Spotlight 66

Auto Enrolment Update



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Introduction

In our Spotlight 65 we looked at the proposed Auto-Enrolment (AE) retirement savings system for Ireland in the context of the Design Principles which were published in March 2023 and the Oireachtas Committee's Pre-Legislative Scrutiny Report which was published in April 2023.

The purpose of this Spotlight 66 is to bring employers and trustees up to date on recent developments.

Legislative Process

The proposed Automatic Enrolment Retirement Savings System Bill ('the Bill') was brought before the Cabinet and duly approved by it on Wednesday, 27 March 2024.

The Bill was published on 5 April 2024 and the key provisions contained therein are as follows:

- **Establishment & Operation:** A body corporate, An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir (National Automatic Enrolment Retirement Savings Authority) ('the Authority'), will be established to set up, maintain and administer the automatic enrolment retirement savings system and perform the functions conferred on it under the Bill, once enacted.

  The Authority is accountable to the Minister for Social Protection.

  The Authority, once the relevant section of the Bill to be enacted comes into force, will conduct a review of the operation of the automatic enrolment retirement savings system within 5 years. This review will include consideration of each aspect of the eligibility conditions, contribution levels, opt-out provisions and benefit draw down options.

  The Pensions Authority will prepare an annual supervisory report for the Minister which will review the performance of the Authority and its Board, and the operation and effectiveness of the Authority's systems of governance and operation.

- **Eligibility:** There is no change to any of the previously publicised eligibility conditions contained in the Bill. All employees aged between 23 and 60 who earn at least €20,000 per year will be eligible. The Authority will notify employers of the eligibility of their employees, and employers will be required to notify their employees accordingly.

  Otherwise eligible employees will not be eligible if they are in 'exempt employment'. Such employment is where an employee and/or an employer is making contributions to a qualifying occupational pension scheme, Personal Retirement Savings Account (PRSA) or trust Retirement Annuity Contract (RAC) via the employer's payroll.

  Until such time as standards are drawn up under s52 of the Bill to be enacted, the payment of an employee and/or an employer contribution to an occupational pension scheme, PRSA or trust RAC will exempt an employee from eligibility for automatic enrolment. The standards will be drawn up in due course by the Authority, in consultation with the Pensions Authority, and shall aim to ensure that these standards are at least as favourable as those under the automatic enrolment retirement savings system. These standards will be put in place no later than 1 January 2031 (assuming the system commences on 1 January 2025).

  Employees aged 18 to 23 or aged 60 to 66 years of age who are not in 'exempt employment' are eligible to voluntarily opt-in to the automatic enrolment retirement savings system.

  The Minister for Social Protection may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, amend any or all of the eligibility conditions specified in the Bill.

- **Contributions:** There is no change to the levels of employee or employer contributions, or to the State contribution, previously publicised. These will be



1.5%, 3%, 4.5% and 6% for employees and employers in years 1-3, 4-6, 7-9 and 10 onwards respectively, with a respective State contribution of 0.5%, 1%, 1.5% and 2%.

The contribution percentages will be applied to an employee's gross pay to a maximum of €80,000 per year. The Minister for Social Protection may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, amend this maximum.

Interest at a specified rate (0.0274% per day or 10% per year) is provided for when remitting late payment of contributions.

- **Investments:** There is no change to any of the previously publicised investment conditions contained in the Bill. Each provider of investment management services will be required to provide a fund with a 'lower risk level', a 'medium risk level' and a 'higher risk level'. The risk levels will be determined with reference to a 7 point risk scale, unless the Minister for Social Protection makes regulations prescribing otherwise, with 1 being the lowest and 7 being the highest. The 'lower risk level' fund will correspond to points 1 or 2 on the scale, the 'medium risk level' fund will correspond to points 3 or 4 on the scale, and the 'higher risk level' fund will correspond to points 5, 6 or 7 on the scale.

  Employees will be able to select the risk level of the fund that they would like any contributions remitted on their behalf to be invested in. The Minister for Social Protection will, via regulations, be able to provide for employees to select more than one fund for different elements of contributions.

  Where employees do not make such a choice, provision is made for contributions to be invested as follows:

Prior to age 51 (more than 15 years from pensionable age of 66)	**Higher risk level**
After age 51 but prior to age 61 (more than 5 years but less than 15 years from pensionable age of 66)	**Medium risk level**
From age 61 onwards (less than 5 years from pensionable age of 66)	**Lower risk level**

  The Minister for Social Protection may make regulations specifying the appropriate risk level in relation to any specified period before the employee reaches pensionable age, currently age 66. Such regulations may apply different risk levels to different elements of contributions.

  Where there is more than one provider of investment management services, any contributions forwarded for investment will be divided equally between providers by the Authority.

- **Opt-Out and Suspension:** There is no change to any of the previously publicised opt-out conditions contained in the Bill. Employees will still be able to opt-out between 6 and 8 months of being automatically enrolled or re-enrolled. Where employees do opt out in this way, they will be refunded their own contributions since enrolment, but all employer and State contributions to that date will remain in the employees' pension pots.

  Employees will also still be able to opt-out between 6 and 8 months subsequent to the changes in contribution levels. Where employees do opt out in this way, they will be refunded the additional contributions they personally made since the rate change. This means the difference between the original rate and the new rate for the period covering the effective date of the new rate until the date they opted out. However, their own contributions at the preceding rate will remain in their pension pots. All employer and State contributions at all rates will also remain in the employees' pension pots.

  Similarly, there is no change to any of the previously publicised suspension conditions contained in the Bill. Employees may still suspend their contribution for up to 2 years from 6 months after enrolment or re-enrolment or any previous period of contribution suspension. All employee, employer and State contributions will remain in the employees' pension pots during the period of suspension.

- **Accessing Benefits:** The Bill to be enacted makes provision for benefits to be paid at pensionable age which is currently age 66. The Bill provides for the value of an employee's retirement account to be paid as a lump sum, however, the Minister for Social Protection may, via regulations, provide that employees' retirement accounts may be used to secure annuities or to be invested in Approved



Retirement Funds or to be applied to "a similar or related arrangement".

In the event of death before reaching pensionable age, the value of an employee's retirement account is payable to his or her legal personal representatives.

There is also provision for benefits to be paid before pensionable age, where the employee has retired on grounds of incapacity or is in exceptional circumstances of serious ill-health. The Authority is charged with making a determination in this regard. The Minister for Social Protection, via regulations, may extend the grounds for benefits to be paid before pensionable age, such as incapacity where an employee is not in employment and where incapacity affects an employee's earnings capacity.

There is no reference to retirement account balances being subject to income tax or any other tax at the point of payment.

Furthermore, there is no reference to any entitlement arising under the automatic enrolment retirement savings system counting towards the Standard Fund Threshold which applies to other forms of retirement saving in Ireland.

- **Dormant Accounts:** Where employees' retirement accounts are not claimed within 15 years of pensionable age, the Authority will publish a notice on 31 October 2041 and on each first working day in November in subsequent years to the effect that there are such accounts. A register of unclaimed retirement accounts will be maintained by the Authority.

  Any retirement accounts which remain unclaimed by 31 March of the following year will be transferred by 30 April of that year to a Dormant Accounts Fund which will be managed by the NTMA.

  Employees or their legal personal representatives may still redeem their retirement accounts from the Dormant Accounts Fund, having satisfied the Authority of their entitlement to do so.

- **Fees:** In accordance with s25 of the Bill, the Minister for Social Protection may, having consulted with the chief executive of the Authority and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe the level of fees to be payable to the Authority, by whom and by when. It appears that members may be asked to bear at least some of these costs as there is reference to fee deductions being made prior to the disbursement of benefits.

- **Annual Statements:** Employees will be provided with an annual statement by the Authority which will be similar in relation to the information contained therein to existing defined contribution pension benefit statements. These will be produced at yearly intervals and will be made available within 6 months of the effective date of the statement.

- **Offences Under the Bill:** Depending on the offence, employers could be the subject of fixed penalty notices of up to €5,000, e.g. hindering or attempting to hinder an employee from participating in the automatic enrolment retirement savings system, or a fine of up to €50,000 or imprisonment for up to 3 years or both on conviction on indictment.

The current expectation is that the Bill, incorporating any changes that may be made as it makes its way through the legislative process, will be enacted by July 2024. The final form of the automatic enrolment retirement savings system will not be known until then.

It is currently expected that the first contributions will be made to the automatic enrolment retirement savings system from 1 January 2025 onwards.

Aon Comment on the Bill

While Aon continues to strongly support the introduction of an automatic enrolment retirement savings system to serve the unmet needs of those employees who currently have no supplemental pension provision, and welcomes the progress made in recent months, it is disappointing that, as currently drafted, the Bill does not:

- Address the complexity of adding a different tax system for retirement savings to that which already exists and which may lead to "regulatory arbitrage", and can lead to perceived unfairness and difficult decisions for employers as regards which system is better for their employees.
- Provide a support network for investment advice to be offered to all automatic enrolment retirement savings members in order to allow them to select the most appropriate fund for their age, financial position, and personal circumstances based on the funds made available to them.
- Allay our concerns in relation to investment whereby we have previously expressed the view that, if pooling the returns for investors equally across a number of providers of investment management services/funds, this will be very onerous to administer, and it could lead to appointing "generalist" investment managers across all asset classes, rather than specialist investment managers who are 'best in class' in particular asset classes. The proposed structure, we believe, will ultimately lead to worse outcomes for members.
- Provide the clarity required on things like fees, taxation, and interaction with the current retirement savings system in order for employers to fully consider their options in advance of the introduction of the automatic enrolment retirement savings system.
- Provide a statutory override to employment contracts in order to allow employers to 'auto-enrol' employees who are currently non-members of occupational pension schemes into these as an alternative to having them included in the automatic enrolment retirement savings system.
- Incorporate some of the findings of the Oireachtas Committee which would benefit employees, particularly female employees, such as the removal of the lower income threshold of €20,000 or a provision for a State incentive during periods of maternity leave, and also one that would allow an efficient tax mechanism for partners to make contributions when on unpaid leave.

In addition to the above, we continue to have concerns that the new Authority will be costly and difficult to set up in the remaining months of 2024, and will require a significant amount of expertise from an industry with a current tight labour market. We would have concerns that the effort required to establish and operate the Authority could be underestimated.

It is, however, pleasing to see progress being made and that the automatic enrolment retirement savings system is designed to be 'digital by default' while still providing for paper based communications upon application for those who engage best through this medium.

Aon remains of the view that this is a once in a lifetime opportunity to establish a globally recognised, best in class pension system for those who do not have any supplemental retirement savings.

What Still Needs to Happen?

Aside from enacting the Bill, the Department of Social Protection still needs to:

- Establish the National Automatic Enrolment Retirement Savings Authority, which will manage the automatic enrolment retirement savings system;
- Appoint a firm to build the administration platform and operate this on an ongoing basis; and
- Appoint the investment firms which will invest all of the automatic enrolment retirement savings contributions.

While it is believed that both outsourced appointments are well advanced, there will be a substantial amount of work involved in becoming operational. The commencement date of the automatic enrolment retirement savings system has been pushed out to the start of 2025, however, it still remains to be seen whether or not it is possible to complete the remaining work over the coming months in order to facilitate this.

What Next for Employers?

The automatic enrolment retirement savings system will have financial and resource implications for all employers, particularly those where there are large numbers of employees who are not already members of an occupational pension scheme, PRSA or trust RAC, or where rising operational costs are already a challenge.

For those employers with existing pension plans, they will need to decide whether to repurpose these from an eligibility and contribution perspective to meet the requirements of the automatic enrolment retirement savings system, or whether to operate a dual retirement savings system for their employees.

We would recommend that employers consider their options carefully, having regard to the demographics of their employees, both now and in the future, and existing contractual and retirement savings arrangements. They should take the appropriate professional advice in order to plot the most appropriate path for future retirement savings and start to consider an appropriate communication strategy for their employees.

While there remains some uncertainty, notwithstanding the publication of the Bill, employers should start to take action now.

Further Information

Aon will be reaching out to all of its clients in the coming weeks to discuss the latest developments and to provide employers and trustees with the support that they need to navigate this significant change in the Irish pensions landscape.

Any employer or trustee who would like support in the meantime may contact either of the following subject matter experts to discuss this matter:

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The Government has published a Frequently Asked Questions page on its on-line portal which, aside from general questions about the auto enrolment retirement savings system, also considers questions from the viewpoint of employers and employees.

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