needed because there were employers which the Commission thought could not be served profitably by the retail financial services industry.[120] The scheme, which was subsequently created, is now known as the National Employment Savings Trust (Nest).

The then Labour Government legislated for these reforms – with some modifications - in the Pensions Act 2008.[121] For more on the background, see

115 The Pensions Commission, Pensions: Challenges and Choices: The First Report of the Pensions Commission (PDF), October 2004
116 Independent Pensions Commission: First Report, Press Release, 12 October 2004
117 As above
118 As above, p154-6
119 Independent Pensions Commission: First Report, Press Release, 12 October 2004, p158-160
120 As above, p6
121 Pensions Act 2008

the September 2012 Commons Library briefing Automatic enrolment: background.[122]

5.2 2010 Review

Following the general election in May 2010, the Coalition Government said it would set up a review to look at the scope of the auto-enrolment provisions and the delivery model for the Nest.[123]

Consumer groups wrote to the Secretary of State for Work and Pensions arguing that it would be a mistake to "extend the review in a way that reopens the consensus reached about how best to implement the main recommendations of the Pensions Commission."[124]

On 24 June, the then Pensions Minister, Steve Webb, said the review would consider whether the policy struck "the right balance between cost and benefits to individuals, employers and for the taxpayer, particularly in the light of current economic and fiscal conditions."[125] It would be conducted by an independent team.[126]

Recommendations

Publishing its report in October 2010, the review team said it had looked at four broad areas:

- Those workers not covered by automatic enrolment
- Whether any employers should be excluded from automatic enrolment
- Changes to enhance the policy
- The role of Nest in the successful implementation of automatic enrolment.[127]

It had decided that in recommending any change to auto-enrolment, there were two core issues:

- Some low earners "would achieve little or no welfare benefit" creating the need to balance the "risk of being over-inclusive against the risk of excluding some people for whom it would genuinely pay to save."

122 Commons Library briefing SN 4847, Automatic enrolment: background
123 'Pension plans for lower paid staff in review', Financial Times, 28 May 2010
124 TUC Press Release, Consumers warn ministers over 2012 pension review, 22 June 2010
125 HC Deb 24 June 2010 c21-2 WS
126 HC Deb 24 June 2010 c21-2 WS
127 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010, p2

- Whether the burdens on employers and, particularly smaller employers, are proportionate[128]

Its key recommendations were to:

- Align the automatic enrolment threshold with the income tax personal allowance and the contribution threshold with the national insurance primary threshold. Workers earning between these can opt in and receive employer contributions.
- Allow an optional waiting period of up to three months before automatic enrolment, with the option for workers to opt in earlier.
- Introduce a simple certification system for employers to confirm their scheme meets contribution requirements.[129]

These recommendations would result in reduced eligibility for enrolment and therefore lower costs to employers. However, the review team said this had "modest implications for the scope and impacts of automatic enrolment".[130]

The review team confirmed other aspects of the policy, including that it should apply to all employers regardless of size, as previously proposed. It said it could not have come this decision had it not been convinced that Nest would provide a "pension scheme that will be appropriate to most small employers, and one that will be very easy for them to use." [131]

The review team also decided that older workers should continue to be included in the scope of the policy.[132] It also looked at a long-standing concern about whether the policy would result in a "levelling down" of contributions among those employers already providing pensions for their employees.[133] It said the evidence suggested only limited reductions in pension contributions as a result of the reforms.[134]

Responses

The then Pensions Minister, Steve Webb, said the government would proceed with implementation of the reforms on the basis of the review's recommendations.[135]

128 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010, p153
129 HC Deb 27 October 2010 c12WS
130 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010, p165
131 As above, p5
132 As above, p5 and p111
133 For example, Providing for Pensions, Theresa May, Politeia, 2010
134 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010, chapter 3, p63
135 HC Deb 27 October 2010 c12WS

The Confederation of British Industry (CBI) said the recommendations would "make the new auto-enrolment system simpler for employers, while meeting all of Lord Turner's [chair of the Pensions Commission] original aims and recommendations." It welcomed the inclusion of all employers in the scope of the reforms and the option of a three-month waiting period before auto-enrolment.[136] The Federation of Small Businesses, on the other hand, was "severely disappointed" that small firms were not to be excluded from the reforms.[137] Age UK had "some concerns about the increase in the threshold and the introduction of a waiting period" but was relieved that there would be no exemption for small firms.[138]

5.3 2017 Review

The 2008 Pensions Act made provision for aspects of the policy to be reviewed in 2017.[139] In May 2016, the Work and Pensions Select Committee recommended that the review should consider:

- removing the lower qualifying earnings band for contributions and lowering the earnings trigger threshold
- mechanisms for automatically enrolling self-employed workers
- approaches to increasing contributions beyond the statutory minimum of 8% of qualifying earnings
- creating a single, comprehensive pensions dashboard by 2019[140]

On 12 December 2016, the government announced that the review would look at coverage of the policy – including people with earnings below the trigger, with multiple jobs and the self-employed. It would be an opportunity to strengthen the evidence around appropriate level of future contributions but the government did not expect to make policy decisions on those areas in 2017.[141] On 8 February 2017, the government said the review would be carried by an expert advisory group.[142]

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136 CBI, News Release: CBI responds to Government review of 2012 reforms, 27 October 2010

137 See, for example, Personnel Today, FSB severely disappointed small firms not excluded from auto-enrolment, 27 October 2010

138 Age UK Age UK response to auto-enrolment review, 27 October 2010

139 Pensions Act 2008, s74

140 Work and Pensions Committee, Automatic enrolment: Eleventh Report of Session 2015-16, HC 579, May 2016, para 61

141 HCWS339 12 December 2016

142 Department for Work and Pensions, Press release: Expert advisory group appointed to the automatic enrolment review, 8 February 2017

The review published its report in December 2017.[143] It confirmed that auto-enrolment should continue to be available to all eligible workers regardless of who their employer was. Key recommendations were to:

- Lower the age for automatic enrolment from 22 to 18. This would bring an extra 900,000 people into workplace pension saving;
- Remove the lower earnings limit so that contributions were calculated from the first pound of earnings. This would support all those who are automatically enrolled, particularly those with low earnings and multiple jobs, to save more for retirement.[144]

5.4 Pensions (Extension of Automatic Enrolment) Act 2023

The Pensions (Extension of Automatic Enrolment) Act 2023 gave the Secretary of State the power to:

- reduce the lower age limit for auto-enrolment
- remove the Lower Earnings Limit for qualifying earnings. This would mean auto-enrolment contributions are made from the first pound of earnings.[145]

During the passage of the Act, the government confirmed its intention to reduce the lower age limit to 18 years old.[146] In response to a written question in October 2023 the then Pensions Minister, Laura Trott, said that the government will consult on the detailed implementation at the earliest opportunity and report to Parliament before using the powers in the Act."[147]

5.5 Pensions review

Following the July 2024 the Labour government announced a pensions review. The first phase focussed on investment and published an interim report in November 2024.[148] The second phase of the review will look at pensions adequacy. A timeline is yet to be announced.[149]

143 Department for Work and Pensions, Automatic enrolment review 2017: Maintaining the momentum, Cm 9547, December 2017
144 HC Deb 18 December 2017 c39WS
145 Pensions (Extension of Automatic Enrolment) Act 2023
146 HC Deb 24 March 2023 cc609-610
147 PQ 200385 [on Pensions (Extension of Automatic Enrolment) Act 2023], 19 September 2023
148 HM Treasury, Pensions Investment Review: interim report, 14 November 2024
149 HL Deb 18 December 2024, vol 842, c264

6 Impact on employers

6.1 The 1997-2010 Labour Government's approach

In drawing up its proposals for reform, the Pensions Commission acknowledged that there were legitimate concerns among the business lobby regarding the compulsory employer contribution. However, it considered this "an essential part of its reform package" and that without this, it was likely employee participation rates would be "significantly reduced."[150] The key argument against compulsion was that it would impose additional costs on companies not already making contributions. However, economic theory suggested that over time some or all of these costs would be offset by reductions in cash wages.[151]

It recommended that employers should be compelled to make matching contributions where an employee stayed enrolled but that these should be modest and phased-in.[152]

The 2006 Pensions White Paper outlined employer support for compulsory contributions:

- Contributions phased in over three years (1% per year).
- Rates set in primary legislation for stability.
- Scheme designed to minimise employer burdens.
- Consultation on extra support for small businesses and a longer phase-in period.[153]

In evidence to the Work and Pensions Committee in 2007/08, the CBI said that, although its members had expressed concern about employer compulsion, it considered the reforms were the "best way of security a long-term settlement on pensions."[154] The Federation of Small Businesses accepted compulsion as a "political reality" but said its focus was on ensuring

150 Pensions Commission, Implementing an integrated package of pension reforms: The Final Report of the Pensions Commission; April 2006

151 Pensions Commission, A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission (PDF), November 2005, p158-160

152 As above (PDF)

153 Department for Work and Pensions, Security in retirement: towards a new pensions system, December 2006, Executive Summary; See also, Department for Work and Pensions, Personal Accounts: a new way to save, December 2006

154 Work and Pensions Committee, Personal Accounts, 21 March 2007, HC 200-II, 2006-07, Ev 100

implementation was as simple as possible. It also argued that small employers should be given some form of financial assistance to overcome the initial difficulties they would face.[155] The Committee recommended that the government invest in making the scheme as simple and cheap for businesses to administer as possible rather than subsidising employer contributions.[156]

The government said it would focus on ensuring the design of the scheme was appropriate. Whether financial support was appropriate would be a matter for a future government.[157]

6.2 The Coalition Government's approach

Following the 2010 general election, the Coalition Government set up a Making Automatic Enrolment Work Review. This acknowledged that the reforms would impose a range of new obligations on small employers, few of which had any experience with pension provision. Furthermore, the cost per employee enrolled would be "much higher for smaller employers." [158] It considered whether micro employers (with fewer than five employees) should be exempt but decided against, for three main reasons:

- It would exclude 1.2 million employees from automatic enrolment.
- There would be substantial practical problems in enforcing boundaries.
- A significant disincentive to business growth would be created.[159]

It said it would not have come to this conclusion had it not been convinced that Nest would provide a pension scheme that would be appropriate to most small employers and very easy for them to use.[160]

The review said it wanted to minimise the administrative costs of auto-enrolment as far as possible.[161] With the aim of reducing administrative costs, the review recommended, it recommending aligning the auto-enrolment thresholds with those for National Insurance or tax.[162] In addition, it proposed two changes to assist employers: an optional waiting period for employers before they have to auto-enrol people; and a simplified certification process

155 Work and Pensions Committee, Personal Accounts, 21 March 2007, HC 200-II, 2006-07, para 302-4 and Ev75

156 As above para 305

157 HL Deb 23 June 2008 c1325 [Lord Tunnicliffe]; Department for Work and Pensions, Pensions Bill – Impact Assessment, 5 December 2007, para 2.102

158 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010, Chapter 3

159 As above, Executive summary

160 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010,

161 As above, chapter 3, summary

162 As above, p94

for employers wanting to use existing schemes for auto-enrolment.[163] It also recommended that a way should be found to assure small employers that they would not be held liable for their scheme choice should something go wrong.[164]

Responding to the review, the Federation of Small Businesses was "severely disappointed" that small firms were not to be excluded from the reforms.[165]

Pensions Act 2011 – optional waiting period

The previous Labour Government had decided that that there should not be a waiting period, except for those employers already using higher quality pension schemes.[166]

However, the 2011 review recommended that employers be allowed to use a waiting period of up to three months, with individuals able to opt-in during that time. This would replace the existing postponement arrangement for employers using higher quality schemes. It said this struck a "reasonable balance between regulatory easement, particularly for smaller employers, and the risks to individuals' savings."[167]

The Coalition Government legislated for this in the Pensions Act 2011.[168] It estimated that the optional waiting period would "reduce the number of individuals automatically enrolled on any particular day by up to 0.5 million individuals" and that it will "particularly affect young people, who are likely to move jobs relatively frequently".[169] The impact on an individual would depend on how frequently they changed jobs.[170] The waiting period was expected to benefit employers with high staff turnover (for example, in the construction, distribution and hotel industries) and employment agencies.[171] The Exchequer was expected to make savings because "at any point in time there will be slightly fewer individuals saving."[172]

When the legislation was before Parliament, the Opposition expressed concerns that it would mean fewer people being automatically enrolled and reduce lifetime pension savings, particularly among those in a perpetual cycle of short-term employment.[173] At Public Bill Committee stage, the then Shadow Pensions Minister, Rachel Reeves proposed that the optional waiting

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163 As above, Chapter 6
164 As above, Executive Summary
165 See, for example, Personnel Today, FSB severely disappointed small firms not excluded from auto-enrolment, 27 October 2010
166 HL Deb 17 June 2008 c965-6 [Lord McKenzie]
167 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010, p 160
168 Pensions Act 2011
169 Pensions Bill 2011 – Impact Assessment. Annex B: Workplace pension reform, para 2.34
170 As abovehttp://www.dwp.gov.uk/docs/pensions-bill-2011-ia-annexb.pdf
171 As above, para 2.42
172 As above, para 2.52
173 See, for example, HL Deb, 3 March 2011, c209 GC [Lord McKenzie]

period before auto-enrolment should be one month rather than three.[174] She said this was in keeping with the consensus that the Pensions Commission had arrived at. It had suggested that new employees should have to inform the national pension saving scheme in the first four weeks if they wished to opt out, with payments commencing at the end of the second month.[175]

Responding, the then Pensions Minister, Steve Webb, said it had been important for the government to respond to the concerns of business.[176] The waiting period would be optional, so employers could auto-enrol from day one if they wished to do so.[177] A reduction in the waiting period to one month would, he said place a "significant burden on the nation's employers, while creating negligible benefit for individuals' pensions."[178]

Pensions Act 2011 - Certification requirements

For people not already covered by adequate pension arrangements, the Pensions Commission proposed the establishment of a low-cost national pension saving scheme (NPSS), capable of being used by any employer. This is now called the National Employment Savings Trust, or Nest.[179]

Where an employer had existing arrangements, they should be able to continue to use these, provided the benefits provided were at least as favourable.[180] For most defined benefit schemes, this would be the case. For defined contribution schemes, the test should be whether "total employee and employer contributions, net of all costs and fees" where at least equal to the minimum for NPSS.[181]

The then Labour Government decided that the test for qualifying workplace pension saving schemes would focus just on contribution rates in the first instance.[182] Under the Pensions Act 2008, the quality requirement for a DC scheme is that the employer must make minimum contributions of three per cent of qualifying earnings and total contributions (including tax relief) must be equivalent to at least 8%.[183]

Section 13 of the Pensions Act 2008 defines "qualifying earnings" by reference to a band with upper and lower limits. The definition of "earnings" includes

174 PBC Deb,12 July 2011, c211;

175 As above; Pensions Commission, A New Pension Settlement for the Twenty-First Century; Pensions Commission, A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission (PDF), November 2005, p369

176 PBC Deb,12 July 2011, c226

177 As above, c226-7

178 As above, c229

179 The Pensions Commission gave this the name of National Pension Saving Scheme. The scheme put in place under the 2008 Act is now called the National Employment Savings Trust (Nest)

180 Pensions Commission, A New Pension Settlement for the Twenty-First Century; The Second Report of the Pensions Commission (PDF), November 2005, chapter 10, p362

181 As above, p363

182 Department for Work and Pensions, Personal accounts: a new way to save, Cm 6975, Dec 2006, para 6.10-11

183 Pensions Act 2008, sections 16 and 17 and 20 to 27; Pensions Act 2008 – Explanatory Notes, para 61

wages/salary, commissions, bonuses, overtime and certain statutory benefits.[184] This is different to the practice of many private sector money purchase schemes, which pay contributions based on basic pay, with no limit or band. There were concerns, when the legislation was before Parliament, that the difference would cause complexity for employers.[185] Following debate on the issue, the then Labour Government amended the legislation to enable employers to "certify that their scheme meets the forthcoming quality standard".[186]

The 2011 review reported that Department for Work and Pensions had been working with employers to develop a certification process.[187]

Alternative self-certification arrangements were provided for under the Pensions Act 2011.[188] Before publishing regulations under this section, the Secretary of State must be confident that at least 90 per cent of jobholders will receive the same level of contributions under the certification test that they would have received if their scheme had satisfied the relevant quality requirement. In addition, the Secretary of State must periodically review the evidence base of the test and intervene to strengthen or repeal the test if necessary.[189]

The details are in the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2012 (SI 2012/1257) In debate in Parliament, Lord De Mauley explained the three-tier structure for self-certification:

> Under this, an employer will be able to self-certify that their scheme meets the alternative quality requirements if it requires one of the following: first, contributions of at least 9 per cent of basic pay, including at least 4 per cent from the employer; secondly, contributions of at least 8 per cent of basic pay, including at least 3 per cent from the employer-and in addition, basic pay taken in aggregate must be at least 85 per cent of total pay; or thirdly, contributions of at least 7 per cent of total earnings, including at least 3 per cent from the employer.[190]

Changes made following consultation included a change to the definition of basic pay (to explicitly exclude certain allowances) and an extension of the proposed one-year certification period to 18 months. An assessment certifying that the conditions of the "90 per cent test" (referred to by Lord Freud above) were still being met, was published in 2017.[191]

184 Pensions Act 2008 – Explanatory Notes, para 50-51
185 See, for example, PBC Deb 24 January 2008 c214 [Andrew Selous]; and HL Deb 23 June 2008 c1292 [Baroness Noakes]
186 HL Deb 19 November 2008 c1142-3 [Lord McKenzie]; This is now in Pensions Act 2008, s28
187 Department for Work and Pensions, Making automatic enrolment work. A review for the Department for Work and Pensions, Cm 7954, October 2010, para 6.5.2
188 Explanatory Notes to the Pensions Act 2011, paras 88-96
189 HL Deb 27 April 2011 c124-5
190 HL Deb 13 March 2012 c33GC
191 As above, c4GC3

Pensions Act 2014

Measures to simplify the auto-enrolment process for employers were introduced under the Pensions Act 2014. This included a general power to create exceptions to the employer duties.[192] This was proceeded by a consultation in which the government said that it did not envisage that there would be many situations where the employer duties would need to be dis-applied.[193] An example of where it might be was in relation to people with enhanced or fixed tax protection status, who could face a tax surcharge if they make any further contributions into a pension.[194] The regulations cannot be used to exclude an employer from their automatic enrolment duties on the basis of size.[195]

The government consulted on regulations allowing exceptions to the employer duties, publishing its response in October 2014.[196] The detailed exceptions are in regulations.[197]

The Pensions Act 2014 also provided for simpler alternative tests for hybrid schemes (those which that offer both money purchase and defined benefit pensions).[198]

In December 2014, the government launched a consultation on a range of issues designed to simplify the auto-enrolment process for employers. This included changing requirements for defined benefit pension schemes.[199] It published its response in March 2015.[200]

Introduction of the charge cap

As stated above, the Pensions Commission had recommended that, when considering whether a defined contribution scheme can be used for auto-enrolment, account should be taken of minimum contributions required, net of costs and fees. When auto-enrolment was first introduced, account was taken of contributions only. However, a charge cap for the default arrangements of qualifying defined contribution workplace pension schemes

192 Section 38. Section 37 provides for exceptions where auto-enrolment is deferred

193 Department for Work and Pensions, Workplace pensions: exceptions to employer duties – government response (October 2013); Department for Work and Pensions, Pensions Bill Delegated Powers Memorandum from Department for Work and Pensions to the Delegated Powers and Regulatory Reform Committee, May 2013, para 210-17

194 HL Deb 20 January 2014 c262GC

195 HL Deb 26 February 2013 c953

196 Department for Work and Pensions, Technical changes to automatic enrolment: Government response to the consultation on exceptions to the employer duties, February 2014

197 See, for example, Occupational and Personal Pension Schemes (Automatic enrolment) (Amendment) Regulations 2015 (SI 2015/501)

198 Explanatory Notes to Pensions Act 2014; HL Deb 20 January 2014 c267-8GC; See also HC Deb, 19 December 2012, c120WS

199 Department for Work and Pensions, Workplace pensions automatic enrolment: simplifying the process and reducing burdens on employers, December 2014

200 Department for Work and Pensions, Technical Changes to Automatic Enrolment. Government response to the consultation on draft regulations, March 2015

was introduced in April 2015. The annual cap is set at 0.75 per cent of funds under management or an equivalent combination charge.[201]

6.3 Help for small employers

In a report published in July 2015, the Work and Pensions Committee noted that the challenges associated with the roll-out of automatic enrolment to smaller employers were "significant" and recommended that the government "take the lead in ensuring that support for smaller employers continues to be coordinated across regulators and providers."[202] In its response, the government explained that the Pensions Regulator had worked to improve the information and tools on its website.[203] In February 2016, it explained the steps it was taking to raise awareness and simplify processes. Together with the Pensions Regulator, it was working to "raise awareness and understanding with intermediaries, to reinforce the importance of their role in supporting smaller employers to implement automatic enrolment."[204]

In a 2016 report, the Work and Pensions Committee made a number of recommendations regarding small employers:

- Adapt communications to focus on the financial consequences of non-compliance.[205] The government responded that it would "develop and test messaging about the consequences of non-compliance, including the financial penalties that may be incurred, and the most appropriate channels to deliver these messages."[206]
- Confirm where liability would fall if a scheme performs badly or fails.[207] The government responded that, provided an employer could evidence that they had due regard to their choice of qualifying scheme and had acted in good faith in selecting it, it was "difficult to envisage that someone would have a strong claim against an employer in regards to this."[208]

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201 Occupational Pension Schemes (Charges and Governance) Regulations 2015 (SI 2015/879); For more on the background, see Commons Library research briefing CBP 6209, Pension Scheme Charges

202 Work and Pensions Committee, Progress with automatic enrolment and pension reforms, HC 668, 4 March 2015, para 37-8

203 Work and Pensions Committee, First Special Report – Progress with automatic enrolment and pension reforms. Government response to the Fourth Report of the Work and Pensions Committee, 20 July 2015

204 Department for Work and Pensions, Written evidence to the Work and Pensions Committee, March 2016, para 13

205 Work and Pensions Committee, Auto-enrolment, ch 4, HC 579, May 2016, para 30

206 Work and Pensions Committee, Auto-enrolment: Government response to the Committee's 11th report of session 2015-16, 22 July 2016

207 Work and Pensions Committee, Auto-enrolment, ch 4, HC 579, May 2016, para 36

208 Work and Pensions Committee, Auto-enrolment: Government response to the Committee's 11th report of session 2015-16, 22 July 2016, para 19

- Work with HMRC to expand PAYE tools to support small businesses in meeting their auto-enrolment obligations.[209] In response, the government said it did not plan to develop or expand the Basic PAYE tool to include auto-enrolment because it was developing an alternative.[210]

Implementation

The roll-out of the new duties to 30,000 medium-sized employers (with between 50 and 249 employees) in 2014 was expected to bring new challenges, as many employers appeared not to have started thinking in depth about what they needed to do or how long it would take.[211] In 2015, Nest said 2014 had in fact gone relatively smoothly, with payroll providers and IFAs playing a vital part in implementation for mid-sized employers. However, smaller employers – who would start to auto-enrol between June 2015 and April 2017 - would increasingly turn to accountants and it was unclear that they were as "prepared as they may want to be for an increase in demand."[212]

In February 2016, Department for Work and Pensions said compliance levels had been high to date for employers covered by auto-enrolment. However, the vast majority of employers were yet to start implementing the policy.[213]

In a report published in November 2015, the National Audit Office noted that opt-out rates had been lower and employer compliance higher than had been expected.[214]

In 2020, Department for Work and Pensions said most employers had found the cost and time burdens lower than anticipated. Employers were typically aware of both the April 2018 and April 2019 increases in contributions. Generally, employers said that they were confident about being able to pay these new rates which they perceived as a small proportion of their overall costs.[215]

6.4 During COVID-19

Employers' automatic enrolment duties continued to apply as normal during the COVID-19 outbreak, whether or not staff were furloughed under the Coronavirus Job Retention Scheme (CJRS).[216] Employers applying for grants under the CJRS for periods of furlough before 1 August 2020, could claim the cost of the statutory minimum employer pension contributions on furlough

209 Work and Pensions Committee, Auto-enrolment, ch 4, HC 579, May 2016, para 42

210 Work and Pensions Committee, Auto-enrolment: Government response to the Committee's 11th report of session 2015-16, 22 July 2016, para 23

211 Nest insight, Taking the temperature of auto enrolment (PDF), January 2014

212 Nest insight, Taking the temperature of auto enrolment (PDF), January 2015

213 Department for Work and Pensions, Evidence to the Work and Pensions Committee, February 2016

214 National Audit Office, Automatic enrolment to workplace pensions, Summary, November 2015

215 Department for Work and Pensions, Automatic enrolment evaluation 2019, Feb 2020

216 Library Briefing, FAQs: Coronavirus Job Retention Scheme, 1 October 2021

pay. For applications after that, employers had to meet those costs themselves, both for hours worked and furloughed.[217] The government explained that it had "asked employers to share the costs of paying the wages of furloughed workers" and that "starting with the costs of employer national insurance and pension contributions is a simple and fair way to do that."[218]

Research published by Nest in May 2021 showed that there had been "no significant changes in behaviour when it comes to workplace pension saving, once again demonstrating the resilience of auto enrolment as a way of encouraging saving."[219]

The Pension Regulator's approach

In March 2020, The Pensions Regulator extended the maximum period defined contribution pension schemes and trustees had to report late contribution payments from 90 to 150 days. This was to give "struggling employers more time to work with pension providers to bring late or missing payments up to date before enforcement action was taken."[220]

Defined contribution schemes were asked to resume reporting late contribution payments no later than 90 days after the due date from January 2021.[221]

217 Nest insight, Retirement saving in the UK 2020, Feb 2021, p14

218 PQ 51613, 9 June 2020

219 Nest Insight, New analysis reveals groups of savers most impacted by COVID, 13 May 2021

220 The Pensions Regulator, TPR updates COVID 19 guidance, 16 September 2020

221 The Pensions Regulator, TPR updates COVID 19 guidance, 16 September 2020