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The new pension auto enrolment rules: is your organisation ready?

From October 2012 new obligations will be introduced gradually for all UK employers with three or more staff to enrol all eligible employees into a qualifying pension scheme and make minimum contributions of 3% of gross salary. The duty will be phased in gradually, starting with a minimum contribution of 1% which will increase to 2% from 1 October 2017 and then 3% from 1 October 2018). Employees will be required to match the contributions and tax relief will ensure that a contribution of 8% overall is made. Employees may opt out of the regime if they wish but employers cannot compel or induce their employees to opt out.

The new regime will be policed by the Pensions Regulator who is also responsible for informing employers and other relevant organisations of their obligations under the new legislation.

Qualifying Schemes

The National Employment Savings Trust (NEST) has been established as a default scheme and is required to accept any employer who applies. Any other pension scheme provided must meet certain conditions in order to meet the new requirements, including the requirement that there are no barriers to entry.

Staging Dates

The new regulations will initially only apply to organisations whose largest payroll scheme contains 250 or more employees and will apply to smaller organisations in stages thereafter over a period of 5 years. The Pensions Regulator website can calculate your staging date for you based on the size of the organisation's PAYE scheme and your employer reference: http://www.thepensionsregulator.gov.uk/employers/tools/staging-date.aspx. It is crucial, particularly when budgeting for future years, to know exactly when your staging date will arise so the precise date should be confirmed as soon as possible.

It is also possible for employers to bring forward their staging date by 6 months. The pension scheme must be notified and the regulator must also be notified in writing at least one calendar month before the chosen staging date.

Postponement Periods

Organisations do have the option of using a three month waiting period, effectively postponing the obligation to auto enrol employees for up to 3 months. However, employers who wish to take advantage of this must give eligible job holders notice of the use of the waiting period within one month of the original staging date.

Registration with the Pensions Regulator

Organisations must register with the Pensions Regulator within 4 months of their staging date and must provide prescribed information including:

- The employer's address, postcode, the employer's registered company number (if there is one, otherwise its industrial and provident society number, registered charity number or VAT registration number) and the employer's pension scheme reference.

- The name, phone number and e-mail address of the person providing the information, and their capacity in relation to the employer.

- The number of jobholders who are auto-enrolled and the number of jobholders enrolled after a postponement period. If more than one pension scheme is used, this data must be broken down for each scheme.

- The number of jobholders paying tax on a PAYE basis who were active members of a qualifying scheme before the staging date.

- The number of jobholders paying tax on a PAYE basis who have not been auto-enrolled.

Employers must re-register every three years and provide up to date information within one month of registration. There is also a requirement to re-enrol eligible job holders (who opted out) every three years.

Who is entitled to be auto enrolled and receive 3% employer contributions?

Eligible job holders are entitled to be enrolled automatically and receive employer contributions. They must:

- work or ordinarily work in the UK under a contract of service (an employee or worker);

- be aged between 22 and state pension age (currently 65 for men and between 60 and 65 for women. From December 2018, the state pension age will be 65 for both men and women and is currently set to increase to 66 by December 2020).

- be paid qualifying earnings by an employer. From 2012 to 2013, the likely band for qualifying earnings will be £5,564 to £39,853;

- be paid earnings that exceed the earnings trigger. This is likely to be £8,105 for 2012 to 2013;

- not already be an active member of the employer's qualifying pension scheme.

- A non eligible job holder will not be automatically enrolled but will be entitled to opt into the automatic enrolment scheme by giving notice. A non eligible job holder will:

- be aged between 16 and 21 or between state pension age and 74 and in receipt of qualifying earnings (£5,564 - £39,853) above the earnings trigger (£8,105); or

- be aged between 16 and 74 with earnings exceeding the lower earnings threshold (£5,564 for 2012 to 2013) but below the earnings trigger (£8,105).

Organisations should assess whether or not an individual reaches the earnings threshold by reference to their normal pay cycle, usually weekly or monthly.

Non Entitled Workers

Finally, there is a separate group of workers aged between 16 and 74 whose earnings will not reach the qualifying earnings threshold, currently set to be £5,564 for 2012 to 2013. Entitled workers can give their employers notice that they wish to opt into a registered pension scheme. However, the scheme does not need to comply with the auto enrolment provisions and in particular, there is no requirement for the employer to make pension contributions for entitled workers.

Organisations must provide information to all eligible and non-eligible job holders informing them of their new rights.

Record Keeping

Organisations must keep records of:

- The auto-enrolment scheme used with evidence that the scheme meets the criteria and the Pensions Regulator reference number
- Names, NI numbers, dates of birth and automatic enrolment dates for all eligible and non-eligible job holders and also for entitled workers who opt in
- Copies of opt-in and joining notices
- Copies of opt-outs notices
- Contributions paid
- The dates of any postponement notices given and the full names and NI numbers of workers who received the notice

Records must be kept for six years.

Next Steps

The new requirements will present significant administrative challenges and employees responsible for HR and payroll will need to be involved at the outset. It is advisable to identify your organisation's staging date well in advance and then take steps to ascertain whether any existing scheme meets the new requirements.

If an organisation's current scheme does not comply, you will need to explore whether it is possible to change the rules or a new scheme may need to be sourced. Organisations will also need to allocate time and resources for meeting the administrative requirements.

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