**EXPLANATORY MEMORANDUM TO**

# THE AUTOMATIC ENROLMENT (EARNINGS TRIGGER AND QUALIFYING EARNINGS BAND) ORDER 2020

**2020 No. 372**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 This instrument sets out revised amounts for the 2020/21 tax year for the lower threshold of the automatic enrolment qualifying earnings band, and rounded figures for the earnings trigger and qualifying earnings band.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws).***

3.2 The territorial application of this instrument includes Scotland.

## 4. Extent and Territorial Application

4.1 The extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

4.3 The Department for Communities in Northern Ireland will be producing its own legislation replicating this instrument for Northern Ireland.

## 5. European Convention on Human Rights

5.1 Guy Opperman MP, Minister for Pensions and Financial Inclusion, has made the following statement regarding Human Rights:

"In my view the provisions of The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2020 are compatible with the Convention rights."

## 6. Legislative Context

6.1 The amounts for the qualifying earnings band were set initially in the Pensions Act 2008[1]. The Pensions Act 2011[2] amended the 2008 Act, setting the automatic enrolment and re-enrolment trigger, amending the review provisions and inserting the rounding provisions. The legislation requires the Secretary of State to review the automatic enrolment and re-enrolment earnings trigger and the qualifying earnings

[1] http://www.legislation.gov.uk/ukpga/2008/30/contents
[2] http://www.legislation.gov.uk/ukpga/2011/19/contents

band each tax year and revise the amounts set out in legislation, by Order, if she considers that any of the relevant amounts should be increased or decreased.

6.2 Following the review of the automatic enrolment and re-enrolment earnings trigger and the qualifying earnings band in 2018, revised amounts in respect of the Lower and Upper Limits of the qualifying earnings band for 2019/20 were set out in The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2019. The earnings trigger remained at £10,000.

6.3 The Secretary of State has considered whether the amounts of the qualifying earnings band and the earnings trigger should be changed for the 2020/21 tax year. She has concluded that the amounts for the qualifying earnings band should continue to be aligned with the National Insurance Contributions Lower and Upper Earnings Limits for the tax year 2020/21, £6,240 and £50,000 respectively, and that the automatic enrolment earnings trigger should remain at £10,000.

6.4 This instrument therefore sets a new amount for the lower limit of the qualifying earnings band for 2020/21 while retaining the limit for the upper limit at the 2019/20 level, the figures align with the National Insurance Contributions Lower and Upper Earnings Limits at their 2020/21 value. The Order further revokes part of the equivalent 2019 Order.

## 7. Policy background

***What is being done and why?***

7.1 The automatic enrolment and re-enrolment earnings trigger is the level of earnings at which employers are obliged to automatically enrol (and re-enrol) eligible jobholders into a qualifying workplace pension scheme.

7.2 Employers and eligible workers are then obliged to pay overall contributions, which, including tax relief where eligible, must be at least equal to 8 per cent of a band of qualifying earnings made up of salary, wages, commission, bonuses, overtime and statutory sickness, maternity, paternity and adoption pay.

7.3 The Secretary of State has discretion to increase or decrease the amounts of the earnings trigger and the qualifying earning band and must review the level of these each year. In doing this, the Secretary of State may take into account the prevailing personal tax threshold; Class 1 National Insurance contributions limits and thresholds; the rate of basic state pension and the general level of prices and earnings, or any other factors she considers to be relevant.

7.4 The Secretary of State also has discretion to prescribe annual thresholds and proportionate amounts to match pay periods. She also has the power in respect of the rounded figures, to specify the amount as a figure of whole pounds, a figure that is divisible by 10 pence or a figure that includes a whole number of pennies. It is for the Secretary of State to decide whether to round any particular amount up or down.

<u>Earnings Trigger</u>

7.5 The Secretary of State has considered all the statutory review factors against the latest analytical evidence and policy objectives which are;

- Will the right people be brought in to pension saving?
- What is the appropriate minimum level of saving for people who are automatically enrolled?

- Are the costs and benefits to individuals and employers appropriately balanced?

She has decided that the current earnings trigger of £10,000 remains the right level and therefore will not change for 2020/21.

*Qualifying Earnings Band*

7.6 The qualifying earnings band determines those earnings on which the enrolled worker and their employer have to pay into a workplace pension. It is intended to ensure that those who are automatically enrolled pay contributions on a meaningful level of their earnings while managing burdens on employers in terms of the contributions they pay. The qualifying earnings band for 2019/20 is aligned with the Lower and Upper Earnings Limits for National Insurance Contributions at £6,136 and £50,000 respectively.

7.7 The Secretary of State considered all the review factors set out in the legislation against the analytical evidence and the policy objectives and has concluded that the National Insurance Contributions Lower Earnings Limit remains the most relevant point to begin private savings for retirement. She has therefore decided to retain the alignment with the National Insurance Contributions Lower Earnings Limit for 2020/21.

7.8 The Secretary of State has concluded that band of earnings in respect of which mandatory employer contributions are paid should still be capped and decided that the National Insurance Contributions Upper Earnings Limit at its 2020/21value is the factor that should determine the upper limit of the qualifying earnings band.

7.9 Consequently, the instrument provides for the lower and upper limits of the qualifying earnings band to be aligned with the Lower and Upper Earnings Limits for National Insurance Contributions for 2020/21 which, subject to parliamentary approval, are proposed to be £6,240 and £50,000 respectively.

## 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archive’ website legislation.gov.uk.

## 10. Consultation outcome

10.1 The Secretary of State decided not to consult on the amounts of the qualifying earnings band and earnings trigger for 2020/21 as the review this year will continue with the approach taken in previous reviews.

10.2 Under the Pensions Act 2008, the Secretary of State is required to review the earnings trigger and qualifying earnings band for each tax year but there is no statutory requirement to consult on the review. As in previous years the analysis supporting the review for 2020/21 has been published[3]. This also provides internet-links to previous outcomes of the annual threshold reviews.

10.3 The Secretary of State's decision on the values of the qualifying earnings band and earnings trigger for 2020/21 is based on policy principles established through previous consultations[4]. These are familiar to interested stakeholders and it was decided it was appropriate not to consult in this instance.

10.4 This mirrors the position of the 2019/20 review whereby no consultation was carried out as the Secretary of State decided not to depart from the established policy principles and the position of the previous year.

## 11. Guidance

11.1 The Pensions Regulator has updated its online Guidance[5] for employers and payroll providers with the new thresholds (subject to Parliamentary approval) and will confirm these once this instrument comes into force.

## 12. Impact

12.1 An Impact Assessment has not been prepared for this instrument as the Secretary of State has considered the impact of the various options for each of the thresholds and a full analysis of volumes, costs and equalities impacts was published[3] on 27th February 2020.

12.2 This instrument will have an impact for business, charities or voluntary bodies and public sector employers. Due to the changes, employers will pay an estimated £10 million less in employer pension contributions in 2020/21 than they would have done had the thresholds been uprated with earnings. This is relatively low in the context of estimated total annual employer pension contributions of approximately £7.3 billion attributable to automatic enrolment.

12.3 This instrument will decrease overall pension saving by an estimated £25 million compared to if the thresholds had been uprated in line with earnings

## 13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken was to stage the implementation of the automatic enrolment duties to enrol eligible workers into a workplace pension arrangement gradually over six years between October 2012 and February 2018, starting with the largest employers. Small businesses started to become subject to the automatic enrolment duty in June 2015. Increases to pension contributions have also been "phased" in to enable employers to adjust to the costs of this reform. The planned phased increase in total minimum contributions – to 8% on a band of earnings – took effect from April 2019.

[3] http://gov.uk/government/publications/automatic-enrolment-review-of-the-earnings-trigger-and-qualifying-earnings-band-for-202021

[4] https://www.gov.uk/government/collections/automatic-enrolment-earnings-trigger-and-qualifying-earnings-band

[5] http://www.thepensionsregulator.gov.uk/automatic-enrolment-earnings-threshold.aspx

13.3 The basis for applying this Order to small businesses is to maximise the number of people saving for their retirement. It is important that eligible workers of small employers are able to save for their later life in the same way as those working for larger employers.

## 14. Monitoring & review

14.1 The Automatic Enrolment Earnings Trigger and the Qualifying Earnings Band are subject to an annual review as set out in the Pensions Act 2008 Section 14.

## 15. Contact

15.1 Tom Davies at the Department for Work and Pensions e-mail: automatic.enrolementpolicyteam@dwp.gsi.gov.uk can answer any queries regarding the instrument.

15.2 Hilda Massey, Deputy Director for Automatic Enrolment, at the Department for Work and Pensions can confirm this Explanatory Memorandum meets the required standard.

15.3 Guy Opperman MP, Minister for Pensions and Financial Inclusion at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.