Auto enrolment is here – are you prepared?

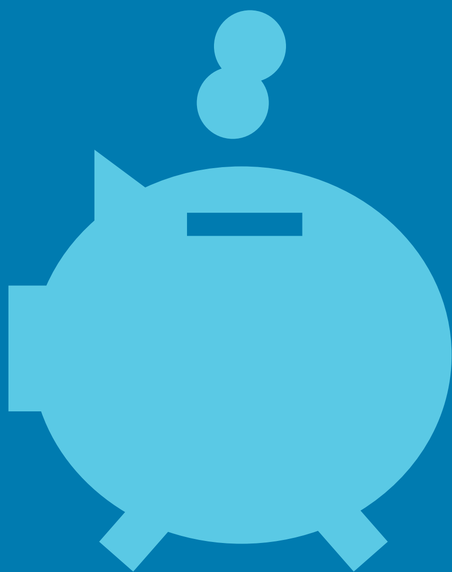
Introduction

Under new rules that began to be phased in from October 2012, employers are required to automatically enrol all eligible members of staff into a workplace pension scheme and pay a minimum contribution into the arrangement for the employee's benefit. The move has been described as the most radical change to employee benefits since the introduction of the National Minimum Wage.

The latest figures indicate that millions of people are not saving enough to meet their retirement aspirations, suggesting that Britain is heading for a pensions shortfall. To encourage more people to set aside money for their retirement, the Government is introducing compulsory workplace pensions for eligible workers. The measures are being phased in between 2012 and 2018, depending on the size of the business.

It is thought that around two thirds of small businesses do not currently have a pension scheme for their staff. However, the Pensions Act 2008 requires all employers to automatically enrol eligible jobholders into a qualifying pension scheme. This could, for example, be in an existing pension scheme (if it meets, or can be changed to meet, the necessary automatic enrolment criteria) or NEST, a pension scheme being introduced by the Government.

This guide provides an overview of the reforms, as well as information on the new National Employment Savings Trust (NEST) and advice to help employers prepare for the new regulations.



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1. When is this being introduced?

Auto enrolment is being phased in over a number of years from October 2012 onwards (larger employers first, smaller employers last). Each employer will be allocated a 'staging date' from when their duties will begin. The Pensions Regulator will write to employers around 12 months before their automatic enrolment start date, and then again three months before, to advise them on what they need to do.

The staging date is based on the number of people in the employer's PAYE scheme. Employers with the largest numbers of workers in their PAYE schemes will have the earliest staging date. The date is based on their size (fixed by the number of staff on the payroll as at 1 April 2012) or the letters in their PAYE scheme reference.

If you would like information on when your company staging date is, please contact one of our consultants on 020 7472 5555, or mail@nlpfm.co.uk.

2. Who needs to be enrolled?

An employer must determine whether they employ anyone classed as a 'worker'. A worker may be:

- Any employee, or
- A person who has a contract to provide work or services personally and is not undertaking the work as part of their own business.

There are three categories of workers: eligible jobholders; non-eligible jobholders; and entitled workers.

The table below summarises each category.

Earnings	Age Inclusive		
	16-21	22-State Pension Age (SPA)	SPA-74
Under lower earnings threshold (<£5,772, 2014/15)	Entitled Worker		
Between lower earnings threshold and earnings trigger for automatic enrolment (£5,772 - £10,000, 2014/15)	Non-eligible jobholder		
Over earnings trigger for automatic enrolment (£10,000+, 2014/15)	Non-eligible jobholder	Eligible jobholder	Non-eligible jobholder

Assessing the workforce

An employer must assess each member of the workforce to assign them to the appropriate category. This will then determine what duties the employer will have to carry out for that worker.

After completing the assessment, an employer will know whether the worker is:

- Already in a qualifying pension scheme
- An eligible jobholder
- A non-eligible jobholder
- An entitled worker

See below for definitions.

There are a number of alternative dates on which an employer will have to assess a worker. The main dates are:

- The employer's 'staging date', for a worker already in employment on that date.
- The first day of employment, for a worker who starts employment after the employer's 'staging date'.
- The deferral date, if an employer has chosen to use the postponement provision for a worker.

The date for a particular worker is called the 'automatic enrolment date'.

NLP Financial Management says:

"Whilst the staging date cannot be delayed, the employer has the option to postpone enrolment for eligible jobholders. This offers additional flexibility, allowing employers to delay automatic enrolment for up to three months. For example, employers can use postponement to align automatic enrolment with their existing payroll processes.

A cost minimising use of postponement can be seen when assessing employees with variable earnings. For example, if a jobholder is deemed an eligible worker on an assessment date, but only because of a spike in earnings that is an anomaly, not the norm, the employer can postpone enrolment for up to three months. At the end of the postponement period, the worker is reassessed and at this stage may not qualify as an eligible employee."

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Employers may bring forward their staging date in relation to all workers by writing to the regulator at least one calendar month before their new chosen date.

Eligible Jobholders

The majority of employees will likely be eligible jobholders. Eligible jobholders for whom automatic enrolment will be required are those who:

- Are aged between 22 years and State Pension Age (SPA – see www.gov.uk/calculate-state-pension)
- Have qualifying earnings above the earnings trigger for automatic enrolment (£10,000 in 2014/15)
- Are working or ordinarily working in the UK
- Are not already a member of a qualifying pension scheme.

Non-eligible Jobholders

This category includes workers who:

- Are aged between 16 and 21 or aged between the SPA and 74
- Are working or ordinarily working in the UK
- Have qualifying earnings ABOVE the earnings trigger for automatic enrolment (£10,000 in 2014/15)

Or

- Are aged between 16 and 74
- Are working, or ordinarily working, in the UK
- Have qualifying earnings below the earnings trigger for automatic enrolment, but above the lower earnings threshold (between £5,772 and £10,000).

Although non-eligible jobholders do not need to be enrolled automatically, they have a right to opt in. If they so choose, the employer is required to arrange this and make employer contributions.

Entitled Workers

'Entitled workers' have the right to join a pension scheme and are those who are:

- Aged between 16 and 74
- Are working, or ordinarily working, in the UK under their contract, and have
- Earnings below the lower earnings threshold in the relevant pay reference period (i.e. below £5,772 for 2014/15).

There is no requirement on the employer to make employer contributions in respect of these workers (this remains discretionary). However the employer must set up the deduction of the worker's contributions from their pay should the worker wish to join the pension scheme.

Contributions will be payable on earnings between the lower threshold of £5,772 and the higher threshold of £41,866 for 2014/15. The earnings between these amounts are called qualifying earnings. The thresholds will be reviewed by the Government each year.

3. How much must the employer contribute?

All businesses will need to contribute at least 3% per annum of the qualifying pensionable earnings (see below) for eligible jobholders. However, to help employers to adjust, compulsory contributions will be phased in, starting at 1% before eventually rising to at least 3%.

There will also be a total minimum contribution which will need to be met by employees if the employer does not meet the total minimum contributions. If the employer only pays the employer's minimum contribution, employees' contributions will start at 1% of their salary, before eventually rising to 5%, meaning that there will be a minimum 8% total contribution. While in most cases the employee will need to contribute, an employer may choose to pay the full 8% or even higher.

Transitional period	Duration	Employer Minimum contribution	Total Minimum contribution
1	Employer's staging date to 30.09.2017	1%	2%
2	1.10 2017 to 30.09.2018	2%	5%
3	1.10.2018 Onwards	3%	8%

The above contribution levels are based on 'qualifying earnings' (see definition below). The contribution levels are also assessed only against 'band earnings'. Band earnings are defined as all earnings between the National Insurance Lower Earnings Limit and the Higher Rate Tax threshold. This may be complicated for employees and employers to understand or calculate. As an alternative, there are other self-certification methods available. These include basic pay definitions only (excluding bonuses and overtime), total pay and pensionable salary (as defined in the scheme rules).

Employees can be categorised to provide cost efficiency from an employer's point of view and different certification methods can be used for different categories of employees. For more information on the different definitions of minimum contributions and an analysis of your company's employees, please contact one of our consultants at mail@nlpfm.co.uk, or 020 7472 5555.

What constitutes qualifying earnings?

Earnings cover all of the following pay elements (gross):

- Salary
- Overtime
- Wages
- Commission
- Bonuses
- Statutory sick pay
- Statutory maternity, paternity and adoption pay

4. How do I choose a scheme?

Once you have completed your assessment of the workforce, you should have a clear idea of whether you will have an auto-enrolment duty to fulfil. If so, you will then need to choose a qualifying auto-enrolment scheme.

What is a qualifying scheme?

A qualifying scheme may be a UK scheme (with its main administration in the UK) or a non-UK scheme (with its main administration outside the UK). For a UK pension scheme to qualify it must:

- Be an occupational or personal pension scheme
- Be tax registered, and
- Satisfy certain minimum requirements (the requirements differ according to the type of pension scheme).

Further information on the minimum features required can be found on the Pensions Regulator's website. However, it is important to note that there will be other things to consider before making a decision about which type of scheme to use.

Here at NLP Financial Management we have numerous staff with over two decades of experience in the workplace pension field. One of our consultants can help you decide on the most suitable type of qualifying pension scheme for your company.

Scenario one:
Employers with a current pension scheme

Employers who already provide a pension scheme to some or all of their employees have a number of options. These include:

- Using an existing pension scheme, providing that it satisfies the automatic enrolment criteria.
- Amending an existing scheme if it does not currently meet the auto-enrolment criteria.
- Setting up an alternative pension scheme to fulfil their automatic enrolment duties for all their eligible jobholders.

An employer can use a combination of these options for different areas of their workforce.

Scenario two:
Employers without a qualifying pension scheme

Employers without an existing pension will need to ensure that they put in place an automatic enrolment scheme from the date their duties first apply. They may choose to:

- Set up a new occupational or personal pension scheme that meets the qualifying criteria; or
- Enrol eligible jobholders into NEST – See below for further details.

For further information on the pension providers offering qualifying automatic enrolment schemes contact one of our consultants at mail@nlpfm.co.uk or on 020 7472 5555.

NEST – Low Cost Solution for all?

As well as the main insurance companies, there are other providers of work-based pension schemes. One of these, the National Employment Savings Trust (NEST), is an independent defined contribution (DC) pension scheme designed to offer low to moderate earners a simple, low-cost way to save for retirement.

Run by a not-for-profit trustee corporation, what makes NEST different from other pension providers is that NEST is legally obliged to accept all employers who wish to use it to fulfil their automatic enrolment obligation.

Key features include:

- NEST is free of charge for employers to use.
- NEST charges for members have been set at a 0.3% annual management charge and an initial 1.8% charge on contributions.
- There will be a limited choice of investment funds and a default fund for those who do not make a choice.
- An annual contribution limit will apply. This is the combined total from the member, their employer and the government (via tax relief).

NLP Financial Management says:

"NEST will not charge employers to set the scheme up, but it may not be the best option for employers. Setting up a pension scheme and the continual ongoing assessment of employees is an extremely time consuming job. Employers may have to redeploy resources to oversee the process, which will take time and resources away from the day to day running of the business.

By implementing a pension scheme with a major pension provider through NLP Financial Management, there will not only be help available from us, but also from the pension provider."

For further information, please contact one of our consultants on 020 7472 5555 or mail@nlpfm.co.uk

Not for everyone?

NEST is primarily designed for those on low to moderate incomes. Whilst the scheme provides a basic way of meeting the new requirements, it is unlikely to appeal to high earners or workers who would like a greater degree of choice and higher contribution levels. Employers may therefore want to consider retaining or setting up their own qualifying pension scheme, although it should be noted that NEST can also run alongside an existing scheme. It is also important to note that NEST is unlikely to provide assistance with assessing or segmenting the workforce, calculating minimum contributions or communicating with employees. Employers will be required to set up a payment schedule for contributions and nominate someone to manage the account.

5. Communication and implementation

Once the employer has assessed the workforce and set up a qualifying scheme, they need to automatically enrol eligible jobholders or provide information to workers if they are not an eligible jobholder.

In summary, the employer must do the following in respect of eligible jobholders:

1. **Provide information to the pension scheme about the eligible jobholder**
   This includes their name, gender, date of birth, automatic enrolment date, residential address and national insurance number.

2. **Give enrolment information to the eligible jobholder**
   The employer must provide the eligible jobholder with certain enrolment information in writing or via email which should inform the employee that they have been, or will be, automatically enrolled and what this means to them. It should also tell them about their right to opt out and their right to opt back in, as well as where to find information about pensions and retirement planning.

3. **Arrange active membership for the eligible jobholder**
   The employer can do this by making arrangements with either the trustees or managers of an occupational pension scheme, or the provider of a personal pension. These arrangements differ depending on the type of pension scheme the employer chooses to use.

Workers who are not eligible jobholders

Employers must provide these workers with certain information, with the basic aim of informing them of their potential rights in relation to pensions. The details and time limits for providing this information depend on the type of worker.

NLP Financial Management says:

"Whilst The Pensions Regulator (TPR) will 'police' the new regulations, it is our view that they will initially work with employers to ensure that all schemes are compliant and employers are carrying out all of their duties. However, if TPR find cases of wilful non-compliance, then they have the option to fine employers and can even use the threat of imprisonment if employers refuse to comply with the regulations. Employee communication and record keeping will be essential to demonstrate that the employer has fulfilled their obligations."

For further information, please contact one of our consultants on 020 7472 5555 or mail@nlpfm.co.uk

Opting Out

Workers who have been automatically enrolled have the right to opt-out of the employer's pension scheme. If an employee wishes to opt out, they must notify the employer via a document called an 'opt-out notice' (this is only usually available from the pension scheme provider). When employers receive a valid opt-out notice, they are required to refund any contributions deducted from the worker's pay in the previous month. The pension scheme provider is also obliged to reimburse the employer for any contribution they have made.

NLP Financial Management says:

"Be aware! Employers cannot entice employees to opt-out of the scheme for risk of fines. However, opting out will be especially important for employees with existing Pension Protection in place. If an individual with Enhanced or Fixed Protection does not opt-out of the Auto Enrolment scheme, they may lose their protection and suffer unnecessary tax charges. Individuals with Pension Protection should seek professional advice if they are to be automatically enrolled into any pension scheme.

Our consultants can provide the required information to all employees prior to enrolling in the scheme. We can host planning conferences or individual financial planning surgeries for key employees to ensure that pension protection issues are considered. This is especially important given the recent reduction in the 'Lifetime Allowance' to £1.25m."

For further information, please contact one of our consultants on 020 7472 5555 or mail@nlpfm.co.uk

The opt-out period does not start until the later of:

- The worker becoming a member of the scheme; or
- The worker receiving enrolment information from the employer.

The opt-out period lasts for one calendar month. Any deductions made from the worker's salary during this time will be refunded. If an employee misses the opt-out period, they can cease membership of the scheme, although they may not be entitled to a cash refund of their contributions.

6. Getting started

Hopefully this guide will help identify the main areas to consider. The first step is to identify your staging date and appoint a project manager. Once this is clear, a timeline should be set up at least 12 months before your staging date. The next step is to assess the workforce and communicate with your employees.

Employers should see this as a positive opportunity for their staff when liaising with employees. After all, a pension scheme is an additional employee benefit and should be viewed as such.

NLP Financial Management is an independent financial advisory firm which operates across the whole of the pensions market. We have invested significant resources into Auto Enrolment in order to help employers through the whole process.

To arrange an initial consultation to discuss your company's requirements, please contact one of our consultants on 020 7472 5555 or mail@nlpfm.co.uk. For further information please visit our website, www.nlpfm.co.uk.

NLP Financial Management says:

"A final word of warning. Pension providers are already tightening the quality requirements for new pension schemes. With around 40,000 employers per month enrolling in early 2016 and over 100,000 employers enrolling throughout 2017 (source: The Pensions Regulator), there are bound to be capacity issues. NEST will have the obligation to accept all new schemes, but they will not provide the help that the vast majority of employers will need. Therefore we would advise employers to start the process as soon as possible, especially if they are looking to set a new scheme up from scratch."

For further information, please contact one of our consultants on 020 7472 5555 or mail@nlpfm.co.uk

What will happen if you don't comply

The Pensions Regulator (TPR) will be responsible for ensuring that you comply with your employer duties. Although they will focus on education rather than imposing penalties, they do have the powers to take action against employers who fail to carry out their duties.

There is a three stage process that TPR will follow.

Stage 1	**Compliance/unpaid contributions notice** This notice will detail the breach and require the employer to put things right within a specific timescale. A notice may also include a requirement to pay contributions with interest added.
Stage 2	**Fixed penalty notice - £400** This notice will require employers to put right the breach identified in the previously issued compliance notice. Employers will be given at least four 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 an employer fails to comply with the original compliance notice and subsequent fixed penalty notice, they will face daily escalating penalties. Number of People* — 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 people in the employer's PAYE scheme or the number of people affected by unpaid contributions. Where this number is not readily available, TPR may use various sources of information to estimate this number.*

Please note that rules in relation to taxation, limits and reliefs are based on NLP Financial Management's understanding of the current regime, may be subject to change and are dependent on individual circumstances. This promotion is not intended to offer financial advice and we recommend that you contact us for advice before deciding how to proceed.

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