



Technical Briefing



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ACCOUNTANTS • BUSINESS ADVISERS

PENSION REFORM

Auto Enrolment and NEST

EMPLOYERS - ARE YOU PREPARED FOR THE CHANGES TO PENSION LAW THAT WILL AFFECT YOU EVEN IF YOU HAVE ONLY ONE EMPLOYEE?

The Law surrounding the provision of a pension for your employees is significantly changing. Detailed on the next few pages are the answers to a few of the questions you may have.

WHY THE CHANGE?

Around 7 million people are not saving enough to give them a sufficient retirement income and approximately 750,000 employers do not offer a work place pension. The Government have brought in this change to actively encourage people to plan more effectively for their retirement and provide the framework by which employers initiate that change.

WHAT IS CHANGING?

From 2012 it became compulsory for employers to automatically enrol all eligible workers into a pension savings plan.

HAILSHAM

30-34 North Street
Hailsham

East Sussex BN27 1DW

Phone : 01323 842 119 Fax : 01323 442 826

BRIGHTON

Lace House 39-40 Old Steine
Brighton

East Sussex BN1 1NH

Phone : 01273 926 119 Fax : 01273 926 826

WEBSITE

www.watsons.co.uk

EMAIL

mail@watsons.co.uk

Every employer is required to:

- Ensure that they have a qualifying pension scheme. It is possible for them to have more than one scheme but the scheme(s) must be available to meet the obligations required of the employer.
- Automatically enrol all eligible workers into a qualifying pension scheme, if they are not already an active member of a qualifying scheme.
- Make pension contributions on the employees behalf.
- Register and comply with The Pensions Regulator (TPR).
- Provide employees with information about auto enrolment and how this will affect their pension saving.

- Employers with 250 or more employees will have been staged in to auto enrolment by February 2014.
- Employers with between 50 and 249 employees will be staged in to auto enrolment between April 2014 and April 2015.
- Employers with 50 employees or less will be staged between 1 June 2015 and 1 April 2017.
- Employers with less than 30 employees will have a staging date based on the PAYE scheme reference.

THE SEVEN STEPS

There are **Seven Steps** for an employer to follow in preparing for auto enrolment. These steps have been provided by TPR and are as follows:

1. Know your staging date.
2. Assess your work force.
3. Review your pension arrangements.
4. Communicate the changes to all of your employees.
5. Automatically enrol your eligible jobholders* who are not already active members of a qualifying pension scheme.
6. Register with TPR and keep records.
7. Contribute to your workers pension.

*[*Definition 'jobholder': Excludes casual staff working less than 15 hours per week]*



STEP 1 - KNOW YOUR STAGING DATE

The staging date is the date from which an employer must engage in auto enrolment.

The staging dates are based on the size of the employers PAYE scheme (how many employees were engaged as at 1 April 2012). The staging dates continue through to February 2018 by which time all employers will be operating under the new Pension Reform.

HOW CAN I FIND MY STAGING DATE?

Employers should receive a letter from TPR but you can also find your staging date by visiting the TPR website at www.tpr.gov.uk/staging. You will need your PAYE reference to hand.

You can choose to move your staging date forward if you so wish.



HOW DO I BRING MY STAGING DATE FORWARD?

It may be that the staging date received from TPR falls at an inconvenient time i.e. year end. Whilst a staging date can be brought forward it cannot be put back.

The new staging date that you want to use must be before the date already held by TPR and must be one of a range of dates published on the TPR website. You must inform TPR in writing at least one calendar month before the new staging date.

Please note that you cannot change your new staging date once TPR have been informed.



STEP 2 - ASSESS YOUR WORKFORCE

You will need to assess your workforce on your staging date (this only applies to employees engaged under a contract of employment or a contract of services - it does not need to be a written contract!). You do not need to include self employed workers. It is your responsibility as the employer to assess your employees and put them into one of the categories below:

- **Eligible jobholder** - *an employee aged between 22 and state pension age (SPA), working or ordinarily working in the UK under contract and having qualifying earnings in the relevant pay reference period that are above the earnings trigger. **Workers that fall into this category must be automatically enrolled.***
- **Non eligible jobholder** - *a worker aged 16 – 74, working or ordinarily working in the UK under contract, having qualifying earnings in the relevant pay reference period but below the earnings trigger or aged between 16 and 21, or state pension age and 74 and working or ordinarily working in the UK under contract and having qualifying earnings in the relevant pay reference period that are above the earnings trigger. **These workers are not eligible for auto enrolment but have the right to ‘Opt In’.***
- **Entitled Worker** - *a worker aged 16 to 74, working or ordinarily working in the UK under contract and not having qualifying earnings in the relevant pay reference period. **These workers have the right to ‘Opt In’.***



PLEASE NOTE THAT QUALIFYING EARNINGS INCLUDE:

- SALARY/WAGES
 - COMMISSION
 - BONUSES/OVERTIME
 - STATUTORY PAYMENTS AND OTHER PAY COMPONENTS THAT COULD BE CONSIDERED AS EARNINGS
- PLEASE ENSURE THAT YOUR PAY COMPONENTS ARE SET UP CORRECTLY ON YOUR PAYROLL SOFTWARE TO ENSURE THAT THE PENSION CONTRIBUTION IS CALCULATED TAKING ALL THE QUALIFYING EARNINGS INTO ACCOUNT.

The qualifying earnings and earnings trigger will change each PAYE year. Please refer to the TPR website <http://www.thepensionsregulator.gov.uk/employers/automatic-enrolment-earnings-thresholds.aspx> for current figures.



STEP 3 - REVIEW YOUR PENSION ARRANGEMENTS

You will be required to provide a pension scheme that fulfils your employer's duties enabling you to enrol **all** of your employees. The pension scheme must meet with the automatic enrolment and qualifying criteria of a new or existing pension scheme. For more information on the qualifying criteria please refer to the TPR website www.tpr.gov.uk

If you already have an existing pension scheme please check with your current provider that the scheme qualifies. If it doesn't you may be able to change the scheme rules or amend the terms of the policy. The scheme must be able to accept new members.

If you do not already have a pension scheme or your existing pension scheme does not qualify under the automatic enrolment criteria and you are unsure what scheme to choose TPR will be able to assist in choosing a scheme for automatic enrolment that is well run, offers value for money and protects employees' retirement savings. Please refer to the TPR 'Employer's Guide' on their website. <http://www.thepensionsregulator.gov.uk/employers/choosing-quality-pension-scheme.aspx>

Alternatively you could look at using the National Employment Savings Trust (NEST) for a simple low cost pension arrangement (please see page 8 for further information).



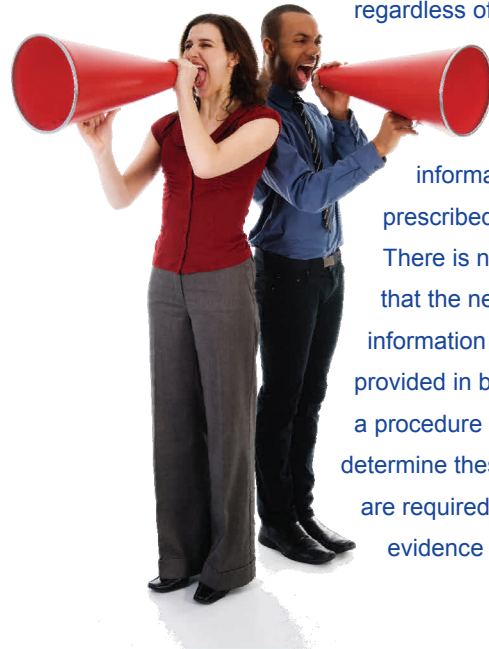
Once you have chosen your pension scheme you will be required to contact the scheme provider and understand the joining process. You will be required to send data to the pension scheme and ensure that the scheme is set up and ready to meet the automatic enrolment criteria by your staging date. Timing is all important at this stage so please check the dates with your pension provider. You can use the TPR website to create a plan to assist if you so wish - <http://www.thepensionsregulator.gov.uk/employers/planning-for-automatic-enrolment.aspx>

AS THE EMPLOYER YOU MUST BE SATISFIED THAT YOUR PENSION SCHEME MEETS THE CRITERIA TO BE AN AUTOMATIC ENROLMENT SCHEME BEFORE IT CAN BE USED FOR AUTOMATIC ENROLMENT.



STEP 4 - COMMUNICATE THE CHANGES TO ALL OF YOUR EMPLOYEES

Employers have an obligation to provide all employees, regardless of which category they fall into, with certain specified information within prescribed time limits. There is no specific format that the necessary information should be provided in but there must be a procedure in place to determine these facts as you are required to retain evidence of compliance.



- **Eligible jobholders**

For those employees being automatically enrolled employers must provide information about automatic enrolment within one calendar month of the auto enrolment date. This information should include:

- ◇ the contact details of the pension scheme and what it means for them
- ◇ the value of the contributions that the employee is expected to make
- ◇ the value of contribution the employer will be making
- ◇ details about their rights to choose to opt out
- ◇ the timings for opting out.

For those employees already members of a qualifying pension scheme with that employer – employers must provide within two calendar months of the auto enrolment date:

- ◇ information about the changes to the pension scheme under the auto enrolment legislation
- ◇ details of how this will affect them
- ◇ details about their rights to choose to opt out.

- **Non eligible jobholders**

The employer must provide employees with information within one calendar month as to:

- ◇ their right to opt into an automatic enrolment scheme
- ◇ how to opt in to pension saving
- ◇ the value of contributions the employee would be expected to make
- ◇ the value the employer will be making
- ◇ details for further information about pensions and saving for retirement.

For employees being enrolled after opting in information must be provided about enrolment within one calendar month to include:

- ◇ what it means for them
- ◇ contact details of the pension scheme
- ◇ the value of the contributions for both employee and employer
- ◇ their right to choose to opt out.

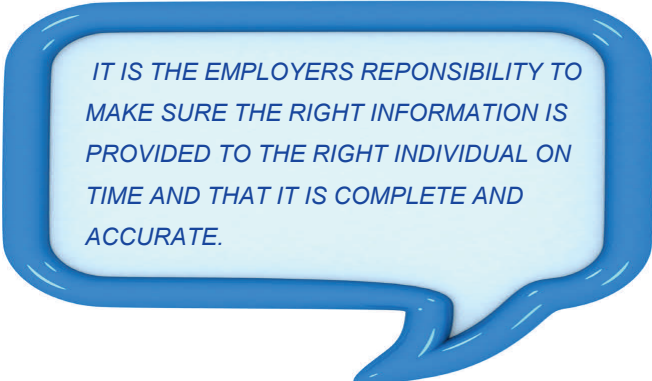
- **Entitled employees**

The employer must inform employees within one calendar month as to:

- ◇ their right to join a pension scheme
- ◇ details of the value the employee may choose to make (subject to scheme rules)
- ◇ details for further information about pensions and saving for retirement.

The employer is not required to make pension contributions for entitled employees.

This information can be prepared in advance even if you have not completed your assessment of your workforce. All information must be provided in writing and can be in the form of an email, a handbook or joining pack. It **must not** be signposted to an internet or intranet site or displayed as a poster in the workplace. If the information includes personal information then the communication to employees will need to be individually communicated.



IT IS THE EMPLOYERS RESPONSIBILITY TO MAKE SURE THE RIGHT INFORMATION IS PROVIDED TO THE RIGHT INDIVIDUAL ON TIME AND THAT IT IS COMPLETE AND ACCURATE.

Employees do have the right to 'opt out' of the workplace pension scheme but the employer **MUST NOT** coerce them into so doing (see page 6).

The personal information that is required for the pension scheme will be similar to the information you already hold for your payroll records for RTI purposes.



STEP 5 - AUTOMATICALLY ENROL YOUR ELIGIBLE JOBHOLDERS WHO ARE NOT ALREADY ACTIVE MEMBERS OF A QUALIFYING PENSION SCHEME

There are a number of steps set out in Law for the process of automatically enrolling eligible jobholders into an automatic enrolment scheme and time limits for completing the automatic enrolment.

The one month period from the eligible jobholder's automatic enrolment date is called the "joining window". At this time the employer must:

- give the eligible jobholders personal information to the pension scheme provider
- give enrolment information to the eligible jobholders
- ensure that the eligible jobholders are active members from their automatic enrolment date. **ALL INFORMATION MUST BE GIVEN IN WRITING.**

The pension provider may also require additional information including personal email addresses, gross earnings in any pay reference period and the value of any contributions payable to the pension scheme by the employer and the eligible jobholder.

PLEASE REMEMBER THAT AUTOMATIC ENROLMENT IS COMPULSORY BUT ONGOING MEMBERSHIP IS NOT. A JOBHOLDER HAS THE RIGHT TO OPT OUT OF A SCHEME BUT NOT OPT OUT OF AUTO ENROLMENT.

The basic terms and conditions of the contract between the pension scheme provider and the eligible jobholder are to:

- explain the purpose of the personal pension scheme
- specify the services to be provided by the personal pension scheme provider
- specify the value of any contributions payable by the eligible jobholder, where this information is available to the pension scheme provider
- specify the charges payable to the pension scheme provider
- in the absence of a choice being made by the eligible jobholder, explain the investment strategy adopted by the pension scheme provider for the contribution made by the eligible jobholder and employer.



STEP 6 - REGISTER WITH TPR AND KEEP RECORDS

Once you have been given your staging date by TPR you will be required to register online with TPR giving them the details of the employer’s qualifying pension scheme and the total number of employees in the PAYE scheme. This must be done three months before your staging date. TPR will contact you as a reminder of your duties. TPR will also issue you with a reference number on all correspondence which you will require when communicating with them. It is advisable to make a note of this reference.

For more information on registration and a copy of the checklist of information required to register please refer to the TPR website www.thepensionsregulator.gov.uk/registration.aspx

The employer must keep accurate records relating to

automatic enrolment for six years as this will enable them to prove that they have complied with their duties and help avoid or resolve any potential disputes with employees, assist in the reconciliation of contributions made to the pension scheme and aid in the efficient running of the pension scheme. A list of all records that need to be kept can be found of the TPR website <http://www.thepensionsregulator.gov.uk/docs/pensions-reform-keeping-records-v4.pdf>



WHY DO I NEED TO REGISTER?

As the UK regulator of work based pensions TPR will be policing the auto enrolment process and can enforce fines and penalties for non compliance.



STEP 7 - CONTRIBUTE TO YOUR EMPLOYEES PENSION

The pension contribution percentage will be phased in between October 2012 and October 2018.

	Minimum Employers Contribution	Minimum Employees Contribution	Total Contribution
October 2012 – September 2017	1%	0.8% + 0.2% tax relief	2%
October 2017 – September 2018	2%	2.4% + 0.6% tax relief	5%
October 2018 onwards	3%	4% + 1% tax relief	8%

These percentages relate to the percentage of qualifying earnings. Tax relief is calculated at the current basic rate of tax.

The percentages quoted are the minimum requirements for employer and employee, anything agreed over and above these percentages is at the employers discretion.

OPTING OUT OF THE WORKPLACE PENSION

All employees have to have been enrolled before they can opt out. Any employee who has already received their enrolment information can opt out of a workplace pension at any time but they must follow the correct procedure.

The employer **MUST NOT** provide the employee with an opt out form directly except in the circumstance that the employer operates its own pension scheme. The employee must obtain the opt out notice from the pension provider. It is against the Law for an employer to influence or coerce the employee to opt out.



If the employee gives the completed opt out notice to their employer instead of the pension provider this must be forwarded to the pension provider. This notice must be checked for validity. More information about opting out and refunding pension contributions already deducted can be found on the TPR website.

The employees that have chosen to opt out have to be automatically enrolled back in around the three year anniversary of the employers staging date and if they wish to choose to opt out again they need to follow the same procedure.

FAILURE TO COMPLY WITH THE RULES OF AUTOMATIC ENROLMENT

TPR will have the powers to enforce fixed penalties upon employers who are non compliant with the automatic enrolment legislation. Any employers that fail to comply, either through lack of knowledge or because they choose to ignore their obligations, will be dealt with in a firm but fair approach by TPR.

For persistent and deliberate non compliance of the statutory notices or if there is sufficient evidence of a breach, there will be a fixed penalty of £400. This is payable within a specific period. An escalating penalty notice will be applied if you continue to fail to comply with the statutory notice at a prescribed daily rate of £50 to £10,000 depending on how many employees you have.

If you fail to pay contributions over when they become due, you could receive financial penalties of up to £5,000 for individuals and up to £50,000 for organisations. For more information on penalties please refer to the TPR website <http://www.thepensionsregulator.gov.uk/docs/pensions-reform-compliance-and-enforcement-quick-guide.pdf>

THE EMPLOYER'S PERSPECTIVE



It may be necessary for you to look at your workforce to ensure you have a key member of staff or enough staff to deal with the administration and assessment of all of your workforce on a regular basis. You must ensure that all new members of staff are assessed and if necessary automatically enrolled and that any employee who is a non eligible jobholder or entitled worker is also assessed in case they have changed worker status and

are required to be automatically enrolled.

It would be advisable to review the way that you communicate with your workforce to ensure that your processes comply with your employer duties under auto enrolment.

A good quality pension scheme should not be difficult to choose.

The more you plan now the smoother the auto enrolment process will be!

NATIONAL EMPLOYMENT SAVINGS TRUST (NEST)

NEST is a simple low cost pension scheme which is designed for a broad range of employers and members. It will assist employers who have little or no experience in pensions to meet their new obligations.

The pension travels with the member so they only have one pension 'pot', which means employers do not have the ongoing responsibilities for the pension 'pot' after the employee has left their employment.

The benefits of NEST are the same as any other occupational scheme.

Contributions will be allocated to a target date default fund based on the year that the member reaches state pension age. There is also an option to invest in five other funds or select a different target date.

For further information on NEST visit www.nestpensions.org.uk

SUPPORT INDEX

The Pensions Regulator (TPR)

☎ 0845 600 1011

www.tpr.gov.uk

National Employment Savings Trust (NEST)

☎ 0300 303 1949

www.nestpensions.org.uk

The Pensions Advisory Service

☎ 0845 601 2923

www.pensionsadvisoryservice.org.uk

Government site

www.gov.uk

FINANCIAL ADVISORS

We would be happy to recommend an appropriate financial advisor to assist with auto enrolment. Please contact us for details.



Please note this Technical Briefing has been prepared for general information only highlighting the basics of the new Pension Reform. Watson Associates is not authorised to provide pension planning advice.

Whilst the information in this publication has been given in good faith no responsibility will be accepted by Watson Associates, its Partners or staff for reliance placed thereon.

For more detailed information please refer to the TPR website above.

This publication represents our understanding of Law and H M Revenue & Customs practice as at 1 September 2013.