HEIGHTEN
Taking Your Business To New Peaks

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Pensions auto-enrolment

Since October 2012, employers have been obliged to get to grips with the intricacies of Automatic Enrolment (AE). Basically, businesses in the UK are now obliged to set up, administer and contribute to a pensions scheme for qualifying employees.

The rationale behind the scheme is to ensure that employees make adequate provision for their retirement.

As quoted on the Pensions Regulator website:
The law on workplace pensions has changed. Under the Pensions Act 2008, every employer in the UK must put certain staff into a pension scheme and contribute towards it. This is called 'automatic enrolment'. Whether you're a hairdresser, an architect or employ a personal care assistant, if you employ at least one person you are an employer and you have certain legal duties.

Which employers are affected by these changes?

As the law currently stands, AE applies to all employers who have at least one member of staff. Employers include individuals who employ someone in a personal capacity: for example, a cleaner, personal care assistant or nanny.

Which employees need to be enrolled into a suitable AE scheme?

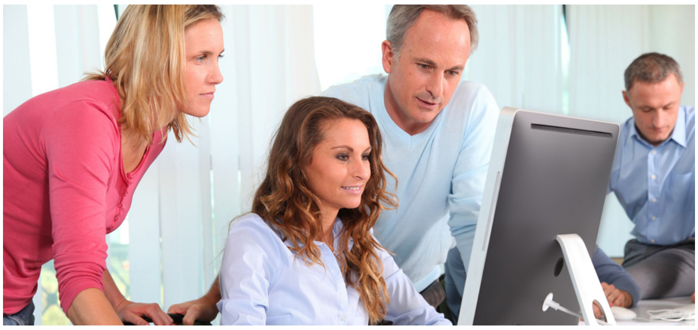
Employers are required to enrol all employees that:

- Are not already in a scheme
- Are aged between 22 and the State Pension age
- Earn more than £10,000 a year, and
- Work in the UK.

Employees can opt-out, but there are regulations in place to ensure that employers put no pressure on employees to do this.

Accessing pension funds

Most employees will not be able to access their pension savings until they are 55 although there are special rules for individuals that are seriously ill. Employees will have some choice over how risk sensitive they want their fund investments to be.



You will not have to auto-enrol into a suitable AE scheme if:

- You are a director of a business with no plans to employ anyone,
- You are freelance or self-employed,
- Your business has a number of directors none of which has a contract of employment or
- Your business is no longer active.

However, even if you are not obliged to register under AE, you still have a duty to inform the Pensions Regulator that this is the case.

When do you need to make a start?

Every business in the UK that has a payroll process will need to consider their responsibilities under the AE regulations. Failure to act will be treated as a breach of these regulations and failure to comply with the various, ongoing obligations will be similarly penalised. Actions taken may be restricted to warning letters, but the Regulator has powers to issue fines and penalties. Wilful non-compliance may result in a criminal prosecution.

The steps that most employers will need to consider include:

- Planning
- Assessing the level of contributions to be made, communicating with employees and deciding which pensions provider to use
- Setting up systems, enrolling employees and starting contributions.

In most cases the details can be completed with the support of the pensions provider. For example, the National Employment Savings Trust (NEST) has an online support system that employers can use.

What level of contributions need to be made?

Both the employer and employee need to contribute. Pension contributions in total are a minimum 8%: 3% from the employer, 4% from the employee and an additional 1% tax relief.

For 2022-23, the first £6,396 of an employee’s earnings are not included in the automatic enrolment calculation. For example, if a worker earns £20,000 their qualifying earnings would be £13,604. The upper level of contributory earnings is £50,270.

Avoiding pension scams

The Pensions Advisory Service advise caution if you are offered higher rates of return by transferring your pension savings to overseas funds. They say:

> *It's good to remember that pension scams can take many forms and usually appear to most, to be a legitimate investment opportunity. But, pension scammers are clever and know all the tricks to get you to hand over your savings. They target anyone and everyone, pressuring you into transferring your pension savings, often into a single investment.*
>
> *The investments are normally overseas, where you have no consumer protection, and typically promise you a high guaranteed rate of return (typically 7 or 8% or higher). These are often false investments in luxury products, property, environmental solutions or storage and parking, which often don't exist or are extremely high risk with low returns.*

If in doubt contact a UK based Financial Advisor, preferably one that you have dealt with previously.

Re-enrolment

Every three years you must put certain staff back into a pension scheme. This is called
're-enrolment'. The instructions posted by the Pensions Regulator explain:

Your re-enrolment duties must be carried out approximately three years after your automatic enrolment staging date. Your duties will vary depending on whether you identify that you have staff to re-enrol, or whether you have no staff to re-enrol. Either way, you will need to complete a re-declaration of compliance to tell us how you have met your duties.

Remember, re-enrolment and re-declaration is your legal duty and if you don't act you could be fined.

What happens if you don't comply?

Enforcement action that can be taken by the Regulator includes:

- If you don't comply, you may face enforcement action including compliance notices, and penalty notices (fines).
- If you comply late, the Regulator will expect you to pay back any missed contributions to put staff in the position they would have been in if you had complied on time; this would include backdating contributions to the day that your staff member first met the age and earnings criteria to be put into a scheme.
- When backdating contributions, you must pay all the unpaid employer contributions and your staff member must pay theirs, unless you choose to pay it for them. Any enforcement action may require that you pay your staff member's contributions as well as your own.
- If you don't pay your fine, the Regulator can recover the debt through the courts.

Summary action list

- Identify how many of your employees need to be enrolled in a qualifying pension scheme.
- Identify a suitable pension provider to manage your scheme.
- Enrol eligible staff on or before your formal staging date.
- Add the various admin tasks, to ensure adequate contributions are made each pay period, to your payroll department activities.
- Don't forget to comply with your re-enrolment and re-declaration duties.
- If in doubt seek the advice of the Pension Regulator – 0300 123 1047 – or your Financial Advisor.

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