

Automatic For The People: The Impact For Employers Of Auto-Enrolment Provisions

The Pensions Minister, Steve Webb, recently reiterated his commitment to statutory pension auto-enrolment requirements being implemented in the course of next year. His comments were made in the context of reports that the government was considering delaying the reforms.

From 1 October 2012, UK employers will require to automatically enrol workers into a qualifying pension scheme. A qualifying scheme can be the National Employment Savings Trust (NEST) or an alternative arrangement chosen by the employer - provided that it meets certain requirements. The requirements are that minimum contributions are payable (for defined contribution/money purchase schemes) or that minimum rates of benefit accrual are provided (for defined benefit schemes). The minima are noted in the legislation.

The obligation to auto-enrol employees is to be staggered over a 4 year period, with larger employers being affected first. Each employer can ascertain its implementation date using a guide available from NEST, but it will be possible for employers to voluntarily implement the requirements before their default date. Whether a particular "worker" requires to be automatically enrolled will depend on whether he or she is an "eligible jobholder", a "non-eligible jobholder" or an "entitled worker" (all as defined in the legislation). It is, therefore, important for employers to look at their workforce and identify which individuals fall within which category. In broad terms:

- "workers" are individuals who are employed under a contract of employment and are not self-employed. The definition is very broad and covers permanent and temporary workers;
- "eligible jobholders" are workers who have attained age 22 but not the state pension age, are working (or ordinarily working) in the UK and have qualifying earnings payable by the employer that are above the trigger for auto-enrolment (currently £7,475 per annum). Eligible jobholders require to be automatically enrolled by their employer;
- "non-eligible jobholders" are: workers who have attained age 16 but not age 75, working (or ordinarily working) in the UK, have qualifying earnings payable by the employer that are above the lower earnings level for qualifying earnings (currently £5,035) but not more than the earnings trigger for automatic enrolment (currently £7,475); *OR* workers who have attained age 16 but not age 22, or have attained the state pension age but not age 75, are working (or ordinarily working) in the UK and have qualifying earnings payable by the employer that are above the earnings trigger for automatic enrolment (currently £7,475).
- Non-eligible jobholders don't require to be automatically enrolled, but can opt to join their employer's scheme. If they do, the minimum level of contributions or accrual must be provided by the employer (subject to the employee paying any required level of contributions - which cannot exceed those set out in the legislation);
- "entitled workers" are individuals who have attained age 16 but not age 75, are working (or ordinarily working) in the UK and have qualifying earnings payable by the employer that are below the lower earnings level for qualifying

earnings (currently £5,035 per annum). They do not require to be automatically enrolled, but can opt to join their employer's scheme, but, in relation to them, the scheme does not have to meet the statutory quality requirements, which include the requirement for minimum employer contributions.

Employees who are automatically enrolled can opt out of the scheme, but only after they've been admitted to it (i.e. they must first be automatically enrolled). Employers are not allowed to encourage opting out and any employee who does opt out must be automatically re-enrolled on a 3 yearly basis. The Pensions Regulator is responsible for policing compliance with the statutory requirements and can impose financial penalties on employers that fail in their obligations.

This may sound complicated, especially for something that is intended to achieve the simple goal of increasing individuals' pension provision. With the possibility of financial penalties, employers should consider, sooner rather than later, what steps require to be taken to comply with the legislation.

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