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# HART SHAW

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# Get ready for pension auto enrolment

If you haven't received a letter from The Pensions Regulator informing you of the start of auto enrolment for your business, you will do soon. The Pensions Regulator is responsible for regulating workplace pensions and making sure employers comply with their auto enrolment duties.

Whether you have one employee or 50 employees, auto enrolment places significant responsibilities on an employer. Employers will need to enrol many of their employees into a work based pension scheme and pay some pension contributions.

## What is your staging date?

If you don't know the 'staging date' (i.e. the date when the auto enrolment rules will have to be applied) you can find out the detailed staging date rules from [thepensionsregulator.gov.uk/employers/tools/staging-date.aspx](http://thepensionsregulator.gov.uk/employers/tools/staging-date.aspx)

You will need your PAYE reference and, if you started your business before 1 April 2012, the number of employees you had on the 1 April 2012.

Please contact us if you want any help or advice determining your staging date.

## What are the duties of an employer?

The main duties are:

- assess the types of 'workers' in the business
- provide a qualifying auto enrolment pension scheme for the relevant workers
- write to most workers explaining what auto enrolment into a workplace pension means for them
- automatically enrol all 'eligible jobholders' into a pension scheme and pay employer contributions
- register with The Pensions Regulator and keep records.

## What is a worker for auto enrolment?

The term 'workers' includes all your employees but can sometimes include other persons.

A worker is:

- an 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.

The second category is defined in the same way as a worker in employment law. Such people, although not employees, are entitled to core employment rights such as the National Minimum Wage. Individuals in this category include some agency workers and some short-term casual workers.

## Eligible jobholders

The workers will then need to be categorised into three groups:

- eligible jobholders
- non-eligible jobholders
- entitled workers.

An 'eligible jobholder' is called this because they are eligible for auto enrolment. They are workers who are:

- aged between 22 years and the State Pension age
- earning over the 'earnings trigger'. The level of the earnings figure is reviewed annually and is set for each tax year (6 April to 5 April). The annual figure is £10,000 for 2015/16
- working or ordinarily working in the UK
- not already in a qualifying pension scheme.

Note that the earnings trigger has to be considered for each pay period, so if you pay workers monthly, it is the monthly

equivalent of the trigger that needs to be considered (i.e. £833 for 2015/16).

## Other workers

'Non-eligible jobholders' have the right to 'opt in' to the pension scheme and will then be treated as eligible jobholders.

'Entitled workers' are entitled to join the scheme but there is no requirement on the employer to make employer contributions in respect of these workers.

The latter two groups are not considered further here.

## How much will it cost?

As part of the auto enrolment process, employers will need to make contributions to the pension scheme for eligible jobholders. In principle, contributions will be due from the staging date although there is a postponement facility (see later).

All businesses will need to contribute at least 3% of qualifying earnings for eligible jobholders. However, to help employers adjust, compulsory contributions will be phased in, starting at 1% (if the staging date is before 30 September 2017) before eventually rising to 3%.

There will also be a total minimum contribution which will need to be paid by you or your workers. If you only pay the



employer's minimum contribution, employees' contributions will start at 1% of their qualifying earnings, before eventually rising to 4%. An additional 1% in the form of tax relief will mean that there is a total minimum 8% contribution rate.

The key requirement for you to note as an employer is the prospective cost of 3% of qualifying earnings from October 2018.

### So what are qualifying earnings?

Earnings cover cash elements of pay including overtime, bonuses and statutory payments such as Statutory Sick Pay. Minimum contributions are not calculated however on all the earnings.

Contributions are payable on earnings between a lower and a higher threshold. The earnings between these amounts are called qualifying earnings. The lower threshold is £5,824 and the higher threshold is £42,385 for 2015/16. The thresholds are reviewed by the government each tax year.

Note that the thresholds have to be considered for each pay period, so if you pay workers monthly, it is the monthly equivalent of the annual thresholds that need to be considered (i.e. lower and higher thresholds are £486 and £3,532 per month for 2015/16).

### Example of how the thresholds work

	Nov	Dec
Amounts above lower threshold but below higher threshold	£1,514	£3,046
Employer - 3%	£45.42	£91.38
Employee (net contribution) - 4%	£60.56	£121.84
Tax relief on employee contribution -1%	£15.14	£30.46

*Example uses 2015/16 thresholds but with total minimum contributions from 1 October 2018.*

### Eligible jobholders and opt outs

An eligible jobholder has the right to opt out of auto enrolment if they wish. This means they will not be required to pay pension contributions but they will lose the benefit of the employer paying pension contributions as well. Latest evidence on opt outs from the Department for Work and Pensions (DWP) is that 5%-15% of workers will opt out.

Opt outs will clearly reduce your costs. However you cannot encourage the employee to opt out. For example an employer cannot offer a higher salary to an employee who opts out or deny a promotion to an employee who has not opted out.

### Staging date and postponement

It is possible to push back (by up to three months) the time pension contributions are required to be paid by using postponement. Essentially postponement is the deferral of

the assessment of a worker to a later date and therefore the deferral of employer duties in respect of that worker. It does create some extra work in that information must be given to your workers about postponement within six weeks of the staging date. Also a worker still has the right to opt in to the scheme from the staging date.

### Do directors of a company need to be enrolled?

A director of a company may or may not be a worker. If the director has a contract of employment with the company, the director will be a worker. If the director then comes within the conditions for an eligible jobholder, he may be required to be enrolled.

There are some scenarios in which the company will not have auto enrolment duties:

- There are only directors in the company and no employees.

If the only people carrying out the business of the company are the directors and none has an employment contract, there are no workers and thus no requirement for an auto enrolment pension scheme.

- There is only one director. He has an employment contract but there are no other employees.

The director is a worker because he has an employment contract. There is however a specific exemption from auto enrolment where the director is the only employee.

- There are only directors in the company. One director has an employment contract but there is no one else working in the company.

The one director is a worker because he has an employment contract. But the specific exemption from auto enrolment applies in this scenario as he is the only person with an employment contract.

If the company has received a letter from The Pension Regulator stating the staging date, it will be advisable to write to the regulator to confirm that the company has no auto enrolment requirement. Please contact us if you are unclear as to whether the company has any auto enrolment duties.

### What pension scheme choices are there?

Your responsibility as an employer is to have an appropriate pension scheme. If you want advice to help you make a choice on a scheme you will need to use an Independent Financial Adviser or pension consultant.

### Choosing a pension scheme yourself

You can choose an appropriate pension scheme yourself. Examples of schemes that have been established to cater for the employer of a small or micro sized business are:

### National Employment Savings Trust (NEST)

NEST is a master trust that has been set up by the government to ensure that employers can access a pension scheme to help them comply with auto enrolment. NEST has a public service obligation, which means it must accept all employers who wish to select it as their auto enrolment scheme provider.

### Now Pensions

Now Pensions is relatively new to the UK but has over 40 years' experience in running a low cost auto enrolment scheme in Denmark.

### The People's Pension

The People's Pension is also new but is administered by B&CE, managers of the largest stakeholder pension in the UK.

### What do I need to tell my workers?

You are required to write to nearly all your workers explaining what auto enrolment into a workplace pension means for them.

Until recently there were different information requirements for each category of worker. However the government has relaxed the amount and variety of information that needs to be provided.

The Pensions Regulator has a set of letter templates on its website.

### Registration and records

The Pensions Regulator was established to regulate work-based pensions.

An employer must register with The Pensions Regulator within five months of the staging date (or the last day of the postponement period(s) where postponement was used at staging).

An employer must keep records which will enable them to prove that they have complied with their duties. Keeping accurate records also makes good business sense because it can help an employer to:

- avoid or resolve potential disputes with employees
- check or reconcile contributions made to the pension scheme.

### How we can assist

As you can see pensions auto enrolment is not a straightforward business. Please do contact us for assistance and advice. We can provide support to enable you to manage the road to auto enrolment and help you to comply with the requirements when you are in auto enrolment.