GUIDE TO AUTO-ENROLMENT; EMPLOYER DUTIES

Please note this is a summary guide setting out our understanding of the position as at November 2016 and will not tell you everything you need to know about auto-enrolment! The Pensions Regulator's guides run to hundreds of pages so this is not a substitute for obtaining detailed guidance on the operation of auto-enrolment.

EMPLOYER DUTIES – THE ESSENTIALS

There are ten main actions an employer must take:

- Automatically enrolling eligible jobholders
- Communicating about postponement of automatic enrolment / 'waiting periods'
- Paying compulsory employer contributions
- Administer the opt-out system
- Registering with the Pensions Regulator
- Enrolling other jobholders who opt-in
- Enrolling workers without qualifying earnings who choose to join
- Automatically re-enrolling employees who opt-out before
- Providing information
- Retaining records

ASSESSING THE WORKFORCE

A crucial point of any analysis is to have a proper understanding of how the new duties relate to the workforce. A worker is a person who enters into either:

- a contract of employment or
- any other contract by which he undertakes to do work personally for another party to the contract

However a person is not a worker if the relationship is one where the other party is a client or customer of a profession or business undertaking carried on by the individual concerned. Peopletime can provide you with a Workforce Assessment to assist you in deciding on who your obligations lie with for your automatic enrolment duties.

After determining who your workers are, the next basis is to determine which workers need to be automatically enrolled. The following graph helps to graphically represent the three categories based on relevant earnings per year. The thresholds for earnings are given using 2016/17 rates and at the annual equivalent rates of pay.

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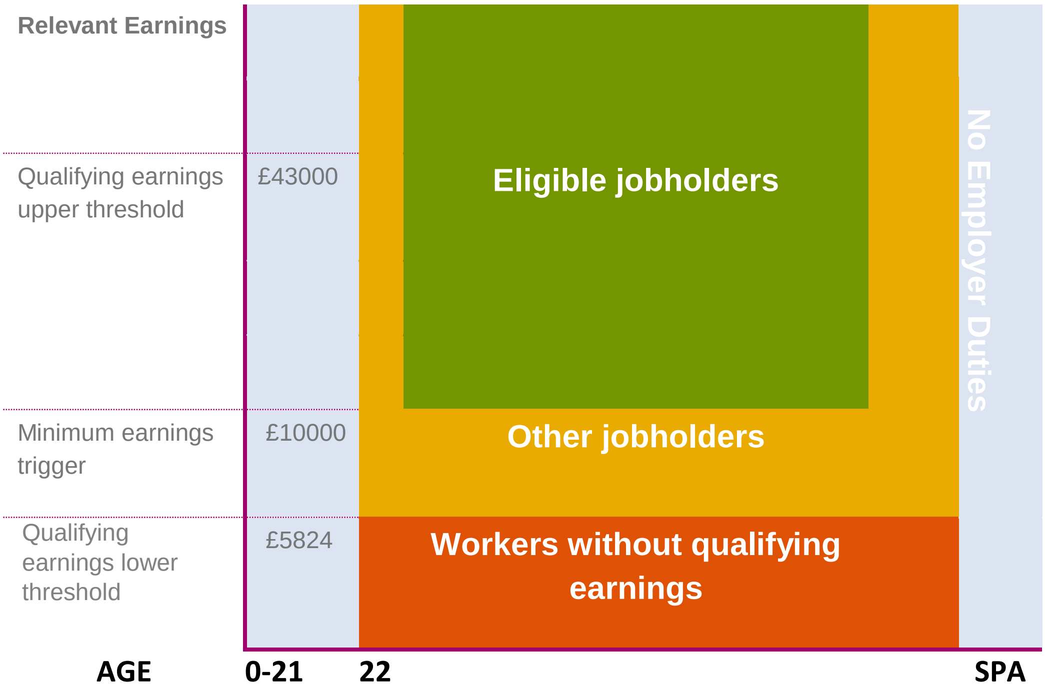

All workers that are eligible jobholders will need to be automatically enrolled. Other jobholders will not be automatically enrolled but have the right to join the pension scheme and receive employer contributions. Workers without qualifying earnings (or ‘entitled workers’) are not automatically enrolled. They can join the pension scheme but do not have to receive any employer contributions.

CONTRIBUTION STRUCTURES

The government has prescribed the following minimum contributions that employers and employees have to contribute from their staging date. The minimum level of contributions required increases from your staging date as shown in the table below:

Time period	Qualifying earnings	Basic pay only is pensionable	Pensionable salary is 85% of Relevant Earnings	Total Relevant Earnings
Staging date to September 2017	1% employer 2% total	2% employer 3% total	1% employer 2% total	1% employer 2% total
October 2017 to September 2018	2% employer 5% total	3% employer 6% total	2% employer 5% total	2% employer 5% total
October 2018 onwards	3% employer 8% total	4% employer 9% total	3% employer 8% total	3% employer 7% total

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Definition of the earnings above is provided below:

- Qualifying Earnings – earnings between the lower and upper qualifying earnings band (£5,824 pa to £43,000 for 2016/17). Qualifying earnings includes salary, wages, bonus, overtime, commission, statutory sick pay, statutory maternity pay, ordinary and additional statutory paternity pay, statutory adoption pay and any other payments that regulations require to be taken into account
- Basic pay – this includes earnings before deductions, holiday pay and statutory benefits paid through payroll including maternity, paternity, adoption and sick pay. Allowances e.g. car allowances and allowances for duties not essential to the job role can be excluded as well as bonuses and commissions.
- Pensionable pay – provided this is at least equal to basic pay, the employer can decide what to include or omit.
- Relevant Earnings - earnings includes salary, wages, bonus, overtime, commission, statutory sick pay, statutory maternity pay, ordinary and additional statutory paternity pay, statutory adoption pay and any other payments that regulations require to be taken into account

Employees could be provided with the option of 'opting down', i.e. having the option to reduce to below the Automatic Enrolment minimums and still receiving a commensurate employer contribution (e.g. 1% employee contribution with a 1% employer contribution). The employee would, however, effectively be opting out of auto-enrolment and would therefore be re-enrolled into a higher tier during the 3 year re-enrolment window.

The workforce can be segregated for auto-enrolment purposes and different types of workers can have different contribution structures.

POSTPONEMENT

Postponement of automatic enrolment is permissible for up to three months from your staging date. This can apply to both new and current workers. However, this does not prevent workers from opting into the pension scheme from your staging date onwards and receiving employer contributions, if applicable. Postponement allows certain advantages to an employer including:

- Administration simplicity – not needing to make partial month contributions for example when a new employee joins mid-month
- Potential cost savings – by deferring the date at which you automatically enrol eligible jobholders

There are two types of postponement:

- General Worker Postponement – deferring assessment of the workers 'eligibility status' to be automatically enrolled until the end of the postponement period
- Eligible Jobholder Postponement – deferring automatic enrolment of eligible jobholders until the end of the postponement period whereupon these eligible jobholders will be reassessed and automatically enrolled if they still qualify.

- Different postponement periods and types can again be applied to different parts of your working population.

COMMUNICATION

Statutory communications to all workers are required to be sent by employers. This includes:

- Postponement notification – sent within one month of every occurrence of postponement being applied
- Auto enrolment notification – sent within one month of a member being auto enrolled or opting into a qualifying pension scheme
- Active member notification – sent to all existing members of a qualifying pension scheme at staging date within two months
- Right to opt in notification – sent to employees when they are first identified as non-eligible jobholders
- Right to join notification - sent to employees when they are first identified as entitled workers

Various middleware solutions may be able to issue these communications on behalf of the employer.

Additional employee communication surrounding automatic enrolment, preparing your workforce for the event is also important.

PENALTIES

As noted above, non-compliance with the new employer duties is not an option. Wilful Failure to comply with the employer duties around automatic enrolment and placing other employees into a scheme when they opt-in is a criminal offence. A person found guilty of the offence in the Crown Court (or equivalent Scottish or Northern Irish courts) will be liable to up to two years' imprisonment and or an unlimited fine.

It is not possible to avoid the cost of employer duties, only to delay those costs at much greater cost. Employers who delay payments will find that they not only have to pay their own overdue contributions but will also have to pay the employees' contributions as well. An interest charge calculated by adding 4.2% per annum to the rate of RPI inflation over the period concerned will be also have to be paid.

The law also allows for the imposition of fixed penalty of £400 for each initial breach of the law. Continued failure to comply with the law will result in a further escalating penalty that can be up to £2,500 a day and this fine increases depending on the number of employees you have.

PROJECT TIMESCALES

From research, an Automatic Enrolment project generally takes between nine and twelve months. The implementation of the project has a project plan of 16 weeks to your staging date. This will allow adequate time to comprehensively design, plan and implement your Automatic Enrolment strategy.

One of the key issues is setting the contribution basis for the Auto Enrolment population so that we can ascertain if your current provider can accept these employees into the existing pension plan. The capabilities of your provider system then needs to be understood eg: are they able to provide the necessary information and reports that are required. It is also important to know how the systems feed the information to each other. This includes existing systems that you have in place including your payroll and HR systems.

REGISTRATION AND RECORD-KEEPING

Registration of your pension scheme needs to be made to the Pensions Regulator within 5 months of your staging date. You cannot register until you have completed any initial period of postponement of your workforce. This can be done through the Pensions Regulator's website: www.autoenrol.tpr.gov.uk

Certain records now need to be kept by employers, trustees, managers and providers. Guidance has been provided by the Pensions Regulator to emphasize the importance of good record keeping. These records include but are not exclusive to records about jobholders and workers (e.g. names, National Insurance numbers, opt-in notice and joining notice) as well as records of your qualifying scheme.

Most of these records would need to be maintained for a minimum period of six years, with the exception of those relating to opt outs, which must be kept for four years.

If you would like more tailored advice on Auto Enrolment or any other employment matters please contact Peopletime Ltd on 0845 127 1360 or info@peopletime.co.uk