EXPLANATORY MEMORANDUM TO

THE AUTOMATIC ENROLMENT (EARNINGS TRIGGER AND QUALIFYING EARNINGS BAND) ORDER 2013

2013 No. 667

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

2. Purpose of the instrument

This instrument sets out revised amounts for the 2013/14 tax year for the automatic enrolment and re-enrolment earnings trigger and the qualifying earnings band.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Context

4.1 These amounts were set initially in the Pensions Act 2008. The Act requires the Secretary of State to review the automatic enrolment and re-enrolment earnings trigger and the qualifying earnings band each tax year and revise, by Order, if he considers that any of the amounts should be increased or decreased.

4.2 The Secretary of State has discretion to increase or decrease the amounts and 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 he considers are relevant. He has the power to prescribe annual rates and proportionate amounts to match pay periods. He 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.

4.3 Following the review last year, revised amounts for 2012/13 were set out in The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2012. http://www.legislation.gov.uk/uksi/2012/1506/pdfs/uksi_20121506_en.pdf

4.4 The Secretary of State has concluded that the prescribed amounts for the automatic enrolment and re-enrolment earnings trigger and the qualifying earnings band should be revised for the tax year 2013/14.

4.5 This Order sets new amounts for 2013/14 and revokes the 2012 Order.

5. Territorial Extent and Application

The Order applies to Great Britain. Separate but corresponding provision will be made for Northern Ireland

6. European Convention on Human Rights

Steve Webb MP, Minister for Pensions, has made the following statement regarding human rights:

“In my view the provisions of The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2013 are compatible with the Convention Rights”

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. Employers are then obliged to pay overall contributions 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.

7.2 The Secretary of State believes that automatic enrolment should be as straightforward as possible for people to understand and employers to administer. He believes that automatic enrolment thresholds should, wherever possible, be aligned with existing payroll thresholds that employers are familiar with.

7.3 The Secretary of State has concluded that it is appropriate to enrol people automatically into workplace pension saving once they earn enough to pay income tax at the prevailing rates for the year 2013/14. The Order provides for the automatic enrolment and re-enrolment earnings trigger to be revised to align with the PAYE income tax personal allowance for the tax year 2013/14.

7.4 He has also concluded that private pension saving should build on the foundation of state pension entitlement. Under current rules state pension entitlement accrues from earnings at the National Insurance contributions lower earnings limit. The Secretary of State has, therefore, decided to use the National Insurance contributions lower earnings limit as the most relevant point to begin private savings for retirement. So the Order provides for the lower limit of the qualifying earnings band to be aligned with the lower earnings limit for 2013/14.

7.5 The Secretary of State has also concluded, taking into account the responses to the public consultation on the thresholds for 2013/14 which placed a high priority on alignment with existing thresholds, that the upper limit of the qualifying earnings band should also be aligned with the National Insurance contributions band even though this means a reduction in the top end of the band of qualifying earnings. The Order therefore provides for the upper limit of the qualifying earnings band to be aligned with the National Insurance contributions upper earnings limit.

- ***Consolidation***

7.6 An informal consolidated text of this instrument will be available to the public free of charge in due course via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website at http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/

8. Consultation outcome

8.1 The duty to review the automatic enrolment and re-enrolment trigger and the qualifying earnings band must be discharged in relation to each tax year. The power to substitute new amounts is a flexible power that allows the Secretary of State discretion to set the automatic enrolment thresholds every year.

8.2 To assist the Secretary of State in setting the amounts for the second year of live running, he consulted on the principles and the direction of travel for revaluation for 2013/14. In arriving at his decision, he has taken the results of the consultation into consideration.

8.3 The consultation ran for 6 weeks from 6 September 2012 until 17 October 2012. We received 24 formal written responses from employer organisations, pension providers, accountants, lawyers, trades unions and consumer organisations.

8.4 Responses highlighted the ongoing issues and competing priorities that have a bearing on the thresholds for year two. The challenge is balancing coverage, pension savings and employer costs. There are key points of debate about the exclusion from automatic enrolment of those whose earnings do not exceed the trigger and the principle of alignment with the tax system.

8.5 The key message that continued to emerge from this second-year consultation was that simplicity is critical to the success of automatic enrolment and that simplicity is best supported by aligning the automatic enrolment trigger and the contributions band with existing payroll thresholds. Alignment, above all, makes automatic enrolment easier to explain as well as to implement.

8.6 On an analysis of responses by sector, employers, the financial sector and the pensions industry continued to favour the principle of alignment. More than half of all responses supported alignment with the announced figures for the PAYE and National Insurance thresholds for 2012/13. A quarter of all responses agreed with the principle of alignment but not necessarily with the proposed figures. Some responses were agnostic about the actual figures or had suggestions on matters of detail.

8.7 Other respondents including the Trades Unions and a consumer organisation focused on low pay and equality issues and argued in favour of a lower entry point to automatic enrolment and re-enrolment. We reviewed that evidence carefully and a summary of our findings is appended to this memorandum at Annex A. The group excluded from automatic enrolment by a higher trigger comprises more women than men. However, those with lower earnings are less likely to benefit from pension saving than other groups. In determining the appropriate level for the automatic enrolment and re-enrolment trigger, we have had to weigh the possible adverse impact on women of a higher trigger, which may exclude lower earners from pension saving, against the risk that a lower trigger may also adversely impact women by bringing lower earners into pension saving inappropriately. Low earners with earnings above the lower limit of the qualifying earnings band have the right to opt in to pension saving with an employer contribution.

On 13 December 2012 the Secretary of State placed a copy of the Government response to the public consultation *Automatic enrolment earnings thresholds review and revision 2013 / 2014* in the library of the House. http://data.parliament.uk/DepositedPapers/Files/DEP2012-1872/ae-thresholds-2013-2014-response.pdf

9. Guidance

The Pensions Regulator will update its on-line Guidance for employers and payroll providers with the new rates following the publication of the Order. The new rates will also be published on the DWP website following the publication of the Order.

10. Impact

10.1 This instrument has no impact on business or civil society organisations.

10.2 The impact of this Order on the public sector is negligible.

10.3 A full impact assessment has not been published for this instrument because it amends an existing regulatory regime and the associated administrative costs are low. Publication of a full impact assessment is not necessary for such legislation. Nevertheless, the Secretary of State has considered the impact of the various options for each of the thresholds and an analysis of volumes and costs was published as part of the formal consultation. The analysis has been updated, (appended at Annex A and B) and published with the Government's response to the consultation. http://www.dwp.gov.uk/docs/ae-thresholds-2013-2014-response.pdf

11. Regulating small business

11.1 This Order does not apply to small business.

11.2 The automatic enrolment legislation places a duty on all employers, whatever their size, to automatically enrol eligible workers into a workplace pension arrangement. However, implementation is staged and smaller employers do not become subject to the automatic enrolment duty until the 2015/2016 tax year.

12. Monitoring & review

The automatic enrolment rates are subject to review each tax year.

13. Contact

For any queries regarding this instrument, please contact Jane Stewart at the Department for Work and Pensions Telephone number: 020 7449 7230 or e-mail: jane.stewart4@dwp.gsi.gov.uk

Annex A: Equality implications of changes to the earnings trigger

DWP estimate that there are 11 million workers eligible for automatic enrolment (the "eligible group") of whom just under two in five (37 per cent) are women.
Raising the 2013/14 value of the automatic enrolment trigger from £8,105 to £9,440 excludes around 420,000 individuals, of whom 320,000 (76 per cent) are women.
This result is consistent with the experience of previous years. As women are more likely to work part-time, or earn less than men, they will be disproportionately represented in the group excluded from automatic enrolment by an upward revision of the trigger and conversely in any group brought into pension saving by a decrease in the trigger.

(Note: Raising the 2012/13 value of the automatic enrolment trigger from £7,475 to £8,105 excluded around 100,000 people, 82 per cent of whom are women. Raising the 2011/12 value of the automatic enrolment trigger from £5,035 (in 2006/07 terms) to £7,475 excluded 600,000 individuals, 78 per cent of whom are women. However the precise percentages involved are not directly comparable with the 2013/14 estimates that are based on updated information on the pensions landscape, prices and earnings.)

Persistent low earners tend to find that the State, through pensions and benefits, provides them with an income in retirement similar to that in working life without the need for additional saving. For these individuals it may not be beneficial to direct income from working life into pension saving. Furthermore, anyone who is not automatically enrolled because of an increase in the earnings trigger will retain the right to opt in with an employer contribution. Employers will be required to provide information about these opt in rights.

The latest evidence suggests that the proportion of black and minority ethnic groups (BME) in the eligible group would remain broadly the same at 8 per cent with a trigger set at £9,440.
The latest evidence also suggests that revising the earnings trigger to £9,440 would not particularly affect people with a disability. It is estimated that workers with a disability will comprise 14 per cent of the revised eligible group.

The median age of those eligible for automatic enrolment on the current earnings trigger is 40 years which indicates that there is a slightly higher proportion of younger workers in the eligible group. However specific age groups are not particularly affected by changing the value of the earnings trigger.

The changes proposed for the 2013/14 review are not expected to particularly affect individuals according to their sexual orientation, religion or belief.

Annex B: Costs and benefits of proposals

Estimates of the impact of changing the earnings trigger and upper and lower limits of the qualifying earnings band on employers, individuals and Government (£ million, in 2013/14)

	Earnings Trigger	Qualifying Earnings Band - Lower Limit	Qualifying Earnings Band - Upper Limit	Employer Contributions	Individual Contributions	Individual Tax Relief	Level of Pension saving	Employer Tax Relief
Baseline	£8,105 (2012/13 PAYE threshold and current trigger)	£5,564 (2012/13 National Insurance Lower Earnings Limit and current qualifying earnings band lower limit)	£42,475 (2012/13 Upper Earnings Limit and current qualifying earnings band upper limit)	£383m	£292m	£86m	£761m	£14m
Proposal	£9,440 (Announced PAYE threshold for 2013/14)	£5,668 (Announced 2013/14 National Insurance Lower Earnings Limit)	£41,450 (Announced National Insurance Upper Earnings Limit for 2013/14)	£376m	£287m	£84m	£748m	£14m
Difference	-	-	-	- £6.4m	- £5.0m	- £1.5m	- £12.9m	- £0.2m

Notes:
Source: DWP Modelling.
Estimates are expressed in 2012/13 earnings terms.
Figures have been rounded to the nearest £1 million and £100,000, as appropriate, and therefore may not sum exactly in all cases.
Pension saving is the sum of tax relief, employer contribution and individual contribution costs.
This table has been updated to reflect new information released since the consultation.
The value of the 2013/14 National Insurance Lower Earnings Limit, of £5,668, is similar to a price inflation (CPI) increase.

ASAP