

## Workplace Pensions

### Introduction

This is the most important thing to happen to employment law, since the introduction of PAYE

Please note that this is a compulsory amendment, and employers can not opt out, this even effects single director companies.

If you do not comply the Pensions Regulator will issue an enforcement notice and issue a penalty.

**YOU MUST READ THIS GUIDE IN FULL. DO NOT PUT TO ONE SIDE.**

In the past, many workers missed out on valuable pension benefits, because their employer didn't offer them a pension, or they didn't apply to join their company's pension scheme. Automatic enrolment changes this. It makes it compulsory for employers to automatically enroll their eligible workers into a pension scheme. The employer must also pay money into the scheme.

By 2018 every employer in the UK will have to provide a suitable workplace pension scheme and automatically enroll many of their workers. As with most legal requirements, the employer must be able to prove they have complied with the legislation.

Note, automatic enrolment, you **MUST** enroll qualifying employees, there is no opt out option for you as an employer. The employee does have an option later to opt-out.

Every employer has been allocated a staging date, based upon their current size and paye reference number. Your staging date is as you have registered as an employer after 1<sup>st</sup> April 2015 will be as follows:-

Between 1 April 2015 and 31 December 2015	1 October 2017
Between 1 January 2016 and 30 September 2016	1 November 2017
Between 1 October 2016 and 30 June 2017	1 January 2018
Between 1 July 2017 and 30 September 2017	1 February 2018
After 1 <sup>st</sup> October 2017	Instant

If you are already an employer, please ask us for your staging date.

## Rates of Contribution

The following table shows the minimum contributions that employees and employers will need to contribute to anyone joining the pension scheme.

Dates	Employers contribution	Employees contribution
Up to 30 <sup>th</sup> September 2017	1%	1%
1 <sup>st</sup> October 2017 to 30 September 2018	2%	3%
1 <sup>st</sup> October 2018 onwards	3%	5%

Employees or employers may increase the minimum rates if they wish. Contributions from employees will be deducted from their wages, and these will be notified to you (along with the employers contribution) together with the monthly PAYE payments. You will notify the pensions regulator, and these will be deducted via direct debit on a date to be decided by yourself shortly after the payroll date.

Using nest there will be no further costs for running the pension scheme. You should communicate with your pension provider if you use your own scheme over their costs.

### Increase costs for employing staff

Please be aware between now and the staging date that your overall employer costs will increase as you will have to pay between 1% and 3% of their annual salary in employers pension contributions. You will have to account for this in your costing when calculating charge out rates for their time.

## **DUTIES**

### **Before your Staging Date you must:-**

1. Inform the Pension Regulator of your nominated company contact for pension purposes.
2. Communicate with your employees to raise their awareness.
3. Wait for the pensions regulator to send you a letter with a letter code.
4. Choose a pension company (or use the governments NEST scheme).
5. Assess your workforce.

### **On and after Staging Date:-**

6. Enroll eligible job holders - communicate entitlement to your workers using approved letters.
7. Update your contracts of employment.
8. Register with the Pension Regulator.
9. Set up the pension scheme

### **Ongoing responsibilities**

10. Start making contributions
11. Keep records for the prescribed times required by law, up to 6 years in many cases.
12. Assess new employees and issue letters.
13. Assess current employees to ensure they do not change category.

More detailed notes on all the above options appear on the following pages.

## Implementing your new employer duties

### 1. **Inform the Pension Regulator of your nominated company contact for pension purposes.**

This must be done well before the staging date. Either you can do this, or R. Stride & Co can do this. Please inform us now what you wish to do, by completing the checklist attached.

To start the process and provide company contact details

<https://automation.thepensionsregulator.gov.uk/Nomination>

### 2. **Communicate with your employees**

At this early stage you must communicate with your employees to raise awareness that a pension scheme will be set up in the future and that you are planning to start a scheme in the future.

### 3. **Letter code**

In order to start the process we/you need the letter code from the letter you have received from the Pensions Regulator. Letter codes will be sent out well before your staging date. Do not lose this letter and code when it arrives.

### 4. **Select a pension provider**

You must select a pension provider for your business before your Staging Date.

The pension provider must meet certain criteria as stipulated by the Workplace Pensions Regulations, known as a qualifying pension scheme.

You may decide to talk to a pension provider direct or to a registered pension advisor or you may want to consider the Government's "default" organisation – The National Employment Savings Trust (NEST) who have a legal obligation to provide a qualifying pension schemes to every employer who requests registration. [www.nestpensions.org.uk](http://www.nestpensions.org.uk)

## 5. Part 1 - Assess your workforce

Check who you're likely to have duties for

It's likely that you'll have duties in relation to all of your workforce, so you need to identify what types of worker you have.

This initial assessment will identify any 'eligible workers', i.e. workers who you'll need to automatically enroll. You must not say or do anything that could be viewed as influencing any of these workers to opt out of your pension scheme. This is referred to as 'inducement' which is a breach of the law and could result in fines and/or prosecution.

The following classes are applicable to your employees, and assume that all workers are working in the UK.

Automatic Enrolment (Eligible workers)	Aged over 22 and under state pension age and earning over £10,000 pa (£833 per Month)
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At the staging date you must write to these people and automatically let them join the pension scheme. Once registered with your pension company they may register and opt out.

Not Automatic (non-Eligible Enrolment)	Aged between 16 and 21 and earning over lower earnings threshold £5,772 pa (£481 per month)
	Aged over state pension age and under 75 and earning more than £10,000 pa (£833 per month)

At the staging date you must write to these employees asking them if they wish to join and obtain their written responses. They do not have to join.

Not Automatic (Entitled workers)	Aged over 16 and under 75 and earning less than £5,772 pa (£481 per Month)
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At the staging date you must write to these employees asking them if they wish to join and obtain their written responses. They do not have to join. No employers pension contribution has to be made.

Non Eligible Enrolment	Employees under 16
	Employees over 75

No action required.

## **Part 2 – Make formal assessment of your workforce**

By this stage, you should have the necessary systems in place to identify the different types of workers, so you'll know what your duties are in relation to each of them.

You'll need to know exactly how your workforce is comprised on your Staging date. You'll need to tell The Pensions Regulator the total number of workers in employment on your Staging Date, how many of those were automatically enrolled, how many were already in an existing pension scheme you provide, and anyone else in employment who hasn't already been included.

### **6. Enroll eligible job holders**

Within 1 month of your Staging Date, you must issue every employee / worker a letter confirming to them who you have chosen as your pension provider, their entitlement (if any) and how it affects them. For many workers this will mean advising them that they are automatically enrolled and must contribute towards the pension scheme, unless they take action in the prescribed form to opt out.

You need to be aware that, when you issue one of these letters, if the employee / worker qualifies for pension you will need to inform your pension provider.

Copies of these letters will need to be retained for 6 years to prove that you have complied with legislation.

NB: the letters you issue refer to people with certain earnings. The earnings level stated are those currently required by the Government, however we expect these to rise year on year so you must be careful to ascertain the correct figures for use on your staging date.

### **7. Update all contracts of employment and terms & conditions**

Terms and conditions, or contracts of employment, must state the correct entitlement that you are providing for Workplace Pensions. Most contracts will need changing and under the new regulations these documents are becoming, if anything, more important.

R Stride & Co will automatically update your employees contributions should you wish us to set up the scheme. There will be a small cost of £25 plus vat if you set up the scheme yourself.

**8. Inform the pensions regulator.**

Once your staging date has passed and within 3 months you must update the pensions regulator with all contact details, staff enrolment numbers and other information.

Their website can be found at

<https://www.autoenrol.tpr.gov.uk/Home/Employer>

**9. Set up the pension scheme**

You must set up with your pension provider or with NEST

**10. Start Making contributions**

Once employees have been auto enrolled or non eligible employees enrolled we shall alter the payroll records and start to deduct pension contributions. We shall then send you a monthly summary of contributions so that you can update your pension company. Using NEST these contributions will be taken by direct debit from your bank account.

**11. Keeping records**

Certain records must be kept about your workers (current and all future employees) and about the pension scheme. This includes keeping a record of your compliance with the new rules. You must preserve these records and you must be able to produce those records to the Pensions Regulator if requested to do so.

By law, there are two different types of records that you must keep. These are:

Records about jobholders and workers e.g. name, National Insurance number, opt-in / out notices and joining notices and calculations on why certain records have been issued.

Records about the pension scheme e.g. employer pension scheme reference and the scheme name and address.

Make sure you know what records are to be kept and where to get them from. You will also need to decide how you will store them so you can easily access them. You will need to be able to produce these records if the Pension Regulator asks to see them for any reason.

These records must be kept for a minimum of 6 years (with the exception of those relating to opt-outs which must be kept for 4 years).

The options available to you regarding issuing and record keeping of these letters and the correct handling of employment law implications are as follows:

Carry out this function in-house by doing this yourself. This has no financial cost but does have a time and filing implication. Please remember you have to issue correct letters at correct times depending on salary and age to both current and new workers and keep those records for 6 years. You will also need to consider the legal requirements regarding contracts of employment and employment law.

Use the R Stride & Co Employment Handbook service. With the Employment Handbook service these letters can be issued and recorded as required by law and keep these records as required by law. This service also covers the contract of employment and any employment law aspect of employing staff.

## **12. Assess new employees and issue letters**

Assess any new starters

When anyone new starts working for you, you will need to check whether they are eligible for automatic enrolment. If they are, you will need to enroll them into your pension scheme following the same process as you did at the Staging Date.

Even if they do not have the right to auto enrollment they may have other rights and we recommend that every new employee / worker receives from you a letter setting out their entitlements (if any) under this legislation.

Process opt outs

You must process any requests to opt out of the pension scheme from workers you have automatically enrolled and refund any contributions they have made. **You are under a duty to automatically re-enroll eligible jobholders every three years after they first become subject the statutory requirements to be automatically enrolled.**

Process opt-in requests

You may have workers who weren't automatically enrolled who choose to opt into, or ask to join your pension scheme. You must process these requests and make these workers active members of a pension scheme.

**13. Assess current employees to ensure they do not change category.**

Continuing obligation to assess your workforce

You will need to continually assess your workforce as you may have some workers who may not have been an eligible worker at your Staging Date. It is essential that you put in place a process to keep trace of age and earnings. You are under an obligation to provide information to these workers and the pension scheme.

The following changes need to be reviewed on a constant basis :

**AGE**

- if an employee age goes over 16
- goes over 22
- goes over state pension age
- goes over 75

**WAGE**

- An employee starts to earn over £5,772 pa (£481 per month)
- An employee starts to earn over £10,000 pa (£833 per month)

**Notes re joining conditions**

Employers are allowed to impose a waiting period of up to three months (both on initial 'staging in', and for each employee taken on going forward). This will be useful as it will remove the duty to enroll very short term employees, and will help reduce the administrative burden for employers with a high turnover of staff.

It will also enable employers to align enrolment periods with pay periods, so they don't have to deal with partial contribution periods. Employees are then auto-enrolled at the end of any such waiting period, and they have about 4-6 weeks within which to opt out. If they do so within this time, they are treated as if they were never a member of the scheme. However, their contributions will likely have already been taken before such opt-out, and therefore refunds will become due.

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and is based on the information provided by them plus the information available at the time from official bodies relating to the Workplace Pension regulations. Should any additional information come to light after this date, please note that this may affect the recommendation so the employer should confirm its accuracy at the time they wish to implement the recommendations. Please feel free to contact R Stride & Co LLP for further clarification and updating.

Please note R Stride & Co LLP and associated companies are not pension providers, advisors, but we have assessed that the majority of employers are likely to choose NEST as their provider. Most advice is therefore based on NEST documents. Should you use any other provider advice may not be suitable for your needs.