

# Pensions Bulletin

## Fact Sheet 4

Summer 2009 Issue 5

### DWP consultation and research on auto-enrolment

#### 1 Introduction

- 1.1 In March 2009, the Department for Work and Pensions (DWP) issued a consultation document covering the draft Pensions (Automatic Enrolment) Regulations 2009.
- 1.2 The consultation concerns the practical arrangements by which employers will be required to:
- enrol jobholders into a workplace pension scheme, including the circumstances and arrangements for postponement of automatic enrolment (where appropriate);
  - provide information to their employees and to pension schemes; and
  - facilitate the arrangements by which jobholders can opt-out of a pension scheme following automatic enrolment.
- 1.3 It is proposed that the regulations will come into force alongside the introduction of Personal Accounts in 2012.
- 1.4 The DWP has also undertaken research to determine how the auto-enrolment reforms should be communicated to employers once the relevant legislation comes into force.
- 1.5 Details of the consultation and the associated research are provided in the remainder of this Fact Sheet. In addition, a copy of the full consultation document can be found at <http://www.dwp.gov.uk/consultations/2009/pensions-auto-enrol-regs2009.pdf>

#### 2 Consultation proposals – enrolment

- 2.1 Before they become subject to the duties on auto-enrolment, employers will have to sign up to a “qualifying scheme”. They will also have to identify jobholders who will have to be auto-enrolled.

*More details about qualifying schemes and the jobholders who will have to be automatically enrolled can be found on Fact Sheet 1 that accompanied Issue 4 (Spring 2009) of the Pensions Bulletin.*

- 2.2 Under the proposals contained in the consultation, once an employer is subject to the auto-enrolment duties, they will have to commence the auto-enrolment process for eligible jobholders from a certain date. This date will be:
- For employees already employed – the date when the employer becomes subject to the duties on auto-enrolment.
  - For new employees – the date of starting work provided the criteria are met (i.e. age and qualifying earnings).
  - During employment – the date on which the employee turns 22 (with qualifying earnings) or has qualifying earnings for the first time.

- 2.3 Once the process for automatic-enrolment has commenced, there will be:
- a 'scheme joining window' of up to 14 days (i.e. employers will need to ensure that eligible jobholders become a member of a pension scheme within 14 days);
  - a concurrent information provision window of up to 14 days (i.e. employers must provide eligible jobholders with basic pension scheme information within 14 days); followed by
  - an opt-out period of 30 days (i.e. a 30 day window during which an individual can opt-out of the pension scheme and be treated as if he or she had never joined).
- 2.4 For employers using a Workplace Personal Pension (WPP – i.e. a contract-based pension such as a Group Personal Pension, Stakeholder Pension and Group Self-Invested Personal Pensions), the 14 day joining window must comprise two elements: a seven day period from the automatic-enrolment date to provide the jobholder with information about the scheme they are joining and its contract terms; followed by a further seven days period during which the jobholder may consider the contract terms before they are deemed to be a party to that contract.

### **3 Consultation proposals – contributions**

- 3.1 It is proposed that pension contributions should be calculated from day one, and could be deducted from pay before the joining window is completed.
- 3.2 It is also proposed that contributions must be paid over to the pension scheme by the 19th of the month following the month in which they were deducted.

### **4 Consultation proposals – information**

- 4.1 The consultation outlines the proposed requirements for provision of information by the employer to its employees and the pension scheme. These include:
- passing prescribed information to the pension scheme about employees who are being enrolled; and
  - providing prescribed information to employees, including contribution information and how to opt-out. Occupational schemes will have to comply with the disclosure regulations.

### **5 Consultation proposals – opting out**

- 5.1 It is proposed that the opt-out period cannot start until the employee has received the prescribed information. Occupational pension schemes will have more flexibility than WPPs, but an employee must always have 30 days starting from the later of the provision of information or establishing active membership in which to opt-out. The maximum overall window is therefore 44 days (14 days + 30 days).
- 5.2 The proposals state that opt-out forms should be available from schemes (not employers) and that employees will not be able to opt-out by letter or telephone. The proposals also say that there is nothing to stop schemes making opt-out forms available on a website.
- 5.3 The proposed opt-out process is as follows:
- The employee will pass the opt-out form to the employer (so payroll deductions can be stopped as quickly as possible). However, there is no reason why the scheme and the employer shouldn't be informed simultaneously (for example electronically).
  - Employers will have seven days to pass the opt-out form to the scheme.
  - The opt-out form must be completed correctly. If the opt-out form is incorrectly completed, then the employer has five calendar days in which to tell the employee.
- 5.4 Someone who opts-out is treated as never having joined the scheme so is entitled to a refund of his/her contributions (see next section).

## **6 Consultation proposals – refunds**

- 6.1 It is proposed that the employer will refund the contributions, not the scheme. A refund to an employee is not dependent on the employer receiving a refund from the scheme. In such situations a scheme need have no contact with the member.
- 6.2 The refund must be made by the second payday following the day the employee gave notice of opting-out, or within 21 days (whichever is later).
- 6.3 If the employer has already passed contributions over to the scheme, then the refund of employer contributions must be paid over within 21 days of the scheme receiving the opt-out notice.

## **7 Consultation proposals – postponement of auto-enrolment**

- 7.1 The consultation proposes that postponement of auto-enrolment will be permitted – for a maximum of 90 days – for all qualifying defined benefit (DB) pension schemes. For defined contribution (DC) pension schemes, the conditions are:
- minimum employer contribution of 6% of qualifying earnings; and
  - minimum total contribution of 11% of qualifying earnings.
- 7.2 In all cases, it is proposed that once a member is auto-enrolled, they must be retained in the scheme for 90 days (so the employee is at least in the position they would have been in had they been auto-enrolled on day one).
- 7.3 It is proposed that the postponement policy will not be available to Personal Accounts; it is intended to create an incentive to employers to continue to use their existing higher level provision.

## **8 Extra work for employers – summary of consultation proposals**

- 8.1 In summary, the proposals will, if implemented, require employers to:
- Join a qualifying scheme or register an existing scheme as a qualifying scheme (possibly both) before they become subject to the automatic enrolment duties.
  - Pass information about employees to the scheme (within seven days).
  - Give information about the scheme to newly-enrolled employees (within 14 days).
  - Give information about a qualifying scheme to its existing members (within 30 days).
  - Give opt-out notices to the scheme (within seven days).
  - Tell employees (within five days) if their opt-out notice is not compliant.
  - Refund contributions to an opted-out employee (by 2nd payday or within 21 days of opt-out notice, whichever is later).
- 8.2 If these provisions are carried into law, The Pensions Trust foresees much wasted effort enrolling employees who do not want to be a member of a pension scheme, in particular dealing with their opt-out notices and paying refunds. The National Association of Pension Funds has expressed these concerns to DWP officials.

## **9 Research**

- 9.1 Alongside the consultation, the DWP have been considering how to communicate the auto-enrolment reforms to employers once the relevant legislation comes into force.

- 9.2 Research published by the DWP suggests that:
- Communicating and implementing the reforms with “micro” employers (i.e. those with less than five staff) and small employers (i.e. those with five to 49 staff) will be difficult since 57% and 47% respectively are unaware of the reforms and 24% and 36% respectively are opposed to them.
  - Employers would be more likely to seek the help of external advisers to implement the reforms than rely on the Government for assistance.
  - The majority of employers would prefer post as the method used to send them information on what they will need to do once the requirements come into force.
  - Employers think that TV and mailshots should be used by the Government to raise awareness of the reforms, rather than by email, the internet or through newspaper adverts.
- 9.3 The Pensions Trust will continue to keep its own participating employers informed of developments related to auto-enrolment and Personal Accounts via the Pensions Bulletin.
- 9.4 Further details about the DWP's research can be found at [http://www.dwp.gov.uk/asd/asd5/report\\_abstracts/wp\\_abstracts/wpa\\_066.asp](http://www.dwp.gov.uk/asd/asd5/report_abstracts/wp_abstracts/wpa_066.asp)

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