



## EXPLANATORY NOTES

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### Pensions (Extension of Automatic Enrolment) Act 2023

Chapter 44

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# PENSIONS (EXTENSION OF AUTOMATIC ENROLMENT) ACT 2023

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Pensions (Extension of Automatic Enrolment) Act 2023 which received Royal Assent on 18 September 2023 (c. 44).

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

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## Overview of the Act

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

## Policy background

- 2 Automatic enrolment has transformed pension saving, with over 11 million employees automatically enrolled into a workplace pension by September 2023. In 2021, 86% of private sector eligible employees were saving in a workplace pension, up from 42% in 2012. This Act builds on this success by enabling the extension of automatic enrolment to deliver a stronger, more inclusive savings culture for future generations.
- 3 In the 2017 Review of Automatic Enrolment, the government committed to introducing changes to automatic enrolment in the mid-2020s. This Act enables the Secretary of State to deliver on that commitment and extend workplace pensions automatic enrolment by:
  - i. Introducing a power to make regulations to reduce the lower age limit at which otherwise eligible workers must be automatically enrolled into a pension scheme by their employers. The policy intent is to use this power to make regulations to reduce the lower age limit from 22 to 18.
  - ii. Introducing a power to make regulations to reduce or repeal the Lower Earnings Limit (LEL) of the qualifying earnings band so that contributions are calculated from the first pound earned.
- 4 This Act gives the Secretary of State for Work and Pensions powers to make regulations which would implement these changes to eligibility for automatic enrolment following a period of consultation on the implementation approach and timing, to help to ensure they can be implemented in a suitable way to help manage costs arising from the changes for all parties.

## Legal background

- 5 The following notes give a brief overview of significant existing legislation that is referenced by this Act. Further explanation, if required, is given in the section-by-section commentary.
- 6 The Pensions Act 2008 makes provision for automatic enrolment, under which employers are required to enrol qualifying jobholders into a suitable pension scheme and to make pension contributions on their behalf.

## Territorial extent and application

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

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

## Commentary on provisions of Act

### Section 1: Automatic enrolment: persons and earnings affected

- 10 Subsections (1) to (5) of this section amend the provisions of the Pensions Act 2008 (PA08), as follows:
  - 11 Subsection (2) inserts a regulation making power into PA08 section 3 to enable the Secretary of State to decrease the age upon which an employer has an obligation to automatically enrol jobholders into a scheme that fulfils the criteria for an “automatic enrolment scheme” (see PA08 section 17).
  - 12 Subsection (3) inserts a regulation making power into PA08 section 5 to enable the Secretary of State to decrease the age upon which an employer has an obligation to automatically re-enrol jobholders into a scheme that fulfils the criteria for an “automatic enrolment scheme” (see PA08 section 17).
  - 13 Subsection (4) inserts a new section 13A into the PA08. New section 13A(1)(a) and (b) contain a regulation making power to enable the Secretary of State to either reduce the amount of the lower limit of the qualifying earnings band (contained in PA08 section 13(1)(a)), or to repeal PA08 section 9 (workers without qualifying earnings) and section 13(1)(a) (the lower limit of the qualifying earnings band).
  - 14 New section 13A(2) allows, by regulations, the Secretary of State to modify the requirements as to the timing and subject matter of a review under PA08 section 14 (review of earnings trigger and qualifying earnings band). New section 13A(3) allows the Secretary of State to make consequential amendments.
  - 15 Subsection (5) inserts new provisions into section 143 of the PA08 to provide that any regulations that are made under the new powers are subject to the affirmative resolution procedure, and to prevent the Secretary of State from making regulations under sections 3(1A), 5(1C) or 13A, unless he has carried out a consultation. Where the Secretary of State lays a draft of an instrument containing regulations under section 3(1A), 5(1C) or 13A before Parliament, this must be accompanied by a report by the Secretary of State about the consultation.

### Section 2: Extent, commencement and short title

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

## Commencement

- 17 Section 1 will come into force on such a date as the Secretary of State appoints by regulations. Section 2 came into force on Monday 18 September 2023.

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## Related documents

18 The following document is relevant to the Act and can be read at the stated location:

- Automatic Enrolment Review 2017: Maintaining the Momentum

<https://www.gov.uk/government/publications/automatic-enrolment-review-2017-maintaining-the-momentum>.

## Annex A - Territorial extent and application in the United Kingdom

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?
Section 1	Yes	Yes	Yes
Section 2	Yes	Yes	Yes

## Annex B – Hansard references

19 The following table sets out the dates and Hansard references for each stage of the Act’s passage through Parliament.

Stage	Date	Hansard reference
<i>House of Commons</i>		
Introduction	27 February 2023	<a href="#">Bill as Introduced</a> <a href="#">Vol. 728. Col. 526</a>
Second Reading	03 March 2023	<a href="#">Col. 4</a>
Public Bill Committee	15 March 2023	<a href="#">Col. 14</a>
Third Reading	24 March 2023	<a href="#">Vol. 730. Col. 611</a>
<i>House of Lords</i>		
Introduction	27 March 2023	<a href="#">Bill as Introduced</a> <a href="#">Vol. 829</a>
Second Reading	14 July 2023	<a href="#">Vol. 831 Col. 2015</a>
Grand Committee	12 September 2023	<a href="#">Vol. 832. Col. 1</a>
Third Reading	18 September 2023	<a href="#">Vol. 832. Col. 1201</a>
Royal Assent	18 September 2023	House of Commons: <a href="#">Vol. 728 Col. 533</a>
		House of Lords: <a href="#">Vol. 832 Col. 1319</a>

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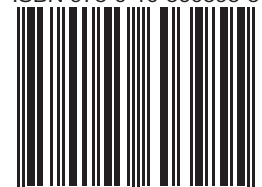
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