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Planning for pensions auto enrolment

New duties ahead for the employer

To encourage more people to save in pension schemes, the Government has placed greater responsibility on employers to provide access to pension provision.

Up until 1 October 2012 there was no requirement for an employer to pay employer contributions into a scheme. There was also no requirement for the employee to enter an employer provided scheme.

That will change for all employers. Whether there is only one employee or 10,000 employees, auto enrolment places significant responsibilities on an employer. Employers will need to automatically enrol 'workers' into a work based pension scheme and pay some pension contributions.

When does auto enrolment apply to an employer?

The law came into force for very large employers on 1 October 2012 but fortunately, the auto enrolment rules have staggered implementation dates by reference to the number of employees.

An employer can precisely work out when the auto enrolment rules will have to be applied as the implementation date (known as the 'staging date') is set by reference to the number of persons in an employer's PAYE scheme on 1 April 2012. The more employees an employer has on that date, the earlier the staging date. For example the staging date for an employer with 250 employees is 1 February 2014.

For those with less than 50 employees the earliest start date is 1 June 2015 but the precise date will depend not only on the actual number of employees at 1 April 2012 but also on an employer's PAYE reference number. The earliest date for an employer with up to 30 employees on 1 April 2012 is 1 June 2015 and the latest date is 1 April 2017.

Importantly, the number of employees an employer has on the actual staging date does not matter. There may be considerably more (or less) than on the 1 April 2012. So if you are an employer, look at the number of employees you had on the 1 April 2012 to know where you stand.

An employer can find out the detailed staging date rules from www.thepensionsregulator.gov.uk.

Our staging date is June 2015, so I do not need to worry about this yet then?

Well, not necessarily. An employer with a June 2015 staging date may need to start some planning for the auto enrolment regime towards the end of 2013. It depends on the type of workers that are paid by the business. In some cases, a business may need to start planning 18 months before the staging date.

What are the duties of an employer?

The main duties are:

- assess the types of workers in the business
- provide a qualifying auto enrolment pension scheme for the relevant workers
- write to their workers explaining what auto enrolment into a workplace pension means for them
- automatically enrol all 'eligible jobholders' into the scheme and pay employer contributions
- register with The Pensions Regulator and keep records.

Assessing the types of workers in the business

Whether this is an easy or difficult task depends on the type of business. A business which uses the services of casual workers, very young or very old workers will need to spend some time in analysing its workforce. A business which only employs salaried staff and does not pay for the personal services of other individuals will have an easier task.

A 'worker' is:

- an employee or
- a person who has a contract to provide work or services personally and is not undertaking the work as part of their own business.

The second category is defined in the same way as a 'worker' in employment law. Such people, although not employees, are entitled to core employment rights such as the National Minimum Wage. Individuals in this category include some agency workers and some short term casual workers.

The workers will then need to be categorised into three groups:

- eligible jobholders
- non-eligible jobholders
- entitled workers.

An 'eligible jobholder' is called this because they are eligible for auto enrolment. They are workers who are:

- aged between 22 years and the State Pension Age
- earning over the minimum earnings threshold (£9,440 2013/14). This is the same amount as the PAYE tax threshold. It is expected that the minimum earnings threshold will be changed in line with the PAYE tax threshold in future years
- working or ordinarily working in the UK
- not already in a qualifying pension scheme (provided by the employer).

An eligible jobholder will be auto enrolled unless they choose to 'opt out' (ie not to join).

'Non-eligible jobholders' have the right to 'opt in' (ie join a scheme) and therefore to be treated as eligible jobholders.

'Entitled workers' are entitled to join a scheme which can be a different scheme to the one used for auto enrolment. However, there is no requirement on the employer to make employer contributions in respect of these workers.

The table below shows the relationship between the three types of workers.

Earnings	Age (inclusive)		
	16 to 21	22 to State Pension age	State Pension age to 74
Over minimum earnings threshold (£9,440)	Non-eligible jobholder	Eligible jobholder	Non-eligible jobholder
Under lower threshold[1] (£5,668)	Entitled worker		
Between £5,668 and £9,440	Non-eligible jobholder		

[1] the lower threshold is the same as the point at which an employee accrues an entitlement to state pension.

The categorisation of workers can be difficult not only because of the definition of a worker but also when assessing those whose earnings fluctuate and risk crossing the minimum earnings threshold. Please contact us if you are unsure of how to assess the types of workers you have.

What is a qualifying auto enrolment pension scheme?

Employers are able to comply with their new obligations by:

- using an existing pension scheme
- setting up a new scheme, or
- using the government low cost scheme - the National Employment Savings Trust (NEST).

It is important that the pension scheme chosen meets certain standards appropriate for all employees. This may mean that an existing employer's scheme may not be appropriate as it may have been designed for the needs of higher paid and more senior employees. This may mean that NEST for example may be an appropriate scheme for employees who are not currently entitled to participate as a member of an existing employer scheme.

To be a qualifying auto enrolment scheme, a scheme must meet the qualifying criteria and the auto enrolment criteria.

Qualifying criteria

The main part of the qualifying criteria requires the pension scheme to meet certain minimum standards, which differ according to the type of pension scheme. Most employers will want to offer a defined contribution pension scheme. The minimum requirements for such schemes are a minimum total contribution based on qualifying earnings, of which a specified amount must come from the employer.

Auto enrolment criteria

To be an auto enrolment scheme, the scheme must not contain any provisions that:

- prevent the employer from making the required arrangements to automatically enrol, opt in or re-enrol a 'jobholder'
- require the jobholder to express a choice in relation to any matter, or to provide any information, in order to remain an active member of the pension scheme.

The second point above means, for example, that the pension scheme has a default fund into which the pension contributions attributable to the jobholder will be invested. The jobholder should however have a choice of other funds if they want.

We may be able to advise you on an appropriate route to take. Please contact us.

Communicating with your workers

Employers are required to write to all workers (except those aged under 16, or 75 and over) explaining what auto enrolment into a workplace pension means for them.

There are different information requirements for each category of worker. For an eligible jobholder, the letter must include details of how the employee can opt out of the scheme if they wish. The letter must not, however, encourage the employee to opt out.

The Pensions Regulator has developed a set of letter templates to help you when writing to your workers.

Auto enrolment of eligible jobholders and payment of contributions

As part of the auto enrolment process, employers will need to make contributions to the pension scheme for eligible jobholders. In principle, contributions will be due from the staging date but it is possible to postpone auto enrolment for some or all employees for a period of up to three months. This may, for example, be used to avoid calculation of contributions on part-period earnings.

All businesses will need to contribute at least 3% of 'qualifying pensionable earnings' for eligible jobholders. However, to help employers adjust, compulsory contributions will be phased in, starting at 1% before eventually rising to 3%.

There will also be a minimum contribution level which will need to be paid by employees if the employer does not meet the total minimum contribution. If the employer only pays the employer's minimum contribution, the employees' contribution will start at 1% of their salary, before eventually rising to 4%. An additional 1% in the form of basic rate tax relief will mean that there is a minimum 8% contribution rate.

Transitional period	Duration	Employer minimum contribution	Total minimum contribution
1	Employer's staging date to 30 September 2017	1%	2%
2	1 October 2017 to 30 September 2018	2%	5%
1 October 2018 onwards		3%	8%

What are qualifying pensionable earnings

Earnings means cash elements of pay including overtime and bonuses (gross) but the minimum contribution is not calculated on all the earnings. The contribution will be payable on earnings between the lower threshold of £5,668 and the higher threshold of £41,450 for 2013/14. The earnings between these amounts are called qualifying earnings. The higher threshold equals the point from which an employee pays a lower rate of National Insurance Contributions.

If we do your payroll, we can help you make these calculations and tell you the deductions from pay and the payments required to the pension scheme.

Registering with The Pensions Regulator and keeping records

The Pensions Regulator was established to regulate work based pensions.

An employer must register with The Pensions Regulator within four months of the staging date (or the last day of the postponement period(s) where postponement was used at staging). In essence the registration process requires the employer to:

- confirm the correct auto enrolment procedures have been followed and
- provide various pieces of information such as the number of eligible jobholders enrolled.

Finally, an employer must keep records which will enable them to prove that they have complied with their duties. Keeping accurate records also makes good business sense because it can help an employer to:

- avoid or resolve potential disputes with employees
- help check or reconcile contributions made to the pension scheme.

How we can help

As you can see pensions auto enrolment is not a straightforward business. Please do contact us for advice. We can help you to manage the road to auto enrolment and assist you to comply with the requirements when you are in auto enrolment.