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The Corporate Pension Specialist

An Employers Guide to Workplace Pensions Reform

(2012/2013 tax year)

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Please note: this guide is not to be used for employers with Final Salary pension schemes.

Do you know and understand the impact of the government's Pension reforms on your business?

If the answer is No, or I'm unsure then please read our guide.

It is paramount that you understand your forthcoming responsibilities and how this will impact not only your time but potentially your profits.

At Laurence Anthony Associates we believe that informing you, helps you make better choices.

So what is Pension Reform?

The Government is making changes to encourage people to save for retirement so they don't have to rely only on the State Pension.

The Pensions Act 2008 introduces new duties on employers to provide access and contribute to a workplace pension scheme for most workers. As part of this many employees will get new rights.

Starting from 2012, the largest organisations will have to automatically enrol their workers into a workplace pension scheme. Medium and smaller organisations will be impacted over the next 6 years. The date you are given by The Pensions Regulator is called your **staging date**.

You'll be required to automatically enrol employees into a 'qualifying pension scheme'. This could be your own company scheme if it meets certain criteria or the National Employment Savings Trust (NEST), a simple, low-cost pension scheme being introduced by the Government.

Your employer duties

Starting from October 2012, any UK employer who employs at least one person will be legally obliged to:

- set up and register a pension scheme suitable for automatic enrolment.
- automatically enrol certain workers (known as eligible jobholders) into that pension scheme.
- arrange membership of a pension scheme for certain other workers.
- make contributions for eligible jobholders and certain other workers.
- manage the automatic enrolment, joining and opt out processes.
- provide specific information to workers, pension scheme providers and The Pensions Regulator (TPR).
- keep records of how they have fulfilled and continue to fulfil their duties.

Which employees are eligible?

It's vitally important that you know what makes a worker eligible for enrolment into your workplace pension scheme.

You will need to:

- automatically enrol and pay minimum contributions for any workers aged at least 22 but under State Pension age, who earn more than £8,105 in a year.
- enrol and pay minimum contributions for any workers at least 16 but under 75 who earn more than £5,564 in a year and who ask to be enrolled
- enrol any workers aged at least 16 but under 75 who earn less than £5,564 who ask you to enrol them. However, you do not need to pay contributions for them.

You can get further guidance from The Pensions Regulator about which workers you might need to enrol and make contributions for.

When will I have to comply with Pensions Reform?

The Pensions Regulator will write to you around 12 months before your **staging date** so that you know when to automatically enrol eligible jobholders. Three months before your staging date the Regulator will write again to remind you of the new duties and the need to register your scheme(s). Employers with more than one PAYE will start their duties for all their PAYEs at the same time, on the staging date of their largest PAYE.

For details of your staging date please see the **appendix** with the revised timescales announced on 25th January 2012 in Steve Webb's Written Ministerial Statement.

How much will I need to contribute?

Contributions are payable on **qualifying earnings**, the minimum threshold for 2012/2013 is on earnings above £8,105 and an upper earnings limit of £42,475. This will apply immediately to all new eligible employees and those not currently in a qualifying scheme.

Qualifying earnings includes salary, wages, overtime, bonuses, commissions, statutory sick pay, statutory maternity pay, ordinary/ additional statutory paternity pay and statutory adoption pay.

On the next page is a table of how much you and your employees will have to contribute and how this will be phased towards an overall 8% contribution of the employees qualifying earnings.

Minimum automatic enrolment scheme contribution rates as a percentage of qualifying earnings			
Date*	Minimum Employer	Minimum difference to be made up by employee (gross)	Total minimum
October 2012 to September 2017	1%	1%	2%
October 2017 to September 2018	2%	3%	5%
October 2018 onwards	3%	5%	8%

* The Government proposed these new dates on 25 January 2012.

It is highly likely that your business will incur significant additional costs through Pensions Reform. The impact will be higher if you do not currently offer a company scheme or don't currently contribute to it.

What if I offer or want to offer our own Company Pension Scheme?

If you currently offer a company pension scheme or plan to then you can do so using an alternative definition rather than qualifying earnings. This is called **Certification** and you must ensure that the scheme meets certain minimum requirements. They are:

- Minimum contributions will be based on your definition of **'pensionable salary'**.
- Pensionable salary must be at least basic contractual salary and need not include variable salary such as bonuses, overtime and commission.
- Contributions must be based on the first pound of pensionable salary.

- You may certify in advance that their scheme will meet the quality requirement for up to twelve months.
- You must self-certify each year.
- You may designate the calculations to an authorised person (e.g. adviser, accountant) but remain responsible for the certification itself.

Below we have noted the three ways in which you may contribute.

9% of Pensionable Salary			
Date*	Minimum Employer	Minimum difference to be made up by employee (gross)	Total minimum
October 2012 to September 2017	2%	1%	3%
October 2017 to September 2018	3%	3%	6%
October 2018 onwards	4%	5%	9%

* The Government proposed these new dates on 25 January 2012.

8% of Pensionable Salary, provided 85% of total payroll is pensionable			
Date*	Minimum Employer	Minimum difference to be made up by employee (gross)	Total minimum
October 2012 to September 2017	1%	1%	2%
October 2017 to September 2018	2%	3%	5%
October 2018 onwards	3%	5%	8%

* The Government proposed these new dates on 25 January 2012.

7% of pensionable salary, provided total salary is pensionable			
Date*	Minimum Employer	Minimum difference to be made up by employee (gross)	Total minimum
October 2012 to September 2017	1%	1%	2%
October 2017 to September 2018	2%	3%	5%
October 2018 onwards	3%	4%	7%

* The Government proposed these new dates on 25 January 2012.

Not all your employees will want to part of a pension scheme. However, if they are eligible they must be enrolled but they can **opt out**.

What is opting out?

Workers who have been automatically enrolled into a pension scheme and those with qualifying earnings who have opted in have the right to opt out within one month. To opt out, workers must let you know by completing an **opt-out notice**. When you receive a member's valid opt-out notice within the one month period, you must pay back any contributions deducted from the worker's pay. Also, any contributions you as the employer have made must be refunded to you by the pension scheme.

After the one-month opt-out period is over, members cannot opt out and get a refund, but they can stop contributing. If they do this any contributions already paid, including those from the company will stay in the pension scheme. Once an employee has decided to opt out you are under no obligation to continue contributions.

The role of The Pensions Regulator (TPR)

TPR will be responsible for making sure you comply with your duties. TPR's approach to compliance will include:

- telling you when your staging date is and how you can comply with employer duties.
- making guidance and information available to you, workers, pension schemes and professional advisers.
- Educating you about your duties to help you comply.
- fining employers who fail to comply depending on the severity of the breach.

Enforcement

TPR has powers to issue compliance notices to and impose penalties on employers who do not comply with their automatic enrolment duties, for example failing to automatically enrol eligible jobholders or failing to refund contributions to those who have opted out.

There is a **three stage process** that TPR is expected to use although this may be preceded by informal intervention. Employers may appeal to TPR by using a specific procedure which will be set out in compliance notices.

The 3 Stages

Stage 1: **Compliance/unpaid contribution notice**

This notice will detail the breach and require you to put things right within a specific timescale. A notice may also include a requirement to make a contribution with interest added.

Stage 2: **Fixed penalty notice - £400**

This notice will require you to put right the breach identified in the previously issued compliance notice. You will be given at least 4 weeks from the date of the fixed penalty notice to put things right.

Failure to comply by the specified date will result in the fixed penalty being applied.

Stage 3: **Escalating penalty notice**
If you fail to comply with the original compliance notice and subsequent fixed penalty notice, you will face daily escalating penalties. These will start to be calculated from the date specified in the fixed penalty notice and will depend on your size.

Number of Employees	Daily Rate
1-4	£50
5-49	£500
50-249	£2,500
250-499	£5,000
500 or more	£10,000

This is generally the number of workers in the employer's PAYE scheme or the number of workers affected by unpaid contributions. Where this number is not readily available, TPR may use various sources of information to estimate this number.

Other penalties

1. Wilful failure to comply
Employers who wilfully fail to comply with the employer duties face fines and/or up to two years' imprisonment.

2. Inducements
Employers who induce workers not to join or to opt out of a pension scheme will be subject to the three stage compliance process.

3. Prohibited recruitment conduct
Employers are not allowed to make any statement or ask any question during the recruitment process, which indicates (either explicitly or implicitly) that the worker may not join, or may opt out

of, a pension scheme. Separate penalties apply to employers using prohibited recruitment conduct.

You can find out more about automatic enrolment and the role of TPR on their website at:
www.thepensionsregulator.gov.uk/pensions-reform

So what are your options?

1. Appoint the governments scheme, **NEST** to run your pension.
2. Continue to run your **existing scheme**, if you have one and ensure it meets the necessary requirements.
3. If you don't run a scheme we can help you establish a **bespoke arrangement**, or
4. Use a **blend** of both NEST and your own scheme.

NEST and/or Bespoke Arrangement

We have set out on the next page a comparison of NEST against an alternative pension arrangement so you may consider which will be the most appropriate option for you.

	The Nest Scheme	Bespoke Company Pension Schemes	
		Contract Based	Trust Based
Contribution Limits	The scheme is targeted at low to moderate earners who do not currently participate in a workplace pension. In order to focus on this market there will be a contribution limit of £4,400 (2012/2013). It has been recommended that this limit be removed in 2017.	No maximum limit, although schemes can normally only accept employee payments which are eligible for tax relief. From 2011/12 pension contributions will be subject to the annual allowance of £50,000.	
Transfers	Transfers in and out of the scheme are not allowed, except at retirement. These restrictions are expected to be revisited in 2017.	Transfers can usually be made to and from another pension plan.	
Charges	NEST will initially have a combination charge made up of an annual management charge (AMC) of 0.3% and a contribution charge of 1.8% to cover the costs of establishing the scheme.	Flexible charging structures are available.	
Investment options	While the choice of funds has not been decided, they are likely to include a low risk default fund, possibly a small number of low cost risk-rated funds and potentially a range of ethical funds.	Employees can generally choose from a range of funds with different risk profiles. Risk based investment strategies may also be available and/or lifestyling (i.e. funds will be switched to more conservative funds closer to retirement).	
Retirement options	The default retirement age will be the State Pension Age, although members can choose another date from age 55 onwards. Retirement benefits cannot be phased.	Members can choose a retirement date from age 55 onwards and options are often available for benefits to be phased.	
Refunds	None allowed other than when an Opt Out notice is received within the first month waiting period.		Employer and member can have their contributions refunded within the first two years' of pensionable service.

Waiting Period	There is a three month waiting period before an eligible employee needs to be automatically enrolled. Employees can still opt in during this period. This is a benefit to employers who won't have to enrol staff who leave after a very short period.	There is a three month waiting period before an eligible employee needs to be automatically enrolled. Employees can still opt in during this period. This is a benefit to employers who won't have to enrol staff who leave after a very short period.
Salary Sacrifice	It is unclear if this will be available. If it is, it is likely to be without advice, or with advice but at an additional cost.	Salary sacrifice is becoming more popular for private pension schemes, particularly in the current economic climate with employers and employees looking to cut costs. Both employer and employee support is provided.
Support	There will be a single level of service for all employers and employees. Provision of information will generally be through e-channels, which could include the internet, email, SMS (text), telephone IVR (automated service), and future digital platforms.	A wide range of services, often tailored to suit the needs of the employer. Advisers and/or providers normally provide ongoing monitoring of the scheme and services to ensure the scheme continues to meet the needs of both the employer and employees.
Employee communication	The details are still to be confirmed, but it looks likely that this will be generic and through e-channels.	A wide range of communication material is available, usually both on and offline. Often this can be customised to suit the needs of the scheme.
Advice	Can seek individual advice, for which a fee will normally be charged.	Company can arrange for scheme adviser to provide advice. Costs can be paid by employer and/or employees.

At Laurence Anthony Associates we have been working closely with our corporate clients to help prepare them for Pensions Reform. Early preparation can allow you to build a plan as 12 months notice may not give you enough time to comply.

As you can see there are a variety of issues and options to consider. To discuss Pensions Reform and how we may help, please feel free to contact us (see page 15).

Appendix

The table below sets out the revised automatic enrolment dates from Steve Webb's Ministerial Statement on 25th January 2012.

Employer size (by PAYE scheme size) or other description	Automatic Enrolment Duty Date	
	From	To
250 or more members	1st October 2012	1st February 2014
50 to 249 members	1st April 2014	1st April 2015
Test tranche for less than 30 members	1st June 2015	30th June 2015
30 to 49 members	1st August 2015	1st October 2015
Less than 30 members	1st January 2016	1st April 2017
Employers without PAYE schemes	1st April 2017	No change
New employers Apr 2012 to Mar 2013	1st May 2017	No change
New employers Apr 2013 to Mar 2014	1st July 2017	No change
New employers Apr 2014 to Mar 2015	1st August 2017	No change
New employers Apr 2015 to Dec 2015	1st October 2017	No change
New employers Jan 2016 to Sep 2016	1st November 2017	No change
New employers Oct 2016 to Jun 2017	1st January 2018	No change
New employers Jul 2017 to Sep 2017	1st February 2018	No change
New employers Oct 2017	Immediate duty	No change

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