

AUTO-ENROLMENT IS HERE – MAKE SURE YOU'RE PREPARED!



Under rules that have been gradually introduced in stages since 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 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 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 that has been 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 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 (this will remain at £10,000 for 2016/17)
- 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.

Following consultation, the Department of Work and Pensions has introduced changes to auto-enrolment for company directors and genuine partners in LLPs, who would be otherwise eligible for automatic enrolment. From 6 April 2016 these new rules turn the employer duty into a power that the employer is able, but not required, to exercise on the basis that these individuals are not the target group for automatic enrolment. If employers find it easier to enrol or re-enrol all workers, regardless of whether they are a director or a genuine partner, they can choose to exercise that option.

What constitutes qualifying 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 £5,824 and the higher threshold of £43,000. 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 (£10,000 in 2016/17)

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 £5,824 for 2016/17).

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.

Summary

Earnings	Age (inclusive)		
	16-21	22-SPA	SPA-74
Under lower earnings threshold	Entitled worker		
Between lower earnings threshold and earnings trigger for automatic enrolment	Non-eligible jobholder		
Over earnings trigger for automatic enrolment	Non-eligible jobholder	Eligible jobholder	Non-eligible jobholder

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 an EEA pension 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 scheme 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.

Pension schemes established with auto-enrolment in mind

The following pension schemes have been set up to cater for the employer of a small or medium-sized business.

National Employment Savings Trust (NEST)

NEST is an independent scheme set up by the Government to ensure that employers of any size can access a pension scheme in order to help them comply with auto-enrolment.

Any employer can use NEST, regardless of their size.

NEST can run alongside an existing scheme, and is legally obliged to accept all employers who wish to use it as their scheme provider. Delegated access means that employers can delegate all or part of the administration of their scheme to an advisor.

NOW: Pensions

While new to the UK, this auto-enrolment scheme provider has been in operation in Denmark for over 40 years. The scheme's Advisor Toolkit allows the option for an advisor to provide some or most of the auto-enrolment service on behalf of an employer.

The People's Pension

This new auto-enrolment scheme is administered by B&CE, a not-for-profit organisation which manages the largest stakeholder pension in the UK. The Employer Assistance Program offers guidance on the auto-enrolment process for employers and their advisors.



HOW DOES AUTOMATIC ENROLMENT WORK?

Assessing the workforce

An employer must assess each member of the workforce to assign them to the appropriate category. This will then determine what duties the employer will have to carry out for that worker.

After completing the assessment, an employer will know whether the worker is:

- Already in a qualifying pension scheme
- An eligible jobholder
- A non-eligible jobholder
- An entitled worker.

There are a number of alternative dates on which an employer will have to assess a worker. The main dates are:

- The employer's 'staging date' (see later), for a worker already in employment on that date
- The first day of employment, for a worker who starts employment after the employer's 'staging date'
- The deferral date, if an employer has chosen to use the postponement provision for a worker.

The date for a particular worker is called the 'automatic enrolment date'.

Employers may bring forward their staging date in relation to all workers by writing to the regulator at least one calendar month before their new chosen date.

Postponement offers additional flexibility for an employer, allowing them to delay automatic enrolment for up to three months. For example, employers can use postponement to align automatic enrolment with their existing payroll processes.

What next?

The next steps for an employer are to automatically enrol eligible jobholders or provide information to the worker if they are not an eligible jobholder.

In summary, the employer must do the following in respect of eligible jobholders:

1. Provide information to the pension scheme about the eligible jobholder – This includes their name, gender, date of birth, automatic enrolment date, residential address and national insurance number.

2. Give enrolment information to the eligible jobholder – The employer must provide the eligible jobholder with certain enrolment information in writing or via email which should inform the employee that they have been, or will be, automatically enrolled and what this means to them. It should also tell them about their right to opt out and their right to opt back in, as well as where to find information about pensions and retirement planning.

3. Arrange active membership for the eligible jobholder – The employer can do this by making arrangements with either the trustees or managers of an occupational pension scheme, or the provider of a personal pension. These arrangements differ depending on the type of pension scheme the employer chooses to use.

If the postponement provision is not used, the information will need to be given during the 'joining window', which is a six week period from the eligible jobholder's automatic enrolment date.

Workers who are not eligible jobholders

Employers must provide these workers with certain information, with the basic aim of informing them of their potential rights in relation to pensions. The details and time limits for providing this information depend on the type of worker.

HOW MUCH MUST THE EMPLOYER CONTRIBUTE?

All businesses will need to contribute at least 3% on the qualifying pensionable earnings (see earlier) 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 5 April 2018	1%	2%
2	6 April 2018 to 5 April 2019	2%	5%
6 April 2019 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) and can be established by using the PAYE 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 were within the scheme's scope.

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

Smaller businesses

Businesses with fewer than 50 workers have been assigned 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.

The Government has also drafted contingency plans for placing a last-resort 'emergency pause' on the pensions auto-enrolment scheme if it proves to be too difficult for small businesses to implement, or if the programme results in increases in demand with which it is unable to cope.

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

HOW DOES AN EMPLOYEE OPT OUT?

Workers who have been automatically enrolled have the right to opt out of the employer's pension scheme.

If an employee wishes to opt out, they must notify the employer via a document called an 'opt-out notice' (this is only usually available from the pension scheme provider). When employers receive a valid opt out notice they are required to refund any contributions deducted from the worker's pay. The pension scheme provider is also obliged to reimburse the employer for any contributions they have made.

The opt-out period does not start until the later of:

- The worker becoming a member of the scheme; or
- The worker receiving written enrolment information from the employer.

The opt-out period lasts for one calendar month. Any deductions made from the worker's salary during this time will be refunded. If an employee misses the opt-out period, they can cease membership of the scheme in accordance with the scheme rules, although they may not be entitled to a cash refund of their contributions.



How we can help

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.

From reviewing your systems and assessing your payroll needs, to cash flow forecasting and budgeting, we can advise on a wide range of business and personal planning issues. Please contact us for further details.

Employer checklist

Nominate a point of contact

The Pensions Regulator will be writing to you with important updates as you prepare for automatic enrolment. It is therefore advisable to nominate a main contact within your firm who will take responsibility for managing all such correspondence.

Know your staging date and develop a plan

Your staging date is determined by the total number of people in your largest PAYE scheme, based on HMRC's records as at 1 April 2012. You can find out your staging date by visiting www.thepensionsregulator.gov.uk/staging.

Assess your workforce

Under auto-enrolment, you will need to identify any eligible jobholders working for you. You will also need to consider whether you have an employer duty in relation to other types of workers including non-eligible jobholders and entitled workers.

Review your pension arrangements

Decide on the type of pension scheme you will offer. Do you have an existing scheme that meets (or can be changed to meet) the Government's requirements, or will you need to set up a new one? You may also want to consider whether the new NEST scheme would suit your needs.

Communicate the changes

Employers are required by law 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.

Make sure you have a strategy in place for briefing employees and plan how you will manage any queries that arise. A range of letter templates are available on the Pensions Regulator website to help employers fulfil their legal obligations.

Automatically enrol eligible jobholders

Under the new regulations, employers are required to: provide information to the pension scheme about the eligible jobholder; give enrolment information to the eligible jobholder; and make arrangements to achieve active membership for the eligible jobholder. This should be carried out within the 'joining window' (the six week period from the eligible jobholder's automatic enrolment date).

Complete the declaration of compliance and keep records

All employers will need to complete the declaration of compliance within five months of their staging date. The Declaration of Compliance can be completed online and is available on the Pensions Regulator website. Employers must also keep specific records about their workers and their pension scheme(s).

Contribute to your workers' pensions

From 6 April 2019 all businesses will need to contribute at least 3% on the qualifying pensionable earnings for eligible jobholders. Employers are also required to make contributions for non-eligible jobholders who choose to opt in to the pension scheme.

And don't forget to...

Budget for the cost increase

The changes will undoubtedly have financial implications for employers. Make sure you factor in the additional costs of contribution and administration into your budgets, as well as potential changes to your payroll systems.

Keep track of age and earnings

It is important for employers to keep track of their employees' ages and earnings as some members of staff may move between the different categories of worker. This is especially important for workers who earn below the qualifying earnings threshold, or who are under 22 years of age.