

Automatic Enrolment into Workplace Pensions: Seafarers Regulations and Offshore Workers Order

Department for Work and Pensions

RPC rating: fit for purpose

Description of proposal

Automatic Enrolment (AE) was a key recommendation of the Pensions Commission in their 2004¹ and 2005² reports and it was identified that between 9.6 million and 12 million individuals were under-saving for their retirement. In the initial 2008 Pensions Act³, seafarers and offshore workers were excluded from AE under Sections 96 and 97 respectively. This was justified on the basis of providing the Government sufficient time to evaluate whether AE should apply to these groups and considering how it would apply given international sea law. In 2011 both groups were subsequently brought into AE through secondary legislation following a public consultation.

The Department explains that UK legislation put in place from April 2011⁴ was required to include a sunset clause in cases imposing a net burden on business or civil society organisations. Such a clause is therefore present in the secondary legislation extending AE into workplace pensions to seafarers and offshore workers and is due to expire on 1 July 2020. Without further Government action in this instance, AE will no longer apply to these groups; a position that would be at odds with the Government's policy intention as set out in the 2017 AE Review: Maintaining the Momentum⁵. This review concluded that no eligible worker should be excluded by virtue of the sector in which they work, or the type of work they undertake.

Without renewal, maritime workers commencing employment on or after 1 July 2020, or those existing workers who opted-out of being automatically enrolled before this date, would not benefit from the legal obligations to their employers to automatically enrol them. In 2018, the Government conducted a Post-Implementation Review

¹<https://web.archive.org/web/20051219075954/http://www.pensionscommission.org.uk/publications/2004/annrep/index.asp>

²<https://web.archive.org/web/20051206020837/http://www.pensionscommission.org.uk/publications/2005/annrep/annrep-index.asp>

³ <http://www.legislation.gov.uk/ukpga/2008/30>

⁴ HM Government - REDUCING REGULATION MADE SIMPLE - <https://webarchive.nationalarchives.gov.uk/20110526141622/http://www.dius.gov.uk/assets/biscore/better-regulation/docs/r/10-1155-reducing-regulation-made-simple.pdf>

⁵<https://www.gov.uk/government/publications/automatic-enrolment-review-2017-maintaining-the-momentum>

(PIR) (citation), which the RPC deemed sufficient. It confirmed this regulation remains fit for purpose and supported the case for renewal.

The present IA sets out the analysis behind the formal renewal of the policy to ensure that maritime workers remain within the scope of AE.

Impacts of proposal

The proposed renewal of the expiring Workplace Pension Reform Secondary Legislation 2012 is assessed against the baseline option of not renewing. The original IA for this 2012 measure assessed the costs and benefits up to 2050 of extending AE to seafarers and offshore workers. These impacts were assessed based on the regulations being extended after June 2020, and therefore, the costs in this new IA are not in addition to those in the 2012 IA. The Department notes that the average cost per year estimated is different to the 2012 IA, due to use of revised evidence.

Furthermore, the Department explains that not renewing directly opposes the Government's policy intent of the 2017 AE Review, and therefore renewal is indicated to be the preferred option in light of the results from the 2018 PIR.

The Department identifies costs arising for individuals and employers from contributions to workplace pensions and to the Government for tax relief on the individuals' contributions. In addition, the IA recognises there are administrative costs to employers.

In terms of offshore workers, the IA states there are currently c.23,000 core offshore workers eligible for AE, 60 per cent of which are already in qualifying pension schemes, leaving c.9,000 workers whose employers would be required to automatically enrol, 91 per cent of which would not choose to opt-out. This leaves the number of offshore workers impacted by the requirement to be c.8,000 workers.

For seafarers, the Department estimates that there are c.5,000 eligible UK officers, c.10,000 eligible UK 'ratings' and c.8,000 eligible foreign nationals in the shipping industry. It was assumed that 45 per cent of UK officers, 20 per cent of UK ratings and no foreign workers were already in qualifying pension schemes. This would suggest there are around c.19,000 seafarers who are not in qualifying pension scheme and whose employers would be required to automatically enrol, 91 per cent of which would not choose to opt-out. This leaves the number of seafarers impacted by the requirement to be c.18,000.

The Department notes that the costs are sensitive to the opt-out rate, which is assumed to be 9 per cent in line with the current national average. Furthermore, it is assumed that if AE policy be withdrawn, savings behaviour of new employees would return to pre-AE levels.

Costs

Costs to employers: contributions. Renewing the legislation would incur direct costs to employers from pension contributions. The Department adjusts these costs relative to the baseline to reflect the ongoing duties of employers to existing employees and it is estimated that £11 million and £15 million costs will be incurred to employers of offshore workers and seafarers respectively in 2019/20.

Costs to employers: administrative costs. There is no available evidence on the administrative costs of AE specific to maritime employers, and the national average administrative costs are used as a proxy. Instead, the Department have quoted the figures from the original IA, with the total unadjusted administrative costs £132,000 and £63,000 for seafarers and offshore workers respectively. In conjunction, 23 per cent of employees are assumed to be automatically enrolled by small employers. The Department believe this is likely to overestimate the scale of administrative costs for small employers. Furthermore, the IA assumes that administrative costs rise in line with average earnings growth, given the largest component of administrative costs is paying for external advice.

Costs to individuals. The cost for individuals is equal to the level of pension contributions and the total cost in 2019/20 to individual offshore workers is £11m and £18 million for seafarers. The Department assumes tax relief consistent with the earnings of these groups. Furthermore, the Department assumes the average gross earnings of maritime workers and their associated earnings limits rise in line with national average earnings growth.

Costs to Government from Income Tax relief. Income tax relief provided to both offshore workers and seafarers will be £7 million and £6 million in 2019/20 respectively. This is also made consistent with the assumptions on earnings growth.

Benefits

Benefits to individuals. The IA recognises benefits for employees through savings in workplace pensions. This is identified as a direct transfer cost from employers,

individuals and the Government to individuals. This estimated benefit is £30 million and £39 million for offshore workers and seafarers in 2019/20 respectively. In addition, the Department also identifies benefits to individuals via consumption smoothing. This is classified as perceived rather than financial benefit and is not quantified for proportionality reasons.

Quality of assessment

The Department's assessment of the overall impacts of the proposal, including the impacts on business, is proportionate and sufficient. The IA is fit for purpose and the RPC can validate the EANDCB figure of £22 million for business impact target (BIT) purposes. This has been classified as a qualifying regulatory provision (IN) by both the Department and the RPC. Since the measure is to be renewed without amendment, it would seem the PIR previously received by the RPC would have been sufficient to support this renewal. Furthermore, there is no impact on the BIT score as the new IN of the renewal is directly offset by the OUT of the expiring legislation. Nonetheless, the RPC appreciate that BRE lawyers may have required this new IA, given the measure qualifies as a new regulatory provision above the *de minimus* threshold. Expiry of the previous measure under the sunset clause would be an OUT of equivalent value, exactly offsetting the IN and resulting in a net zero impact on the BIT.

There are however several points outlined below that would improve the quality of the IA.

Assumptions. The IA could benefit from detailing the assumptions underlying the increase in costs. For example, the £11 million and £15 million contributions costs to employers of offshore workers and seafarers respectively appear to rise markedly (page 13 of the IA). This would provide greater clarity on the final EANDCB figure and specifically the costs outlined in Table 4.8.1 on page 16 of the IA.

In any case, however, the treatment would be the same for the expiring legislation such that the IN impact on the BIT is offset directly by the OUT. Hence, it would be net zero impact on the BIT.

SaMBA. The Department's SaMBA is considered sufficient for this measure. However, given an IA and a PIR have been conducted on this measure before, there may be scope for a more specific analysis. For instance, Section 5 (page 16 of the IA) applies the per-employee cost for small employers to infer that the number of employees at small and micro businesses. The Department infer that 23 per cent of the maritime industry are small employers and they believe it is likely to be an

overestimate. The SaMBA would be improved if there was a clearer discussion of why 23 per cent is likely to be an overestimate and a discussion around any possible limitations to the method used to reach this figure.

Sensitivity analysis. The IA could benefit from including some sensitivity analysis on the estimates for the number of seafarers and offshore workers eligible for AE and the upper and lower bands of qualifying earnings. Whilst the methodology is appropriately in line with the previous IA, developing the analysis to account for potential inaccuracies could have been useful.

Options. The RPC understands that given this IA has been written in light of an expiring sunset clause, amending the legislation was not considered as an option. Nonetheless, the Department would benefit from including an explanation of this, as it may not be clear in an individual context. The Department could have made clear why these are the only two options considered, and, justification why the counterfactual was the only other option. In addition, the Department could have made more explicit which is the preferred option in the summary box on page 1 of the IA.

Monitoring and evaluation. The Department should provide a monitoring and evaluation plan. The IA is very clear on the previous evidence utilised, including the 2018 PIR, to inform this IA. However, the RPC note that there is no monitoring and evaluation plan outlining the future evidence to be gathered. As such, it is unclear whether a new sunset clause would be enforced, if another PIR will be conducted, or if the review would take place as a wider AE review. Without this clarification, the RPC find it difficult to identify how the success of the policy can continue to be measured within the scope of its original objectives.

Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£22 million
Business net present value	-£420 million
Societal net present value	-£4 million

RPC assessment

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated	£22 million
BIT	£108 million Results in net impact of zero on the BIT, given the new IN directly displaces the expiring OUT legislation.
Small and micro business assessment	Sufficient

Regulatory Policy Committee