PENSION REFORM IS HERE – MAKE SURE YOU'RE PREPARED!

EMPLOYERS ARE REQUIRED TO AUTOMATICALLY ENROL ALL ELIGIBLE MEMBERS OF STAFF INTO A WORKPLACE PENSION SCHEME AND PAY A MINIMUM CONTRIBUTION INTO THE FUND

Under new rules being phased in from October 2012, employers are required to automatically enrol all eligible members of staff into a workplace pension scheme and pay a minimum contribution into the fund. The move has been described as the most radical change to workplace entitlements since the introduction of the National Minimum Wage.

This guide provides an overview of the reforms, as well as information on the new National Employment Savings Trust (NEST) and advice to help employers prepare for the new regulations.

Why is this happening?

The latest figures indicate that millions of people are not saving enough to meet their retirement aspirations, suggesting that Britain is heading for a pensions shortfall. To encourage more people to set aside money for their retirement, the Government is introducing compulsory workplace pensions for eligible workers. The measures, which were first announced by the previous Labour Government, are being phased in between 2012 and 2018, depending on the size of the business.

It is thought that around two thirds of small businesses do not currently have a pension scheme for their staff. However, the Pensions Act 2008 requires all employers to automatically enrol eligible jobholders into a qualifying pension scheme. This could, for example, be in an existing pension scheme (if it meets, or can be changed to meet, the necessary automatic enrolment criteria) or NEST, a relatively simple pension scheme being introduced by the Government.

Who needs to be enrolled?

An employer must determine whether they employ anyone classed as a 'worker'. A worker may be:

- 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.

There are three categories of workers: eligible jobholders; non-eligible jobholders; and entitled workers.

Eligible jobholders

Eligible jobholders for whom automatic enrolment will be required are those who:

- Are aged between 22 years and the State Pension Age (SPA – see www.gov.uk/calculate-state-pension)
- Have qualifying earnings above the earnings trigger for automatic enrolment (£9,440 in 2013/14)
- Are working or ordinarily working in the UK
- Are not already a member of a qualifying pension scheme.

These are categorised as 'eligible jobholders'. Most workers will fall into this category unless the employer already has a qualifying pension scheme.

What constitutes qualifying pensionable earnings?

Earnings cover all of the following pay elements (gross):

- Salary
- Wages
- Commission
- Bonuses
- Overtime
- Statutory sick pay
- Statutory maternity, paternity and adoption pay

Contributions 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 thresholds will be reviewed by the Government each tax year.

Other types of workers

As well as 'eligible jobholders', employers also have certain duties to other types of workers who do not meet the criteria for automatic enrolment. Depending on their classification, these workers may have the right to 'opt in' (i.e. join a scheme).

Non-eligible jobholders

This category includes workers who:

- Are aged between 16 and 21 or the SPA and 74
- Are working or ordinarily working in the UK
- Have qualifying earnings above the earnings trigger for automatic enrolment (£9,440 in 2013/14)

Or

- Are aged between 16 and 74
- Are working, or ordinarily working, in the UK
- Have qualifying earnings below the earnings trigger for automatic enrolment.

Although non-eligible jobholders do not need to be enrolled automatically, they have a right to opt in. The employer is required to arrange this and make employer contributions.

Entitled Workers

'Entitled workers' have the right to join a pension scheme and are those who:

- Are aged between 16 and 74
- Are working, or ordinarily working, in the UK under their contract
- Do not have qualifying earnings payable by the employer in the relevant pay reference period (i.e. below £5,668 for 2013/14).

There is no requirement on the employer to make employer contributions in respect of these workers (this remains discretionary). However, the employer must set up the deduction of the worker's contributions from their pay.

How do I choose a scheme?

Once you have completed your assessment of the workforce, you should have a clear idea of whether you will have an auto-enrolment duty to fulfil. If so, you will then need to choose a qualifying auto-enrolment scheme.

What is a qualifying scheme?

A qualifying scheme may be a UK scheme (with its main administration in the UK) or a non-UK scheme (with its main administration outside the UK). For a UK pension scheme to qualify it must:

- Be an occupational or personal pension scheme
- Be tax registered, and
- Satisfy certain minimum requirements (the requirements differ according to the type of pension scheme).

Further information on the minimum features required can be found on the Pensions Regulator's website. However, it is important to note that there will be other things to consider before making a decision about which type of scheme to use. To help you decide on the most suitable type of qualifying pension scheme, you may want to seek professional advice.

Scenario One: Employers with a current pension scheme

Employers who already provide a pension scheme to some or all of their employees have a number of options. These include:

- Using an existing pension scheme, providing it satisfies the automatic enrolment criteria
- Amending an existing scheme if it does not currently meet the auto-enrolment criteria
- Setting up an alternative pension scheme to fulfil their automatic enrolment duties for all of their eligible jobholders, for example NEST.

An employer can use a combination of these options for different areas of their workforce.

Scenario two: Employers without a qualifying pension scheme

Employers without an existing pension will need to ensure that they put in place an automatic enrolment scheme from the date their duties first apply. They may choose to:

- Set up a new occupational or personal pension scheme that meets the qualifying criteria; or
- Enrol eligible jobholders into NEST – see below for further details.

The Association of British Insurers provides details of pension providers offering qualifying automatic enrolment schemes. For further information visit www.abi.org.uk/pensionproviders.

How much must the employer contribute?

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

There will also be a total minimum contribution which will need to be paid by employees if the employer does not meet the total minimum contributions. If the employer only pays the employer's minimum contribution, employees' contributions will start at 1% of their salary, before eventually rising to 4%. An additional 1% in the form of tax relief will mean that there will be a minimum 8% contribution rate. While in most cases the employee will need to contribute, an employer may choose to pay the full 8% or even higher.

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%

When is this being introduced?

Auto-enrolment is being phased in over a number of years, from October 2012 onwards (larger employers first, smaller employers last). Each employer will be allocated a 'staging date' from when their duties will begin. The Pensions Regulator will then write to employers around 12 months before their automatic enrolment start date, and then again at three months before, to advise them on what they need to do.

The staging date is based on the number of people in the employer's PAYE scheme. Employers with the largest numbers of workers in their PAYE schemes will have the earliest staging date. The date is based on their size (fixed by the number of HMRC employee records on file as at 1 April 2012) or the letters in their PAYE scheme reference.

Employers with 120,000 or more personnel in their PAYE scheme were required to begin enrolling staff from 1 October 2012. By February 2014 all employers with 250 or more staff will be within the scheme's scope.

Meanwhile, businesses with 50-249 staff will have a staging date between April 2014 and April 2015.

Revisions for smaller employers

Businesses with fewer than 50 workers were originally scheduled to begin pension auto-enrolment in April 2014. However, in response to a consultation on the reforms, the Government confirmed that they will not have to auto-enrol their employees before June 2015.

These firms will now be given staging dates between June 2015 and April 2017. New employers with PAYE income first payable between 1 April 2012 and 30 September 2017 will be given a staging date between 1 May 2017 and 1 February 2018. Meanwhile, new PAYE schemes set up from 1 October 2017 onwards will have an immediate staging date where the employer is paying PAYE income in respect of any worker.

Employers can check their staging date at www.thepensionsregulator.gov.uk/staging.

WE ARE HERE TO HELP...

How we can help

If you would like more information on:

- How to choose a scheme;
- How NEST operates;
- The process for auto enrolment;
- How employees opt out; or
- Our Employer checklist.

Please contact us to obtain our more detailed newsletter on pension reform.

The new rules will require careful consideration and planning. The Pensions Regulator has released detailed guidance for employers, trustees and individuals to help them understand the new requirements.

For more information visit www.thepensionsregulator.gov.uk.

YOUR CONTACTS

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