

THE 2012 PENSIONS REVOLUTION

AUTO-ENROLMENT: WHAT DO YOU NEED TO DO?

The introduction of compulsory pension contributions amounts to a significant change in the employment landscape. Since 2000, employers have been required to provide access to a stakeholder scheme, but without having to make any contributions to it. Before then, no minimum requirements existed. By any measure, the introduction of automatic enrolment and compulsory contributions for the workforce at large represents a seismic shift in approach. There is much to be done to prepare for the changes. This briefing gives an overview of compliance requirements for employers. More detail will be provided in further briefings in this series.

WHEN DOES AUTO-ENROLMENT APPLY?

Although the regulations are to be introduced with effect from this October, only the very largest employers (those with 120,000 or more workers) will be required to comply by then. A [“staging date timeline”](#) has been published which sets when the regulations will apply to an employer by reference to the number of their people within the employer's PAYE scheme.

Every employer should therefore identify its own staging date by checking how many people are within its PAYE scheme on 1 April 2012. If an employer has more than one PAYE scheme, the relevant staging date for that employer is the date applicable to its largest scheme.

EMPLOYER TASK LIST

The first step will be to [determine which staging date](#) applies. It is possible to choose an earlier staging date but not a later one.

The next is to **assess the workforce**. Auto-enrolment is not limited to employees. It includes anyone who has a contract to perform work or services personally and who is not undertaking the work as part of their own business. Workers then need to be categorised into eligible and non-eligible jobholders and entitled and non-entitled workers. Different rights and duties apply for each group.

Each employer must **select at least one qualifying scheme** to be the auto-enrolment scheme. A qualifying scheme is one which complies with the minimum auto-enrolment requirements, including minimum contribution and benefit requirements. Any existing pension scheme must be reviewed to see whether it qualifies. Employees already covered by a qualifying scheme do not need to be

CHECKLIST: PREPARING FOR AUTO-ENROLMENT

- ◆ Determine staging date
- ◆ Identify eligible jobholders, non-eligible jobholders and entitled workers
- ◆ Choose an auto-enrolment scheme and decide how to comply
- ◆ Communicate with all jobholders and workers
- ◆ Auto-enrol eligible jobholders and non-eligible jobholders who opt in
- ◆ Register with the Pensions Regulator and keep records
- ◆ Pay and administer contributions
- ◆ Re-enrol every three years

auto-enrolled into a new scheme. Decisions are required as to the scheme to be used as the auto-enrolment vehicle and the contribution or benefit basis. The auto-enrolment scheme must also have a default investment option.

The employer is then required to **communicate with all workers** about the automatic enrolment process, rights to opt-in or opt-out as applicable. Different communication obligations and time-limits in relation to eligible and non-eligible jobholders and entitled workers apply.

From its staging date, the employer will be required to **automatically enrol** the relevant jobholders into a qualifying scheme. The relevant jobholders for these purposes will be the eligible jobholders (who may then opt-out), together with those of non-entitled jobholders who have opted in. Separately, entitled workers who submit a joining notice must be automatically enrolled into a pension scheme although they are not entitled to employer contributions.

Having completed the above, the employer is then required to **register with the Pensions Regulator** within four months of the staging date. As part of the registration process, it must **keep records** and **provide certain information to the Regulator**, including details of the numbers of jobholders who are auto-enrolled. There is an **on-going duty to keep records**, including the details of auto-enrolment arrangements, the participating jobholders, their earnings and contributions made in respect of them.

Appropriate forms and procedures are essential to **manage the opting out and opting in processes**.

Obligations to make employer and employee contributions will be phased in over a six year period to 1 October 2018. From that date, employers will be required to make employer contributions of a minimum of 3 per cent of band earnings (between £5,564pa and £42,475pa) and ensure total contributions, including any employee contributions, total a minimum of 8 per cent of band earnings. Alternative bases are permitted including defined benefit options and defined contribution options based on basic salary. More detail will follow in later briefings in this series.

The process of automatic enrolment will need to be repeated every three years so that those who opt out are forced to reconsider their position regularly. This is referred to as the Three Year Rule. At the same time the employer will be required to update the information provided to the Pensions Regulator.

The legislation incorporates a number of compliance provisions. The employer cannot, by action or inaction, terminate membership and its auto-enrolment obligations continue unless the jobholder opts out at his own request. It cannot make opting-out a condition of employment or offer inducements to employees to opt out. The Pensions Regulator may enforce the provisions by a range of compliance notices, contribution notices and penalty notices and there are even criminal sanctions for a wilful failure to comply. More detail will follow in later briefings in this series.

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