Pensions (Extension of Automatic Enrolment) Bill

Lead department	Department for Work and Pensions
Summary of proposal	The Pensions (Extension of Automatic Enrolment) Bill (a Private Members' Bill) would amend the Pension Schemes Act 2008 to give the Secretary of State powers to amend the age limit and lower qualifying earnings limit (LEL) for Automatic Enrolment (AE), with a view to extending eligibility to 18-21 year-olds and abolishing the LEL.
Submission type	Impact assessment (IA) – 31 January 2022
Legislation type	Primary legislation
Implementation date	TBC
Policy stage	Final
RPC reference	RPC-DWP-5150(1)
Opinion type	Formal
Date of issue	11 February 2022

RPC opinion

Rating[1]	**RPC opinion**
Fit for purpose	The IA has assessed direct impacts on business in line with RPC guidance on primary legislation IAs. It includes a satisfactory assessment of impacts on small and micro businesses (SMBs) at this stage; this will need to be strengthened for any secondary legislation IA. The IA would benefit in particular from providing further assessment of wider impacts and initial plans for monitoring and evaluation.

Business impact target assessment

	Department assessment	**RPC validated**
Classification	Qualifying regulatory provision (IN)	To be confirmed
Equivalent annual net direct cost to business (EANDCB)	Not quantified	Further IAs to be submitted for any related secondary legislation for validation of an EANDCB figure
Business impact target (BIT) score	Not quantified	See above
Business net present value (NPV)	Not quantified	
Overall NPV	Not quantified	

[1] The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the Better Regulation Framework. RPC ratings are fit for purpose or not fit for purpose.

RPC summary

Category	Quality	RPC comments
EANDCB	Green	The Department's approach to identifying and estimating the impacts on business is in line with RPC guidance for primary legislation IAs. The IA presents indicative cost figures at this stage, explaining that a final figure is dependent upon policy detail to be determined for related secondary legislation, the impacts of which would be subject to further assessment. The RPC would expect to see such assessment(s) for validation of an EANDCB figure for BIT purposes.
Small and micro business assessment (SaMBA)	Green	The IA includes a SaMBA that is sufficient for this stage. Any secondary legislation final stage IA(s) would need to provide further assessment of disproportionality of impacts and wider consideration of mitigation measures.
Rationale and options	**Satisfactory**	The IA discusses briefly non-regulatory and other regulatory options but would benefit from presenting further assessment, in particular as to why the Department considers significant additional voluntary take-up to be unlikely.
Cost-benefit analysis	**Good**	The IA presents a clear analysis, including estimation of social welfare benefits. The analysis is based on a range of evidence and includes useful sensitivity testing. It would benefit from providing additional clarity in places, including comparison to previous IAs.
Wider impacts	**Weak**	The IA provides a good discussion of how employers might respond to the proposal and assessment of fiscal impacts. It would benefit significantly from analysing the impacts on equality (particularly on low earners), the pension industry, the public sector and any potential impacts on competition and innovation.
Monitoring and evaluation (M&E) plan	**Weak**	The IA only discusses the M&E plan briefly, pending further detail in the secondary legislation stage IA. However, it would benefit significantly from setting out some early thinking on the M&E plan, such as plans for data collection, drawing upon activity in relation to previous AE roll-out, as appropriate.

Summary of proposal

To comply with the Pensions Act 2008, in 2017 the Government conducted a statutory review and published a report entitled 'Automatic Enrolment Review 2017: Maintaining the Momentum' (the 2017 review), in which they committed to introducing changes to AE in the mid-2020s. AE was subsequently introduced in 2020 for employees of companies in scope who are over the age of 22. The Bill would enable the Secretary of State for Work and Pensions to deliver on that commitment and extend pensions AE by:

(i) lowering the age from which otherwise eligible workers must be automatically enrolled into a pension scheme by their employers from 22 to 18; and

(ii) removing the LEL from the qualifying earnings band so that contributions are calculated from the first pound earned (rather than the current lower earnings limit threshold (£6,240 in 2022/23)).

The IA states that the primary legislation would not result in any immediate costs or benefits. However, it illustrates the magnitude of impacts if the powers are used to implement the proposals set out in the 2017 review. Total pension contributions are estimated to increase by £45 billion over 30 years or £2.0 billion in the first year. This consists of employer contributions (£19 bn; £0.8 bn), employee contributions (£21 bn; £0.9bn); and employee contribution tax relief (£5 bn; £0.2bn). The IA also estimates potential additional administrative and familiarisation costs for business (£0.2 bn; £10m).

EANDCB

Lowering the age eligibility threshold for AE would increase the overall number of eligible employees and the total numbers of employees enrolled into occupational pension schemes. The IA correctly identifies two direct impacts on business: additional mandatory pension contributions and increased administrative costs, such as communication, registration, collection and payroll administration. The IA indicates the likely scale of these impacts and explains why an EANDCB figure cannot be calculated at this stage, thus meeting the RPC's requirements for estimation of business impacts for primary legislation.[2]

The Department is expected to produce (a) further IA(s) to inform decisions on the final policy detail for any related secondary legislation (see e.g. para. 2.14, page 9). The IA states that future IA(s) will provide more detailed analysis and build on extensive stakeholder consultation. Subject to Better Regulation Framework requirements at the time, the RPC would expect to see further IA(s) for validation of an EANDCB figure for BIT purposes.

See also comments below under 'Cost Benefit Analysis'.

[2] https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019. The Department's approach is consistent with 'scenario 2' in this guidance (pages 4 and 7-8).

SaMBA

The SaMBA is sufficient at this stage but will need to be strengthened significantly for the IA(s) supporting the related secondary legislation. The SaMBA helpfully estimates costs specifically to SMBs (table 11A, page 35) and explains why it is not appropriate to exempt SMBs from the requirement. It would benefit significantly from greater assessment of disproportionality of impacts of SMBs and wider consideration of mitigation measures, particularly as the proposals are likely to bring some SMBs into scope of AE for the first time. For example, the IA could comment on the proportion of overall costs accounted for by SMBs (which appears to be £0.3 bn out of £0.9 bn) and the average cost by business size figures in table 9A (page 32).

Rationale and options

The IA's consideration of rationale and options is sufficient. The Statutory Review concluded that the most effective way to expand pension saving amongst groups that remain outside the scope of the reforms was to expand the scope of AE to encompass younger workers and target the removal of the lower earnings limit for AE, with the eventual aim of AE pension contributions being made from the first pound of earnings. The assessment of rationale would benefit from addressing further why the Department believes the justifications for the LEL and the age limit introduced when the initial AE regulations came into force are no longer economically and societally relevant.

The IA notes that the 2017 review considered other options, such as to lower the eligible age to 16 and make changes to increase the upper age limit. The IA notes that, while these are not the preferred options currently, taking broader powers to change the eligible age leaves them open in the future and after listening to stakeholders (paragraph 3.3, page 9). The IA also briefly discusses reducing the earnings trigger or increasing statutory minimum contributions. However, it notes that the level of the earnings trigger is reviewed each year and the most recent statutory review concluded that it was set at the right level.

The IA includes a non-legislative option of encouraging the adoption of a zero LEL and enrolment from age 18 (option 3). The IA explains why there is unlikely to be significant participation by employers and young people and this option is presented as having negligible costs and benefits. Given that many employers have already adopted the measures proposed, the IA would benefit from explaining further why significant additional voluntary take-up is unlikely.

The IA would benefit from discussing the proposal in the context of other recent pensions reforms, such as those in the Pension Schemes Act 2021, and incoming measures such as The Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2022.

Cost-benefit analysis

The IA provides a clear cost benefit analysis; the presentation at section 5 of impacts for three different earnings levels by age is particularly helpful (pages 17-20). In addition to the impact on pension contributions and administrative costs, the IA provides an assessment of additional social welfare benefits. These benefits arise from the delay in consumption from working life to retirement having a positive effect on an individual's welfare over their lifetime. The Department provides an indicative figure based upon the original analysis for AE; it is judged disproportionate to repeat a significant analytical undertaking for the present proposal. This seems reasonable. However, the IA would benefit from explaining the calculations at table 10A (page 34) further and reconciling the £14.2 billion estimate with the £17.9 billion figure reported on page 4.

<u>Evidence and data</u>

The IA appears to use a good range of evidence and data, including the 2017 review, Employer Pension Provision surveys and data on contribution rates. The IA also notes that DWP is undertaking qualitative research with low earners to help inform the decisions regarding enacting the enabling powers for this group. This will also be supported by qualitative research with employers to understand their pension situations, engagement and existing responses to AE. Some data used in the IA, in particular pay data from ASHE, comes from 2020 and the IA would benefit from addressing explicitly possible distortions caused by Covid-19 and associated policy responses, such as furlough.

<u>Assumptions, risk and uncertainty</u>

The IA provides a useful section where it sensitivity tests the impact of key assumptions, such as pension savings participation rates ("*Analysis: Behavioural Impacts*", pages 25-30). This section concludes with an acknowledgement that the Department has little evidence about how abolishing the LEL will alter behaviour for 18-21 year-olds. This would appear to be a priority for further evidence-gathering.

<u>Modelling</u>

The IA states that its approach is consistent with past pension IAs (paragraph 4.17, page 14; paragraph 9.1, page 30). The IA would benefit from providing further details of how the present modelling approach compares to that for previous AE IAs. For example, the IA could reconcile the 30-year appraisal period used in the present IA (paragraph 4.19, page 14) and the reference to the original social welfare benefits estimate being undertaken over 38 years (Table 10A, page 34).

Wider impacts

The IA would benefit from more explicit consideration of risk and uncertainty, from the perspective of both employers and employees. The IA provides a particularly useful section considering how employers might respond to the proposal (possibilities are set out at paragraph 7.3), with three scenarios described at paragraph 7.6 to illustrate a range of "second-order costs". This section would benefit from considering whether employers might respond by hiring or moving young workers onto short-term contracts, 'gig-economy' type arrangements or cash payments. The section also provides a useful analysis of fiscal impacts, including possible effects on Universal Credit (UC) and future Pension Credit payments (pages 23-25). The IA would benefit from covering impacts on equality, the public sector and from briefly discussing any potential impacts on competition and innovation. On the first of these, as a labour market intervention to address individuals' savings, the IA would benefit from a more detailed analysis of equality considerations, protected groups and, potentially, spatial impacts.

The IA would benefit, in particular, from greater analysis of the impact on young, low earners. The IA should discuss impacts on work incentives and take-home pay, and potential consequential societal (increased unemployment) and budgetary impacts (increased UC claimants). It would be helpful if the IA clarified whether young, low earners would receive tax benefits on the pension contributions.

The IA would also benefit from analysis of the impact on the pension industry, given that the proposal seems likely to potentially result in a many new pension funds held by new pension-holders with relatively small amounts of money in them. This assessment could consider administration costs and the risk that the pension schemes might be unsuitable for the individuals.

Monitoring and evaluation plan

The IA states that once policy decisions have been taken for related secondary legislation and an implementation plan established, the Department will be able to provide more-specific advice around monitoring and evaluation of the abolition of the LEL and the reduction of the age threshold to age 18. Given that the policy direction seems fairly clear, the IA would benefit from setting out some early thinking on monitoring and evaluation, such as plans for data collection, drawing upon activity in relation to previous AE roll-out, as appropriate.

Regulatory Policy Committee

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