Auto Enrolment - What a small employer needs to know

A — Identify a suitable Pension Scheme

Employers will need to have a pension scheme that is set up for automatic enrolment. Employers and their employees will pay money into this scheme to help employees save for their retirement.

Unless employers want to use an existing pension scheme for automatic enrolment they will need to identify a suitable scheme themselves or get help from MHA Monahans or MHA Monahans Wealth Management to identify and implement a suitable scheme.

Finding a scheme

Employers should look at different schemes to decide which is suitable for themselves and their employees. For example, they could consider:
1. The Scheme set up by government.
2. Independently established schemes
3. Schemes listed by industry bodies

1. The Government Scheme

The National Employment Savings Trust (NEST) is a pension scheme provider that has been set up by the government and must accept all employers that apply to use it for automatic enrolment.

2. Independently established schemes

Some providers have had their pension schemes independently reviewed to help them show that they meet a good standard of administration. This is known as the 'master trust assurance framework'.When choosing a scheme, employers should consider if it is suitable for lower paid employees, in particular whether they will receive tax relief on their contributions. If the scheme operates relief at source, employees earning under £11,000 (from April 2016) will be able to get tax relief from the government. If the scheme runs net pay arrangements, these lower paid employees will not get tax relief and will pay more for their pension than if employers use a 'relief at source' scheme. Higher paid employees earning over £42,385 will need to claim back their full tax relief by completing a self assessment if the scheme operates relief at source but will get their full tax relief automatically added into their pension fund if the scheme operates a net pay arrangement. Employers need to consider this issue properly before choosing a scheme for their employees. Employers may be able to use the following schemes with master trust assurance, which have said they are open to small employers looking for a scheme provider for automatic enrolment. Schemes using relief at source - may be suitable for both higher and lower paid employees:

- National Employment Savings Trust (NEST)
- The People's Pension

Schemes using net pay arrangements may be suitable if employers do not employ lower paid employees earningunder £11,000 (from April 2016):

- NOW: Pensions
- Welplan Pensions

If the scheme uses net pay arrangements, then for any of employees who earn under £11,000 (from April 2016), the deductions from their pay will be 20% higher than if the scheme runs relief at source. This means that they pay 20% more for their pension.

Employers should check that lower paid employees are not worse off under net pay arrangements. Please note the above are only examples and are not recommendations.

3. Schemes listed by industry bodies

Employers can find lists of schemes on the following websites:
- Association of British Insurers: ABI members providing qualifying automatic enrolment schemes
- Pensions and Lifetime Savings Association (PLSA)
- Pension Quality Mark website

With these schemes, employers need to make sure that the scheme is suitable for low earners.

Can I use my existing pension scheme?

Employers may already have a scheme for employees – known as a 'stakeholder pensions'. If employers want to use their existing scheme, they will need to ask the provider if it meets the automatic enrolment rules. If not employers will need to choose a new scheme to meet automatic enrolment duties.

Get help from an adviser

MHA Monahans can help steer employers through the process of choosing a scheme but cannot give advice on which scheme to go into. Independent financial advice on a suitable scheme can be provided by MHA Monahans Wealth Management. Once an appropriate scheme has been identified the employer will need to register with that scheme.

B - Assessing employees

On the staging date, employers must work out how much each employee earns and how old they are. This will identify what category employees fall into and what employers need to do. Currently these categories are:

Eligible jobholders

- Aged 22 up to state pension age and earn at least £834 a month or over £192 a week.

Employers will need to automatically enrol these employees.

Non-eligible jobholders

- Aged 16 - 74 and earn between £486 (£112 a week) and £834 a month (£192 a week) or
- Aged 16 - 21 or state pension age – 74 and earn over £834 a month (£192 a week)

Non-eligible... but if they ask to opt-in employers will need to enrol them and pay regular employer contributions.

Entitled workers

- Aged 16 up to 74 and earn less than £486 a month (£112 a week)

These employees are entitled to join a pension scheme if they ask to, but employers don't need to contribute into it for them.

Existing members

- Already part of a qualifying workplace scheme paying at least the minimum contributions.

So long as the scheme they're enrolled in meets the autoenrolment criteria, you won't need to do anything with these members. If employers aren't sure whether it qualifies they need to speak to the scheme provider.

C- Other things to consider

Employees on variable hours contracts and pay

Legal duties will still apply to employees whose hours vary, pay fluctuates, is seasonal or they are on short-term / temporary contracts. At the staging date employers will need to assess all employees to work out what they need to do for them. As noted above this will depend on their age and how much they earn at the staging date.

Postponement

An employer can choose to postpone automatic enrolment from the staging date for up to three months for some or all employees. Employers must write to employees to tell them that they are postponing automatic enrolment for them. An employer can only postpone automatic enrolment from:

1. Its staging date
2. A employee member's first day of employment to, for example, coincide with a probationary period
3. The date a employees member first becomes eligible for automatic enrolment

Postponement does not mean that employers are changing the staging date but simply changing the day of assessment of an employee age and earnings.

This could be useful if employers have employees that fall into the following categories:

1. people on a temporary contract
2. earnings fluctuate on a month by month basis

It is important to note that employees who have been postponed can ask to be enrolled in the scheme from the date they become eligible i.e. the staging date or the date of commencement of employment. An employer will need to act on these requests. Postponement doesn't change the staging date or the declaration of compliance with Auto Enrolment deadline date of positive confirmation within 5 months of staging date (see F below).

Some guidance from the Pension Regulator on Automatic enrolment for directors'

Question: I'm the only director of my own company - do automatic enrolment duties apply to me?

If you are the sole director and you have no other staff working for you, the company does not have automatic enrolment duties.

If you believe you don't have any automatic enrolment duties you will need to tell us that you're not an employer. If there is other staff working for the company, you will have automatic enrolment duties for them. What you need to do will depend on their ages and earnings.

Question: We're married / in a civil partnership and run our own company – do automatic enrolment duties apply to us?

If no one else works for the company, it will depend on your roles and if you have employment contracts, as to whether you have automatic enrolment duties or not.

If you are both directors:

- The company will have automatic enrolment duties for both of you if both of you have employment contracts
- The company won't have any automatic enrolment duties if only one of you has an employment contract, or neither of you has

If one of you is a director and the other is not:

- The company will have automatic enrolment duties for the person who isn't a director
- If you both have contracts of employment, the company will also have automatic enrolment duties for the person who is a director

If the company does have automatic enrolment duties for anyone, what you need to do will depend on their age and earnings.

If you believe you don't have any automatic enrolment duties you will need to tell us that you're not an employer.

Question: We're a family business - do automatic enrolment duties apply to us?

If no one else is working for the company, it will depend on your roles and if you have employment contracts, as to whether your company has automatic enrolment duties or not.

If you are all directors:

- If you all have employment contracts, the company will have automatic enrolment duties for all of you
- If at least two of you have employment contracts, the company will have automatic enrolment duties for all those who do
- The company won't have any automatic enrolment duties if only one of you has an employment contract, or none of you has

If some of you are directors and some are not:

- The company will have automatic enrolment duties for all those who aren't directors
- If at least two of you have employment contracts (whether directors or not), the company will also have automatic enrolment duties for any director who has an employment contract

If the company does have automatic enrolment duties for anyone, what you need to do will depend on their age andearnings. If you believe you don't have any automatic enrolment duties you will need to tell us that you're not an employer.

Question: A contract of employment does not have to be a written document. In what circumstances would the regulator consider that an implied contract of employment exists and the company should have carried out automatic enrolment duties for the director?

The regulator has set out its approach to the enforcement of automatic enrolment duties on our website:

www.thepensionsregulator.gov.uk/doc-library/strategy-andpolicy.aspx

Our overall compliance approach is focused on educating and enabling employers to comply with the law. In the event that:

- We were investigating a director-only company for a failure to carry out any of their automatic enrolment duties, and
- There is no written contract of employment or other evidence of an intention to create an employer/worker relationship, between the company and a director or directors,

...we will not as part of our approach seek to argue that an implied contract of employment exists."

D - Put employees into a pension

What do employers need to do?

Having worked out what an employer needs to do for each person employed, it is now time to put those that employers need to into a pension scheme. Employers will need to give the pension scheme provider all the information that they need to initially set up the employees in the pension scheme.

Making contributions

Each time an employer pays employees it will need to work out how much the employee and employer need to pay in contributions and arrange for this to happen. The details of contributions by employee need to be uploaded into the pensions schemes' website including details of new joiners or leavers or where an individuals status changes.

E - Write to employees

Employers must write to all employees within 6 weeks of their staging date to explain how automatic enrolment applies to all employees including whether they are eligible to join or not.

F - Declare employers compliance

This is an online form for employers to tell the Pension Regulator that an employer has met its legal duties. Employers must do this within 5 months of their staging date.

Even if someone else has helped with employers' duties and may even be completing the declaration for employers, it is the employers' legal duty to make sure that the declaration is completed on time and the information entered is correct. If not employers may be subject to fines and will be a minimum of £400 followed by up to £500 per day if an employer has over 4 employees.

G - Employers on-going duties

Each time an employer pays employees they need to undertake the following tasks:

Monitor the ages and earnings of employees

An employer must monitor the ages and the amount that is paid to employees (including new starters) to see if they need to be put into a pension scheme. Employers must put them into a pension scheme and write to them within six weeks from the day they meet the age and earnings criteria.

Manage requests to join or leave employers scheme

If employees who can ask to join employer's scheme write asking to do so employers must put them into it within a month of receiving their request.

Employers will have to pay into the pension scheme unless the employees are:

- Aged 16-74 and
- Earn less than £486 or £112 per week.

If any employees choose to leave the pension scheme within one month of being put into it, employers need to stop taking money out of their pay and arrange a full refund of what has been paid to date. This must happen within one month of their request.

Keep records

Employers must keep records of how employers have mettheir legal duties, including:

1. The names and addresses of those put into a pension scheme
2. Records that show when money was paid into the pension scheme
3. Any requests to join or leave employers pension scheme
4. pension scheme reference or registry number

Employers must keep these records for six years except for requests to leave the pension scheme which must be kept for four years.

Automatic re-enrolment

Every three years employers must reassess all employees and re-enrol them into the employer's pension scheme if they have left it and if they meet the criteria to be put into a pension scheme. This is known as automatic re-enrolment when the process outlined above will start again.

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