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Workplace Pensions & Auto-enrolment

To encourage more people to save for retirement, the government has placed greater responsibility on employers to provide access to pension provision.

Up until 1 October 2012, employers were not obliged to pay contributions into a pension plan. There was also no requirement for an employee to enter an employer provided plan.

Most employers were, however, obliged to designate a registered stakeholder pension plan that employees could join if they wished to do so. This obligation has been removed due to the introduction of Workplace Pensions and Automatic Enrolment (or 'auto-enrolment').

What is a Workplace Pension?

Workplace Pensions legislation places new duties on employers to automatically enrol 'workers' into a work based pension plan.

The main duties of an employer are to:

- assess the types of workers in the business;
- provide a qualifying Workplace Pension plan for the relevant workers;
- write to workers explaining what auto-enrolment into a Workplace Pension means for them;
- automatically enrol all 'Eligible Jobholders' into the plan and pay employer contributions; and
- complete a Declaration of Compliance and keep records (see the last section of this Info Sheet).

Assessing Workers

Whether this is a straightforward or complex task depends on the type of business. An employer who uses the services of casual staff, certain contractors, interns, the very old or very young will need to spend some time analysing its workforce.

An employer with only full or part-time salaried staff should find the process easier.

A 'worker' is:

a) a full or part-time employee; or

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

Category b) 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.

There are three categories of workers: 1) Eligible Jobholders 2) Non-Eligible Jobholders and 3) Entitled Workers

1) Eligible Jobholders are workers who are:
   - aged between 22 years and the State Pension Age;
   - earning over the minimum earnings threshold which is £10,000 for 2018/19, although it is expected that the minimum earnings threshold will be changed in line with the single person's income tax allowance in future years;
   - working or ordinarily working in the UK; and
   - not already enrolled in a qualifying pension plan.

The above are the workers for whom auto-enrolment will be required.

2) Non-Eligible Jobholders are workers that have the right to 'opt in'. Should they wish to do so, there is a requirement to make employer contributions in respect of these workers.
3) Entitled Workers are entitled to join the plan but there is no requirement 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 how to assess the types of workers you have.

What is a Qualifying Workplace Pension?

Employers are able to comply with their new obligations by using an existing qualifying pension plan, setting up a new one or using the government low cost option - the National Employment Savings Trust (NEST).

Any existing arrangements may not be appropriate as they may have been designed for the needs of higher paid and more senior employees. To be a qualifying auto-enrolment Workplace Pension plan, it must meet certain standards plus the auto-enrolment criteria.

Most employers will want to offer a defined contribution pension arrangement. These plans require minimum total contributions, of which a specified amount must come from the employer.

Auto-enrolment criteria dictates that it must not contain any provisions that:

1) prevent the employer from making the required arrangements to automatically enrol, opt in or re-enrol a 'jobholder'; or
2) 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 plan.

The second point means, for example, that the pension plan 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 made available to them.

Please contact us
to help you identify the appropriate route.

When does legislation apply?

If a company becomes an employer for the first time on or after 1 October 2017, they will immediately have legal duties for their new member of staff. These duties apply from the first day the first member of staff commences employment. This is known as their 'duties start date' and employers must comply with their obligations straight away.

Employers are generally able to postpone some of their auto-enrolment duties (assessment of workers) for up to three months, but this needs to be dealt with correctly, early in the process and shortly after the 'duties start date' is known and cannot be delayed.

Groups

Where the company is part of a group which has a shared plan with other employers, it is important to seek specific advice.

Communicating with 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 requirements for each category of worker. For an Eligible Jobholder, the letter must include details of how the employee can opt out of the plan if they wish. The letter must not, however, encourage the employee to opt out. Letter templates are available to help you.

Auto-enrolment & Contribution Payments

As part of the auto-enrolment process, employers will need to make contributions to the pension plan for Eligible Jobholders and Non-Eligible Jobholders (if requested).

Contributions will be due from the duties start date (as mentioned above), however 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.

There are four different contribution options to consider (outlined in the adjacent column) and minimum contribution levels can be phased in. Agreement must be in place for workers to at least make up any difference between the minimum employer amount and the total contribution required.

Option 1: Set 1

Date	Total must be at least	Employer must pay at least
Apr 2018 - Mar 2019	6%	3%
Apr 2019 +	9%	4%

Pensionable pay must be at least basic pay but does not need to include pay such as bonuses, overtime and commission.

Option 2: Set 2

Date	Total must be at least	Employer must pay at least
Apr 2018 - Mar 2019	5%	2%
Apr 2019 +	8%	3%

Pensionable pay must constitute at least 85% of all the gross earnings. The ratio of pensionable pay to gross earnings can be calculated at an average level across the group.

Option 3: Set 3

Date	Total must be at least	Employer must pay at least
Apr 2018 - Mar 2019	5%	2%
Apr 2019 +	7%	3%

Pensionable pay is equal to total earnings.

Option 4: Qualifying Earnings

Date	Total must be at least	Employer must pay at least
Apr 2018 - Mar 2019	5%	2%
Apr 2019 +	8%	3%

Earnings in this example covers cash elements of pay including overtime and bonuses, but contributions are payable on earnings between the lower threshold of £6,032 and the higher threshold of £46,350.

Declaration & Keeping Records

An employer must complete a Declaration of Compliance within five months of their duties start 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 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; and
- help check or reconcile contributions made to the pension plan.

The Pensions Regulator (TPR) was established to regulate Workplace Pensions. It will be necessary to register your plan with them and confirm both Primary and Secondary contacts who will receive communications. The Primary contact should be a representative of the company, the Secondary contact can be a representative from your advisors.

How we can help

As you can see, Workplace Pensions are not straightforward. Please contact us for assistance and advice. We can help you navigate the path to your Workplace Pension and enable you to comply with the requirements.

Updated May 2018. The content of this document is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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