These notes refer to the Pensions Act 2011 (c.19)
which received Royal Assent on 3 November 2011

PENSIONS ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Automatic enrolment

Section 5: Earnings trigger for automatic enrolment and re-enrolment

57. *Section 5* amends sections 3 and 5 of the PA 2008. Section 3 provides that an employer is under a duty to enrol a jobholder (see section 3(7)) into an automatic enrolment scheme, with effect from the automatic enrolment date, where the jobholder is aged at least 22 and under pensionable age, and certain other conditions are met. Section 5 provides that an employer is under a duty to re-enrol a jobholder into an automatic enrolment scheme, on a date as set out in regulations, where the jobholder is aged at least 22 and under pensionable age, and certain other conditions are met.

58. The section provides that a jobholder will not be eligible for automatic enrolment under section 3 (or, with some exceptions, re-enrolment under section 5) unless, in addition to complying with the above conditions, the jobholder earns in excess of £7,475 per annum (the “earnings trigger”).

59. The earnings trigger is distinct from the band of “qualifying earnings” in section 13 of the PA 2008 (which concerns the earnings on which contributions are payable in the case of a “qualifying scheme” which is a money purchase or personal pension scheme). Therefore, where the jobholder has been automatically enrolled or re-enrolled, employers and jobholders must still pay contributions if the jobholder’s earnings fall below the earnings trigger, but are above the lower limit of the qualifying earnings band (see section 13(1)(a) of the PA 2008).

60. *Subsections (2) and (4)* define the term “earnings” for the purposes of sections 3 and 5 of the PA 2008 and oblige an employer to use a proportionate amount of the earnings trigger where a pay reference period is shorter or longer than one year. For example, employers that pay weekly must convert the amount of the earnings trigger to a weekly figure.