

PENSION – AUTOMATIC ENROLMENT

What is automatic enrolment?

Automatic enrolment places duties on employers to automatically enrol 'workers' into a work based pension scheme. The main duties are:

- assessing the types of workers in the business
- providing a qualifying automatic enrolment pension scheme for the relevant workers
- writing to most of their workers explaining what automatic enrolment into a workplace pension means for them
- automatically enrolling all 'eligible jobholders' into the scheme and paying employer contributions
- completing the declaration of compliance and keeping 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 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 (NMW). Individuals in this category include some agency workers and some short-term casual workers.

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

An 'eligible jobholder' is a worker who is:

- aged between 22 years and the State Pension Age
- earning over the minimum earnings threshold (currently £10,000)
- working or ordinarily working in the UK
- not already in a qualifying pension scheme.

Most workers will be eligible jobholders unless the employer already has a qualifying pension scheme. These are the workers for which automatic enrolment will be required.

Other workers (non-eligible jobholders) may have the right to 'opt in' (i.e. join a scheme) and should therefore be treated as eligible jobholders. 'Entitled workers' are entitled to join the scheme but there is no requirement on the employer to make employer contributions in respect of these workers.

The categorisation of workers can be difficult in some circumstances. Please contact us if you are unsure of how to assess the types of workers you have.

What is a qualifying automatic enrolment pension scheme?

Employers are able to comply with their new obligations by using an existing qualifying 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 will deliver good outcomes for the employee's retirement savings. This may mean that an employer's existing 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 be a member of an existing employer scheme.

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

To be an automatic 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.

Does automatic enrolment apply to all employers?

The law came into force for very large employers on 1 October 2012 and has been rolled out with staggered implementation dates by reference to the number of employees. Currently auto enrolment is being rolled out to payrolls which have been set up since 1 October 2012.

From October 2017, all new employers will have automatic enrolment duties from the date they employ their first member of staff.

An employer can find out more about their duties at www.thepensionsregulator.gov.uk.

Communicating with your workers

Employers are required to write to all workers (except those aged under 16, or 75 and over) explaining what automatic 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 (TPR) has developed a set of letter templates to help you when writing to your employees.

Automatic enrolment of eligible jobholders and payment of contributions

As part of the automatic 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 automatic 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% on the '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 total minimum contribution 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, 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 is a minimum 8% contribution rate.

Period	Duration	Employer minimum	Total minimum contribution
1	Employer's staging date to 5 April 2018	1%	2%
2	6 April 2018 to 5 April 2019	2%	5%
6 April 2019 onwards		3%	8%

What are qualifying pensionable earnings?

Earnings cover cash elements of pay including overtime and bonuses (gross) but minimum contributions are not calculated on all the earnings. Contributions will be payable on earnings between the lower and higher thresholds of £5,876 and £45,000 (£6,032 and £46,350 for 2018/19). The earnings between these amounts are called qualifying earnings. The thresholds are reviewed by the government each tax year.

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.

Declaration of Compliance and keeping records

TPR was established to regulate work-based pensions.

An employer must complete the Declaration of Compliance within five months of the staging date. In essence the Declaration of Compliance 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.

Duties checker TPR guidance

TPR guidance is available for employers to help them comply with their automatic enrolment duties on their website: www.thepensionsregulator.gov.uk/en/employers.

Using the duties checker and the guidance, employers can follow a step-by-step process to comply with their duties. The guidance also includes links to tools and resources.

How we can help

As you can see pensions automatic enrolment is not a straightforward business. Please do contact us on 0121 711 2468 or 024 7651 8555 for help and advice. We can help you to manage the road to automatic enrolment and help you to comply with the requirements when you are in automatic enrolment.