



Buck Consultants Limited

The Pensions (Automatic enrolment) regulations 2009

We are pleased to respond to your consultation on the above subject. Prior to preparing our response, we surveyed our client contacts to ascertain their view on a number of the key issues involved. These are clients who already offer a work place pension scheme to employees. We received over 60 replies and our response to you highlights significant findings where appropriate.

In summary, our clients appear to share our view that whilst there is merit in the overall aim of auto enrolment, much of the proposed detail could be a bureaucratic nightmare, resulting in significant additional administration, particularly for smaller employers. They certainly do not feel that the proposed processes offer the 'lightest of administration burdens' as suggested in the consultation document. Most concern centers around the proposal to require contributions to be deducted from the first pay day, even if the employee has not yet had the opportunity to complete the opt-out process.

There is strong support for the view that auto enrolment and contributions should commence for all after a short period of up to three months, to give employees more time to consider the pension arrangement being offered, to decide whether or not the company / job is right for them and whether to opt out, and to significantly reduce the administration burden on employers.

In the absence of such a general relaxation, we would like to see greater clarity in the legislation covering the prescribed requirements for operating a postponement period. It seems to us that the combined effect of Section 4 of the Act and regulation 17 (as drafted) is to permit the minimum enhanced level of employer contributions to be reduced to the normal minimum level after the prescribed period. If the intention is that this would enable an individual to enter a scheme on the basis that the enhanced contributions would automatically cease after three months and revert to the standard level, then this would be an acceptable proposal.

From the perspective of the individual, it should be realised that many of those who would be better advised to opt out (such as older low-paid or casual workers) will be those least capable to cope with the bureaucratic hassle and financial impact of the opt-out process.

We would be happy to share further details of our clients' responses if this would be useful.

Our comments on your specific questions are given below.

Regulation 3 Automatic enrolment into a personal pension scheme

Q.1: To what extent would the terms and conditions proposed for deeming the contract differ from the current joining processes and what impact is this likely to have?

The proposed terms and conditions don't differ substantially from current joining procedures apart from the extremely tight timescales prescribed for employers to administer the requirements and for employees to give careful consideration as to what is being offered.



Regulations 4 and 5 Information provided by the employer to the scheme

Q.2: Is there other essential information that should be included, or moved into regulation 4?

Q.3: Is there further information that is likely to be needed or should be moved into regulation 5?

The information set out would seem reasonable but we can see no reason why schemes should not be able to specify what they will require. If this has to be done when an employer first designates a scheme as a qualifying scheme, the employer can make their choice of personal pension provider taking their requirements into account and should not be in a position of unexpectedly having to provide unreasonable information.

Regulation 8 Key Features Information

Q.4: Will the key features information requirements proposed allow people to make an informed decision about whether to remain within the personal pension contract?

Q.5: To what extent would modifications need to be made to existing information provision processes?

Existing information provision processes cover the proposed requirements and there should not be a need for much modification. Our view is that the key features information alone is generally not sufficient for jobholders to make an informed decision in such a short time period about whether or not to remain within the personal pension contract. The key features information is often supported by education and information services in the form of jobholder presentations, online material and tools, and scheme-specific literature. We support an extension to the auto-enrolment window to give jobholders more time to carefully consider this important decision.

Regulation 10 Jobholders affected by postponement of automatic enrolment

Q.6: Is there any other information to jobholders affected by postponement of automatic enrolment that is missing and needs to be included?

We think it is important that the employee has access to specific information about the scheme into which they will be enrolled. The regulation should make that clear. We also suggest that the maximum postponement period be set at three months, rather than 90 calendar days. This is a common waiting period for those employers with existing work place pension schemes and may avoid the need to make any changes to scheme rules etc. Three months also fits more easily into most employers' monthly processing schedule.

Regulations 13 and 14 Process of opting out

Q.7: Regulation 13 – We would welcome views on the 5 day time limit within which the employer is obliged to tell the jobholder if an opt out notice is not properly given, completed or signed.

Many employers could find this difficult to guarantee compliance within such a short timescale. This might be particularly so in very small organisations.

What would be valuable is for an individual to have the opportunity to correct the position within a reasonable time of being told that the original notification was invalid.

Q.8: Regulation 13 – We would welcome views on whether the scheme or the employer should hold the original opt out notice.

It is the employer who has the responsibility for compliance with the auto-enrolment provisions and we would therefore agree that the employer should therefore retain the documentation.

Q.9: Regulation 14 – We propose that opt out forms should be sourced from pension schemes. We consider that a requirement to obtain the opt out notice from the scheme balances the need to protect jobholders from outside influences without establishing so rigid an opt out process that the ability of the jobholder to opt out is undermined. We would welcome your views on whether we have struck the right balance or whether we should relax our approach.

We understand the reasons for your stance but do have concerns that it is unrealistic to expect many of those for whom opting out may well be the sensible choice (eg. low-paid older workers) to feel comfortable contacting an organisation they do not know to obtain a form within the required timescale.

Q.10: Regulation 14 – Schemes are required to provide an opt out form on request. Should we prescribe a time limit for schemes to do this?

As with the answer to Q7, we support that this time limit is reasonable but we think it is more important to stipulate that individuals would have a minimum period (say 14 days from receipt) to return a completed opt-out form.

Regulation 15 (and Schedule) Content of opt out notice

Q.11: Do schemes welcome a standard mandatory opt out form, or would prescribed minimum wording suffice?

Opting out could affect ancillary death benefits as well as pension provision. For that reason, we would favour minimum wording rather than a standard mandatory form. This would enable the employer/scheme to adapt the message to meet their particular circumstances.

Q.12: Should prescribed wording be a minimum or a maximum?

For the reason indicated above, it should be a minimum.

Regulation 16 Opt out refunds

Q.13: Is 21 days a sufficient period for schemes to refund monies to employers and a fair period for employers to wait for the money?

We found strong opposition to the basic concept of an employer having to deduct contributions before a member has had a chance to opt out. This will inevitably incur inconvenience for all parties (employee, employer and scheme) if opting out occurs.

If the basic proposal stands, then the timescale suggested for reimbursement is probably reasonable.



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