



Thompson Taraz Rand
Chartered Accountants | Registered Auditors



**Full of
bright ideas.**

A look at...

Auto-enrolment

2016-2017

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INTRODUCTION

Despite auto enrolment legislation - hailed as the most radical change to workplace entitlements since the introduction of the National Minimum Wage - being in force since October 2012, many employers still feel unprepared and somewhat uncomfortable at the prospect of auto-enrolment. Warnings from The Pensions Regulator that employers need to be "aware that time will be a significant cost" only serve to add to the feeling of unease.

The upshot of auto enrolment - in a nutshell - is that by 2018, every single employer in the UK will have to provide a suitable workplace pension scheme and automatically enroll many of their workers. If they fail to do so, they will face heavy fines.

The following provides an overview of the rules as well as ways in which we can help alleviate the burden placed on you by auto enrolment.

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 3 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
- Have qualifying earnings above the earnings trigger for automatic enrolment (£10,000 in 2014/15)
- Are working or ordinarily working in the UK
- Are not already a member of a qualifying pension scheme.

Most workers will fall into this category - unless the employer already has a qualifying pension scheme.

'Non-eligible jobholders' 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

OR:

- Are aged between 16 and 74
- Are working, or ordinarily working, in the UK under their contract
- 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' 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 (ie below £5772 for 2014/15).

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

WHAT CONSTITUTES 'QUALIFYING EARNINGS?'

Qualifying earnings includes all of the following, if the individual is in receipt of them:

- salary, wages, commission, bonuses and overtime
- statutory sick pay
- statutory maternity pay, paternity pay and adoption pay

Contributions are calculated on any of the above earnings between the lower threshold of £5,824 and the higher threshold of £43,000 (2016/17 figures). The earnings between these amounts are called 'qualifying earnings'.

ASSESSING THE WORKFORCE

Employers must assess each member of their workforce in order 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' (this being the date when the new law is 'switched on' for your business), 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 (see below)
- The date of the worker's 22nd birthday, if this is after the staging date
- The date of the worker's 16th birthday, if this is after the staging date

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

Employers are at liberty to bring forward their staging date in relation to all workers by writing to The Pensions Regulator at least one calendar month before their new chosen date. For example, they may wish to do so in order to align it with other business practices, such as the start of a financial year.

Postponement offers additional flexibility for an employer, allowing them to delay automatic enrolment for up to 3 months until a date known as the 'deferral date'. For example, employers may choose to use postponement in order to:

- align automatic enrolment with their existing payroll processes
- avoid the enrolment of temporary or short-term workers, or those with a spike in their earnings
- stagger the impact of staging by enrolling different groups of workers over a 3 month period

COMMUNICATING TO YOUR WORKFORCE

Employers must communicate effectively with their workforce regarding auto enrolment but have free reign as to how they do so - whether this be via letter, email campaign, posters or any other way in which they see fit so long as the communication is direct.

How often to communicate largely depends on which eligibility criteria workers fall into.

There are 4 main segments of the workforce who need to be sent communications:

1. Eligible workers to be enrolled in the pension scheme.
2. Those not eligible under full criteria, but who should be invited to join.
3. Non-eligible employees.
4. Employees already enrolled in a qualifying pension scheme.

For example, all the different phases of contributions will need to be communicated to employees.

WHAT NEXT?

Having assessed the workforce, the next steps for an employer are to automatically enroll 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 one month period from the eligible jobholder's automatic enrolment date.

In respect of those workers who are not eligible jobholders, employers must provide them 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% of the qualifying earnings for eligible jobholders. However, to help employers to adjust, compulsory contributions will be phased in, starting at 1% before eventually rising to 3%:

From the employer's staging date to 30 September 2017, the minimum employer contribution will be 1% and the total minimum contribution will be 2%.

From 1 October 2017 to 30 September 2018 the minimum employer contribution will be 2% and the total minimum contribution will be 5%.

From 1 October 2018 onwards, the minimum employer contribution will be 3% and the total minimum contribution will be 8%.

WHEN DOES THIS APPLY TO ME?

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

For the largest employers, their staging date has been and gone and their workforces automatically enrolled as those with 120,000 or more personnel in their PAYE scheme were required to begin enrolling staff from 1 October 2012. By February of this year, all employers with 250 or more staff were within the scheme's scope.

Businesses with 50-249 staff will have a staging date between April 2014 and April 2015, and those with fewer than 50 workers 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

OPTING OUT

Workers who have been automatically enrolled are well within their rights 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' (which is usually only 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 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.

Re-joining after opting out

If a worker opts out or stops saving into their employer's pension scheme but later decides they want to join again, they can do so. The employer has to accept them back in, once in every 12 month period. If the worker still meets certain requirements then their employer will contribute too.

If the worker stops paying a second time and then requests to join again within 12 months, the employer does not have to accept them the second time (but may do so if they wish).

Being automatically enrolled back in to a workplace pension

If a worker opts out or stops paying into the workplace pension their employer has a duty to automatically enroll them back into their pension scheme at regular intervals, usually every 3 years. This is to give those workers who have stopped saving into a workplace pension the opportunity to reconsider their finances and pension saving options. They can choose to stay in this time or opt out again.

SPECIAL CIRCUMSTANCES AND AUTO ENROLMENT

A worker's enrolment into a workplace pension may vary depending on their employment circumstances, for example:

- agency workers
- maternity leave
- sick leave
- temporary/short term contract workers
- carers

For example, contractors can pose a dilemma to employers approaching their staging date as there can be ambiguity as to who is responsible for auto enrolling them into a pension scheme. Do not assume employers' responsibilities end with full and part time employees only. Guidance can be found on The Pensions Regulator website to help employers decide who should be automatically enrolled.

RECORD KEEPING

Employers (as well as trustees, managers and providers of a pension scheme) must retain information in order to demonstrate their compliance with their automatic enrolment duties and obligations.

An employer can use electronic or paper filing systems to keep or store any records, so long as the records are legible or can be produced in a legible way.

Such records must be kept for a minimum of 6 years (4 years regarding opt out records).

The records must be produced to The Pensions Regulator if requested.

The Pensions Regulator can conduct an audit if they have reasonable grounds to

do so (for example if there is a whistleblower).

FINES

Those who fail to comply with auto enrolment will be liable to the following fines:

Penalties for failure to comply

Stage 1 - warning

Stage 2 - fixed penalty of £400

Stage 3 - 'persistent offender' -escalating penalty

500+ employees - £10,000 per day

250-499 employees - £5,000 per day

50-249 employees - £2,500 per day

5-49 employees - £500 per day

1-4 employees - £50 per day

Penalties for prohibited recruitment conduct

250+ employees - fixed penalty of £5,000

50-249 employees - fixed penalty of £2,500

5-49 employees - fixed penalty of £1,500

1-4 employees - fixed penalty of £1,000

HOW DO I CHOOSE A 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).

Employers who already provide a pension scheme to some or all of their employees have a number of options open to them, including:

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

Employers without an existing pension scheme will need to ensure 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
- Enroll eligible jobholders into NEST.

The Association of British Insurers provides details of pension providers offering qualifying automatic enrolment schemes

www.abi.org.uk/pensionproviders

NEST

NEST (National Employment Savings Trust) was created as part of the Government's pension reforms specifically to help employers meet their new duties. It is an independent defined contribution (DC) pension scheme designed to offer low to moderate earners a simple, low-cost way to save for retirement. Run by a not-for-profit trustee corporation, NEST is legally obliged to accept all employers who wish to use it to fulfil their automatic enrolment obligation, whatever their size.

Key features include:

- NEST is free of charge for employers to use
- NEST charges for members have been set at a 0.3% annual management charge of your total retirement pot each year, and an initial 1.8% charge on contributions. For many people these charges will be lower than alternative DC schemes
- There will be a limited choice of investment funds and a default fund for those who do not make a choice
- An annual contribution limit will apply. This is the combined total from the member, their employer and the Government (via tax relief)
- Easy to use with 24/7 access to your account
- A single NEST retirement pot that stays with you if you change employers or stop working.

Employers who wish to use NEST can sign up online at www.nestpensions.org.uk.

Not for everyone?

NEST is primarily designed for those on low to moderate incomes. Whilst the scheme provides a simpler way of meeting the new requirements, it is unlikely to appeal to high earners or workers who would like a greater degree of choice and higher contribution levels.

Employers may therefore want to consider retaining or setting up their own qualifying pension scheme in order to attract a wider range of staff, although it should be noted that NEST can be run alongside an existing scheme.

HOW THOMPSON TARAZ RAND CAN HELP

Auto enrolment places a huge burden on employers who will inevitably feel the 'cost', in terms of both time and money. It is by no means just a pension issue - it

also impacts HR, payroll and finance functions in many ways.

However, compliance is vital in order to ensure that penalties are avoided.

Thompson Taraz Rand are happy to assist at every step of the way, offering some - or all - of the following services to both current, and prospective, clients:

- assess your workforce and continue to keep track of age and earnings
- communicate with your workforce
- refer you to an Independent Financial Adviser who will be able to review your pension arrangements in order to verify whether existing schemes meet the criteria or need amending; or help to identify a new scheme
- enroll jobholders into the chosen scheme
- fulfill ongoing responsibilities such as ensuring contributions are paid on time and that any opt-out or opt-in notices are processed and accurate records maintained
- register with TPR to inform them what you have done to comply with your auto enrolment duties
- for those who choose to use NEST, offer tailored levels of support according to your need, from a 'gold' service involving full management of your NEST account downwards.

Early preparation is crucial - in fact, employers who have already met their staging date found that the earlier they started planning, the better prepared they were. Leading industry experts suggest you should start preparing 18 months prior to your staging date. It is worth noting that as more than 1 million companies will be staging between 2015 and 2017, representing a staggering 51,134 companies per month, it would be wise to seek advice early.

Auto Enrolment is complex, but we are here to ensure that you are fully prepared.

Please contact us to discuss your individual requirements.