

# Workplace Pension Reforms

The workplace pension reforms mean that from 2012, employers will have to put eligible workers into a scheme which meets certain criteria and make minimum contributions. This is called auto-enrolment. The regulations and response to the consultation in Autumn 2009 have been published. Below sets out the decisions made regarding the workplace pension reforms effective from 1 October 2012.

## 1. What is auto-enrolment?

The process where employers auto-enrol workers into either a qualifying workplace pension arrangement or the new National Employment Savings Trust (NEST) scheme, if certain eligibility requirements are met.

## 2. Who will be enrolled?

Workers between age 22 and State Pension Age (SPA) if they have qualifying earnings from £5,035-£33,540 p.a. in 2006/07 terms. Those outside this age group (but below 75) can opt in if they have qualifying earnings and will require employer contributions.

Those without qualifying earnings can opt in but the employer is not obliged to contribute.

## 3. What is a qualifying workplace pension arrangement?

- Contracted-out defined benefit (DB) schemes.
- Contracted-in DB schemes which meet the test requirements.
- Defined contribution (DC) schemes with minimum employer contributions of 3% and overall minimum of 8%.

## 4. Implementation

The period for the reforms has been extended to October 2017 to help smaller employers and new businesses comply with the regulations.

Employers will be brought into the regime in stages over four years depending on scheme size. This will be measured by the number of workers to whom PAYE (Pay as You Earn) income is payable. One group of employers will be staged in on the 1st day of each month starting with the largest employers. If an employer has more than one PAYE Reference Period (e.g. more than one organisation with a number of different size employers) all groups will have to be enrolled from the 1st staging date (i.e. for the largest group in the organisation).

Employer (by PAYE scheme size)	Date before which notification to automatically enrol early must be sent	Staging date
120,000 or more	1 September 2012	1 October 2012
50,000 - 119,999	1 October 2012	1 November 2012
30,000 - 49,999	1 December 2012	1 January 2013
20,000 - 29,999	1 January 2013	1 February 2013
10,000 - 19,999	1 February 2013	1 March 2013
6,000 - 9,999	1 March 2013	1 April 2013
4,100 - 5,999	1 April 2013	1 May 2013
4,000 - 4,099	1 May 2013	1 June 2013
3,000 - 3,999	1 June 2013	1 July 2013
2,000 - 2,999	1 July 2013	1 August 2013
1,250 - 1,999	1 August 2013	1 September 2013
800 - 1,249	1 September 2013	1 October 2013
500 - 799	1 October 2013	1 November 2013



350 - 499	1 December 2013	1 January 2014
250 - 349	1 January 2014	1 February 2014
240 - 249	1 March 2014	1 April 2014
150 - 239	1 April 2014	1 May 2014
90 - 149	1 May 2014	1 June 2014
50 - 89	1 June 2014	1 July 2014

Employers with less than 50 employees will have a staging date between 1 March 2014 and 1 February 2016 depending on the last two characters in the PAYE Reference Number. Further information can be provided on request.

For DC schemes, in the 1st year contribution requirements will be 1% for employers and 2% in total until 2016. In the 5th year the required contributions will be 2% for employers (5% in total). Full contribution rates of 3% employer and 8% in total will operate from 2017.

**4.1 Postponing implementation** – Employers intending to meet the requirements using a DB or hybrid scheme will be able to defer auto-enrolment until October 2016 as long as the scheme remains open until that date. If the scheme closes, the new members will need to be enrolled into an alternative qualifying scheme. If this is DC the employer will need to pay back contributions to its original staging date.

## 5. Employer duties

Employers must ensure jobholders will be automatically enrolled (become active members) with effect from their 'auto-enrolment date' (i.e. the date they become eligible for auto-enrolment) within one month beginning with that date.

The proposal to prevent the postponement of auto-enrolment for a jobholder with a contract of less than three months has been removed. Instead an employer will not be able to postpone auto-enrolment for a jobholder who has already been subject to postponement by that employer in the previous 12 months.

Employers will have a duty to provide information to jobholders and to the pension scheme trustee and managers within one month beginning at the auto-enrolment date.

## 6. Deferring auto-enrolment

High quality schemes can defer auto-enrolment for three months. A high quality scheme is defined as all DB schemes and DC schemes with contributions of 11% of which at least 6% comes from the employer.

## 7. Opt out

If a jobholder opts out within one month of being enrolled they and their employer get a refund of contributions. Jobholders will be required to complete an 'Opt Out Form' which they must obtain from their employer.

## 8. Re-enrolment

Every three years the re-enrolment date will be a date within one month, chosen at the employer's discretion, following the original staging date (or previous re-enrolment date).

A jobholder is excluded from automatic re-enrolment where, within 12 months before the re-enrolment date, the jobholder had opted out.

## 9. Registration

Employer requirements for registering with The Pensions Regulator (TPR) to confirm duties have been met, have been simplified:

- The requirement to provide information on the number of opt outs and voluntary joiners has been removed.
- Employers will only have to tell TPR how many workers have had their auto-enrolment delayed and the number in the PAYE scheme which have not been enrolled.
- Employers operating more than one pension scheme will have to specify the number of new and existing members saving in each scheme.
- The requirement for employers to provide information on why employers have not been 'automatically' enrolled has been simplified.
- The requirement for employers to tell TPR whether their scheme meets the requirements for delayed auto-enrolment has been removed.
- Registration is required within two months of the auto-enrolment date during implementation.
- Requirements for re-registration following each enrolment have been made easier in the same manner as that required at registration.

## 10. Record keeping

The employer, trustee or pension provider will choose how data is to be stored which best suits the business needs. They do not need to hold the records and may delegate to a third party administrator. However the responsibility rests with the employer, trustee or provider.

Employers with in-house schemes will not have to keep separate records.

Occupational pension schemes will only be required to keep the name of each jobholder who opted out and the date on which the employer informed the scheme. No other opt out records need to be kept.

It will not be necessary to keep records when an organisation or individual ceases to be employer, trustee or pension provider as long as the person who acts in this capacity transfers any records to their successor.

Records should be retained for six years although this regulation does not override any requirement to keep records for longer than six years.

Opt out records are to be kept for four years to comply with TPR 'look back' power to investigate inducement allegations.

## 11. 19 day rule

Contributions deducted during the 1st month joining window (i.e. up to the end of the opt out period) should be passed to the pension provider by the last day of the 2nd month following the month during which auto-enrolment occurs. (E.g. for auto-enrolment on 1 August, contributions for August won't need to be paid until 31 October). Although this should simplify the opt out process employers and trustees should be aware that the 19 day rule still applies for contributions deducted after the end of the opt out period.

## 12. Opt in processes

Those that are not eligible jobholders can become active pension scheme members. Individuals without qualifying earnings can also opt in but don't have a right to employer contributions.

Voluntary savers can give notice of intention to opt in by letter/email. A form can be used but is not being legislated for.

Information is to be given about how a jobholder can opt into the scheme.

### **13. Pay reference periods**

Pay reference periods are the device that will make auto-enrolment, the calculation of minimum contributions and scheme quality tests work.

An accidental jobholder is a worker without annual qualifying earnings who may occasionally earn enough to gain jobholder status in an isolated pay period but will not earn enough over the whole year.

The 12 month pay reference period for accidental jobholders starts on the employer's staging date or the date the worker started with the employer.

Annual Pay Reference Periods will be standardised for annual reconciliation purposes to cater for:

- Jobholders auto-enrolled at the staging date.
- Jobholders who leave or join the employer during the 1st 12 months after the staging date.
- Jobholders whose auto-enrolment is postponed.
- Jobholders joining and leaving the scheme.

If the value in the Pay Reference Period takes the worker above the threshold, the 12 month Pay Reference Period ceases to operate. Instead they will be subject to weekly/monthly Pay Reference Periods. Employers will need to make a decision based on actual additional earnings plus an assumption of continued contracted earnings to identify the point when a worker without annual qualifying earnings acquires jobholder status and needs to be enrolled.

### **14. Information to existing members**

Within two months of the auto-enrolment date existing members of qualifying schemes must be sent the following information:

- Name, address and electronic contact details of the scheme.
- Confirmation that the scheme is a qualifying scheme.
- A statement that the employer may not take actions which stop an active member being a member of the scheme or the scheme ceases to be a qualifying scheme unless the jobholder is within the 1st month of becoming a member of another scheme.

### **15. Compliance**

Employers will have to tell the TPR how they have complied with their duties within two months of the staging date. Employers will also have to update that information for automatic re-enrolment or where three years have passed since information was last provided.

Employers and pension schemes will be required to keep certain records and information that will enable TPR to check compliance. Records must be kept in such a way that they are capable of being arranged according to the corresponding employer pension scheme reference. Records must also be preserved for six years.

There will be a requirement to pay interest on contributions not paid by their due date. If unpaid contributions are not made within three months of their due date then the employer can be made to pay all outstanding amounts (i.e. including the employee share too).

TPR will have the power to impose penalties for non-compliance with notices issued for contraventions of the employer responsibilities.

**15.1 Time limits on inducements** – A six month time limit for complaints but the period over which TPR can look back when investigating inducements will be four years so that the limit aligns with the re-enrolment cycle.

**15.2 Fixed penalty notices** – The fixed penalty is intended to get the attention of employers who have failed to engage with the reforms despite the provision of information and support. The flat rate will be £400.

**15.3 Escalating penalty notices** – These are intended to address entrenched employer behaviour by providing a deterrent to the most serious and persistent non-compliance. The penalty will depend on the size of the employer from £50 per day for employers with one to four workers to £10,000 per day for employers with 500+ workers. These will not be issued by TPR from day one of non-compliance but only after a series of contacts with TPR in the form of warnings.

**15.4 Prohibited recruitment conduct penalties** – These are designed to deter employers from trying to screen out at the recruitment process any job applicants who may want to save in a qualifying workplace pension scheme. TPR has power to issue a fixed penalty notice which vary by employer size for employers who contravene this measure.

Further information on the penalties for non-compliance can be provided on request.

## **16. Certification of qualifying schemes**

**DC schemes** – Proposal for certification of qualifying DC schemes have been withdrawn. The Department for Work and Pensions (DWP) will consult to develop a more workable process.

**Requirements for DB/hybrid schemes** – These are based on a list of overall scheme quality in which scheme benefits are compared against a benchmark. This is called the test scheme standard for non contracted-out schemes. Hybrid schemes quality requirement is the payment of minimum contributions and/or a test of overall scheme quality. Contracted-out schemes qualify because they have a contracted-out certificate as evidence that they meet the test scheme.

CARE schemes will be able to qualify as long as they provide discretionary revaluation of at least Limited Price Index (LPI) capped at 2.5%. However the revaluation must be funded for and included in the Statement of Funding Principles agreed between the employer and trustee.

To meet the quality requirements a scheme does not have to exactly match the test scheme. To qualify a scheme must provide pensions equivalent to or better than the Reference Scheme Test.

## **17. Cost to employers**

The Government has increased its estimates for the administrative burden on employers in year one:

- From £5 per employee to £20 in large firms (250+ employees).
- From £15 to £30 in medium firms (50-249 employees).
- From £25 to £50 in small firms (5-49 staff).
- In micro firms (less than five employees), from £70 to £130 per employee.

## **18. Personal Accounts rebranded 'NEST'**

Additional regulations have been published relating to workplace pension reforms concerning the establishment of the National Employment Savings Trust (formerly known as 'Personal Accounts'). This scheme is designed to offer a complementary pension scheme to occupational schemes and employers can choose the NEST scheme or another qualifying workplace pension to meet their 2012 auto-enrolment duties. In summary, these regulations:

- Provide for the arrangements concerning the NEST Corporation, which will act as the NEST trustee.
- Ban transfers into and out of NEST.
- Exempt NEST from certain pensions law provisions such as Member Nominated Trustees, Trustee Knowledge and Understanding (TKU) requirements and employer-related investment restrictions.
- Wind-up the Personal Accounts Delivery Authority (PADA) and transfer its property and rights to the NEST Corporation by 5 July 2010.

This document has been written as a summary of the regulations that were published in January 2010. Further information can be found on the DWP website at [www.dwp.gov.uk/policy/pensions-reform/](http://www.dwp.gov.uk/policy/pensions-reform/)