

PENSIONS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Pension scheme membership for jobholders

Chapter 1: Employers' duties

Section 8: Jobholder's right to opt out

39. This section establishes the right of a jobholder who has been automatically enrolled (or re-enrolled) into an automatic enrolment pension scheme to opt out of that membership by providing a signed notice to their employer within a prescribed period indicating that they choose not to participate. The form and content of this notice will be set out in regulations, as will the prescribed period during which they can choose to opt out, to whom the jobholder must give notice of opt out and arrangements which must be made to give effect to an opt out decision. The opt out notice must include information relating to the effect of opting out on the jobholder. Opting out in this context refers to the specific decision not to participate in a pension scheme from the point of enrolment. Once in a scheme, an active member is free subsequently to cancel membership at any time and this section does not interfere with that established right.
40. Once a jobholder has opted out they will be treated as if they had never become a member of that qualifying scheme through that automatic enrolment. In effect this means that they will not have any rights in the scheme and any contributions collected from the jobholder and the employer (*subsection (2(b))*) will be refunded. However, when a jobholder chooses to opt out after being enrolled or re-enrolled in a pension scheme, any refund of contributions due is only for the current period of membership and not for previously accrued rights from past periods of active membership (*subsection (1)*).
41. Regulations will also establish how and by when refunds must be made and how they are calculated.