



Society of Actuaries in Ireland

Submission to the Joint Committee on Social Protection, Community and Rural Development and the Islands on the Draft Heads and General Scheme of the Automatic Enrolment Retirement Savings System Bill 2022 (“the Bill”)

25 November 2022

Background to the Society of Actuaries in Ireland

The Society of Actuaries in Ireland (“Society”) is the professional body representing the actuarial profession in Ireland. The Society is dedicated to serving the public by fostering the highest standards of professionalism and competence in actuarial practice. Many of the Society’s 2,000 plus members are actively engaged in pensions, providing actuarial, investment and risk management advice in relation to pension schemes as well as general consultancy support on issues such as governance and member communications. Other members are employed by pension providers such as life insurance companies or fund managers, and by pensions administrators, whilst some members may be personal financial advisers or may act as independent trustees for pension schemes.

The Society’s Mission includes a commitment to serve the public interest by promoting thought leadership and contributing as an independent voice on matters where an actuarial perspective can add value.

To deliver on this commitment, the Society engages with policymakers and relevant industry supervisors and is seen as having an independent voice. In particular, the Society has made submissions to consultations by the Department of Social Protection on automatic enrolment, and has had discussions with the Department on specific issues related to automatic enrolment. This submission is also being copied to the Automatic Enrolment Program manager at the Department.

Introduction

The Society supports the introduction of an automatic enrolment (“AE”) system, and endorses most of the design principles set out in the Department’s report *“The Design Principles for Ireland’s Automatic Enrolment Retirement Savings System March 2022”* (“Design Principles”), which are developed in the Bill.

The Society notes that many of the detailed requirements remain to be prescribed in Regulations and would be pleased to engage with the Department on these details as required.

The Society notes that there is much detail in the Bill on the establishment and powers of the CPA, and on administrative matters, which are of major importance to the success of the AE system. In the time available, we have not reviewed these sections as we expect that they will be adequately covered by other respondents.

The Society has the following comments on the Bill as drafted:

Eligibility – age and earnings limits

In its [submission](#) on the *“Strawman Public Consultation Process for an Automatic Enrolment Retirement Savings System for Ireland”* (“Strawman”) in 2018, the Society recommended that AE be applied to a broader population than was proposed, but the original proposals have been restated in the Design Principles and in the Bill¹.

We recommend that the upper and lower age limits of 23 and 60 respectively be reconsidered. Whilst we accept that there is significant job mobility amongst those under age 23, there will still be many employees below this age (particularly those who do not go on to third level education) who remain with a single employer for a number of years for whom pension saving would be beneficial. Indeed, there might be a high level of opt-out amongst such employees if they “suffer a pay cut” on turning 23, whereas if the AE contributions had been deducted from the start of their employment, this would not arise. In any event, the “pot follows member” principle means that it would still be beneficial to be included in the AE system.

In relation to employees over age 60, we note the comment that they would not have time to build up a meaningful fund, and whilst this is true for those with very short service (and in the initial phasing-in stage when the contribution rates are low), all such employees will still benefit from employer contributions and the State contribution, so that even with zero investment growth they would accumulate a fund of 2.33 times their own contributions.

We note that such employees may opt-in and receive the benefit of employer and State contributions, but higher levels of coverage would be achieved by including them in the first place, even if their subsequent opt-out rates are higher than for the other age groups.

We accept that it makes sense to have a minimum earnings threshold, although this might be pitched lower than €20,000 to partly address the concern noted in the Explanatory Note² that this threshold indirectly discriminates against women, who are generally lower-paid.

We recommend that AE be extended to the self-employed and atypical workers e.g. carers, the “gig” economy etc. and we understand that the Department will examine this in a subsequent phase.

¹ Head 4

² Head 6

Exemption for members of existing schemes

The Bill provides that members of “qualifying occupational pension schemes”³ which meet standards prescribed by the Minister will not be subject to AE. We would point out that the wording currently used in the Explanatory Notes is not sufficiently precise to deal with this issue. In particular

- Employers and employees must be “actively making contributions”⁴
There are some schemes which do not require members to contribute, but permit voluntary contributions; would members who do not contribute be subject to AE, even though they are accruing pension benefits?
There are, or may be in future, defined benefit schemes which are sufficiently well funded for contributions (by employer and/or employee) to be suspended (“a contribution holiday”); would members of these schemes be subject to AE?
- Employer sponsored PRSAs
Some employers provide pension benefits for their employees by means of a group PRSA. If the amendments set out in Section 18 of the Finance Bill come into effect, it is likely that PRSAs will be more widely used to provide employer sponsored pension benefits. PRSAs are not currently considered as “occupational pension schemes” so the term “qualifying occupational pension schemes” would appear to exclude them.

In addition, there are other circumstances where eligibility for AE is not clear

- Employees making additional contributions to a personal pension arrangement
If an employee who is not currently contributing to any pension arrangement, and is automatically enrolled, wishes to contribute more than the required 1.5% of earnings, can they make additional contributions to a personal pension policy or PRSA (and obtain tax relief on these up to the usual limits) or does this make them “ineligible” for the AE system as they are actively contributing to another arrangement?
- Employer-sponsored top-up scheme
If an employer whose employees are automatically enrolled wishes to pay more than 1.5%, can they subsequently establish an occupational pension scheme to which they (and employees) pay contributions (and obtain tax relief on these up to the usual limits) in addition to the 1.5% each going into the AE system

There are also circumstances where employees who are members of schemes where the benefits are not aligned with the AE structure

- Earnings not currently covered for pension benefits
A scheme may use a definition of “pensionable earnings” on which employee contributions (in a DC scheme) or benefits (in a DB scheme) are based, which excludes earnings which would come into the definition of “gross earnings”⁵ e.g. basic salary, earnings less twice the State Pension. Does this meet the requirement or are such employees subject to AE in respect of their non-pensionable earnings?

³ Defined in Head 2

⁴ Head 4

⁵ Defined in Head 2

- Employees covered for death benefits only
A scheme may have a waiting period before pension benefits begin to accrue, but during which death in service benefits are provided by the scheme. Would such employees be subject to AE in the waiting period, even if they became ineligible once pension accrual begins?

Opting out and suspension of contributions

We note that a member who opts out in the two-month window will, after 6 months, receive a “refund of their own contributions”, and that the employer contribution and State contribution will cease but the amounts already paid will remain in the fund as a “paid-up” benefit for the member⁶.

We have some comments/questions on the detail:

It is stated that the amount received by the member will be their own contributions, so we understand that there will be no adjustments for

- (a) charges [a deduction for charges was proposed in the Strawman]
- (b) tax [refunds of contributions are currently taxed at the standard rate]
- (c) movements in the market value of investments.

We agree that this is a sensible approach, but in relation to (c) this means that the amount of the employee’s paid-up fund will be either more or less than the sum of the unrefunded employee contributions, employer contributions and State contributions made⁷. This should be made clear in the Bill/Regulations.

We presume that for an employee who opts out, and is subsequently re-enrolled, the contributions during this second period (and any subsequent period of membership if they again opt out) will be credited to the “paid-up” account to which contributions were paid in the first period, even if there is now a different employer.

We note that suspension of contributions⁸ is permitted, in circumstances to be prescribed, for a period of not less than one year and not more than two years. In our submission on the Strawman, we suggested that a maximum number of periods of suspension would apply, but this does not appear in the Design Principles or the Bill. We would be comfortable with no maximum if the circumstances prescribed in the Regulations act as a limiting factor in any event.

The CPA

We welcome the powers given to the CPA and note that the Bill explicitly requires that it “exercise[s] fiduciary responsibilities in discharging its functions”⁹. Given this, it is important that the CPA has an appropriate level of expertise and independence, and acts in a transparent manner. We note also that the CPA may give advice to individual members¹⁰, which would not normally apply in a trust-based scheme.

⁶ Head 12

⁷ Sub Head (4) of Head 12

⁸ Head 11

⁹ Sub Head (3) of Head 15

¹⁰ Head 46

We would recommend that the CPA be given a name which more correctly reflects its role, which is now considerably broader and more challenging than the Processing role originally envisaged in the Strawman.

Investment strategy

The Design Principles indicate that the default fund should be a lifestyle/lifecycle type arrangement, which we support¹¹. This is not explicitly referenced in the Bill but can be prescribed by the Minister¹².

The Explanatory Note confirms that the default fund “will be linked to good practice for investment for retirement”¹³. We believe that good practice should include consideration of sustainability and environmental, social and governance factors¹⁴ and we recommend that this be explicitly stated in the Bill.¹⁵ In particular, we repeat the recommendation made in our submission to the Strawman that the default fund should have regard to environmental, social and governance (ESG) issues.

Member Communication

We welcome the commitment¹⁶ to adopt a digital-led approach to member communication and we recommend that a complete review of member communication in relation to pensions generally is undertaken, given the significant changes in the pensions landscape since the existing Disclosure Regulations were issued or substantively amended. We believe that the format of the annual statement¹⁷ (Pensions Benefit Statement) could be substantially improved and we would be pleased to engage with the Department in relation to the drafting of the relevant regulations.

Retirement Products

We recognise that it will be a number of years before there are significant retirements from the AE system, and that those retiring in the early years will have small pots which they will probably opt to take as cash. We note that consideration will be given to developing a set of pension drawdown options to be made available via the CPA and that a default drawdown product could be designed¹⁸. We recommend that development of these options be progressed as, although we accept that they will not be needed for a number of years, employees would have greater confidence in contributing to AE if there is clarity about the form of benefits that they will get at retirement. We would be pleased to assist the Department with the development of these drawdown options.

¹¹ Our preference is for a “through retirement” approach, whereby the member can drawdown their funds without leaving the AE framework. This would need to be taken into account in the investment allocation i.e. retaining some level of equity investment post retirement. We recognise that in the short term, retirees will have small pots which will be taken as cash, where a more risk averse approach is appropriate.

¹² Head 33

¹³ Explanatory Note to Head 33

¹⁴ As permitted under Sub Head (2) to Head 39

¹⁵ e.g. as sub Head (5)(e) to Head 33

¹⁶ Head 42

¹⁷ Head 45

¹⁸ Head 59

Summary of recommendations

We recommend that:

- the upper and lower age limits of 23 and 60 respectively be reconsidered;
- AE be extended to the self-employed and atypical workers;
- clarity be provided in relation to the circumstances in which an employee is ineligible for AE due to membership of other arrangements;
- the CPA be given a name which more correctly reflects its role;
- investment “good practice” should include consideration of sustainability and environmental, social and governance factors and this should be explicitly stated in the Bill;
- the default fund should have regard to environmental, social and governance issues; and
- the development of drawdown options should be progressed.