BUILDING & ENGINEERING SERVICES ASSOCIATION

WORKFORCE OCTOBER 2012

A periodical update on employment matters from the Association's
Employment Affairs Department

Welcome to the electronic version of *Workforce*.

By means of *Workforce* – as well a revamped Employment Affairs section of the B&ES website and renewed, online access to the Association's *Guide to Employment* – the Employment Affairs Department aims to provide members with a comprehensive advisory service on people management matters, along with advance warning on changes in this area.

This, the first edition of *Workforce* in electronic format, focuses on the most fundamental piece of workplace and social change in over a generation – the beginning of a process known as "auto-enrolment", which is aimed at encouraging workers to make responsible provision for their income after their working life.

QUICK LINK

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1 Pension reform: statutory requirements

The process of fundamental reform of workplace pensions is now under way.

With effect from 1 October 2012, employers are required by law automatically to enrol "eligible jobholders" into a qualifying pension scheme, to pay contributions on their behalf and to keep appropriate records.

Businesses will need to comply with these requirements by a specific date, which will depend on the number of their employees.

For the first time, automatic enrolment has been set as the default, with the opportunity for employees to opt out. This means that businesses must have a system in place automatically to enrol all their eligible jobholders.

Statutory automatic enrolment applies to workers aged between 22 and state retirement age who earn more than the minimum earnings threshold

The key word here is "eligible". Statutory automatic enrolment applies to workers aged between 22 years and the state retirement age (SRA) who earn more than the minimum earnings threshold (£8,105 pa in 2012/13).

In addition, this system must be rolling in nature, automatically identifying when jobholders become eligible, either through a change of employer, attainment of the appropriate age or a wage increase.

The Pensions Act 2008 also states that any employees who opt out of the scheme must be re-enrolled automatically at three-yearly intervals linked to the "company staging date", unless they opt out again or have opted out within the previous 12 months.

Employers also need to put in place arrangements which enable them to carry out a number of other duties. For example:

- *eligible jobholders must be automatically enrolled during a three-month "enrolment window" which begins immediately after the company staging date;*
- *eligible jobholders must be allowed a one-month "opt-out window" after receiving notification from their employer of their membership of the scheme;*
- *employers must register with the Pensions Regulator, must keep appropriate records, and must provide prescribed information to jobholders and workers;*
- *there must be an opportunity for those earning below the automatic minimum earnings threshold to opt into the scheme.*

2 Staging dates for auto-enrolment

Each employer will be given a specific date – defined by the number of their employees – by which they must comply with the regulations. This timeframe is known as "staging" and is intended to give employers time to prepare and have systems in place.

The Pensions Regulator will write to an employer about 12 months before his staging date to remind him or her of the new legal requirement and the need to register. This will also let employers know when to begin automatically enrolling their eligible jobholders.

POINT TO NOTE

If you wait for the letter from the Pension Regulator, you may already have left it too late to identify the most appropriate scheme for your business.

3 Timetable for auto-enrolment

The largest employers will be "staged in" first, followed by medium-sized employers and then by small employers. Staging dates will be triggered by the employer's Pay As You Earn (PAYE) scheme size, the reference point being the size of the scheme as at April 2012.

The first staging date was 1 October 2012 for companies with 120,000 or more workers.

The full timetable of staging dates is contained in the table overleaf.

▲Back to index

Number of employees	Staging Dates
120,000 or more	1 October 2012
119,999 – 10,000	1 November 2012 to 1 March 2013 (over four separate dates)
9,999 – 1,250	1 April 2013 to 1 September 2013 (over six separate dates)
1,249 – 250	1 October 2013 to 1 February 2014 (over four separate dates)
249 – 50	1 April 2014 to 1 April 2015 (over nine separate dates)
49 -30	1 August 2015 to 1 October 2015 (over two separate dates)
Under 30	1 June 2015 to 1 April 2017 (over a series of separate dates determined by PAYE reference)
Employers set up with new PAYE schemes between 1 April 2012 and 30 September 2017	May 2017 to 1 February 2018

POINT TO NOTE

Employers with more than one PAYE scheme will need to comply with their auto-enrolment duties for all schemes on the staging date of their largest scheme.

4 Pension contributions

In addition to requiring employers to enrol all eligible jobholders into a workplace pension scheme, the law also – and significantly – requires employers to make a financial contribution. The cost impact for businesses could therefore be enormous if preparations are not begun right away.

The Act states that, from their specified staging date, employers will be required to contribute to a company pension scheme at least 1% of the eligible jobholder's "qualifying earnings", rising to 3% by October 2018.

POINT TO NOTE

If pension scheme participation is low in your business, the increased cost of pension provision and contributions as a result of auto-enrolment is likely to have a dramatic impact on the bottom line. The staging date for your business may seem far away, but it may not be long enough to implement a cost-effective qualifying scheme.

5 Qualifying earnings

The qualifying earnings band within which contributions must be made is currently between £5,564 and £42,475 of total annual earnings per year.

The contributions to defined contribution (DC) schemes – the most likely employer choice – will gradually be increased following the staging period as shown below.

Staging Period	Total minimum contribution	Minimum Contribution from employers
From staging date to September 2017	2%	1%
October 2017 to September 2018	5%	2%
October 2018 onwards	8%	3%
	(% relates to qualifying earnings)	

POINT TO NOTE

Employers will be able to contribute more than the minimum if they wish.

6 Certification – alternative approaches to qualifying earnings contribution basis

Most employers currently contributing to DC schemes calculate pension contributions on a definition of pensionable pay which is different from that used to define the qualifying earnings band. Typically, definitions are based on basic pay starting at "pound one".

The Department for Work and Pensions has introduced an alternative three-tier self-certification

▲Back to index

contributions test (with no need to look at contribution levels for individual jobholders). This allows employers to certify that their DC scheme meets the minimum quality requirements if it passes at least one of the following tiers:

- **Tier 1** – *pension contributions of at least 9% of pensionable earnings, which may be basic earnings (inclusive of at least an employer contribution of 4%);* or
- ***Tier 2*** – *pension contributions of at least 8% of pensionable earnings (inclusive of at least a 3% employer contribution), provided the total pensionable earnings of all jobholders to whom this tier applies are at least 85% of their total earnings in aggregate;* or
- ***Tier 3*** – *pension contributions of at least 7% of the jobholder's total earnings (inclusive of at least a 3% employer contribution) – ie, all earnings must be pensionable.*

Contributions under each tier will be phased in over the same transitional period as for minimum qualifying earnings contributions, shown in the table below. In each case, the minimum employer contribution rate for each tier is shown in brackets.

Dates	Tier 1	Tier 2	Tier 3
Staging date to 30/9/2017	3% (2%)	2% (1%)	2% (1%)
1/10/2017 to 30/9/2018	6% (3%)	5% (2%)	5% (2%)
1/10/2018 onwards	9% (4%)	8% (3%)	7% (3%)

7 Implementing auto-enrolment

The next step is to choose the right solution to meet your new statutory obligations.

The key tasks in this regard are to:

- *consider the potential costs of compliance with the statutory requirements in relation to contributions and processes;*
- *consider the potential administrative impacts on people management practices, payroll and pension schemes;*
- *be ready to implement auto-enrolment and re-enrolment procedures in time for the allocated staging date;*
- *be ready to pay the minimum required contributions;*
- *decide which qualifying scheme to use to discharge your duties;*
- *be ready to register the qualifying scheme with the Pensions Regulator;*
- *communicate the changes to your employees.*

The Government has established a new arrangement known as the National Employee Savings Trust (NEST) to assist businesses with compliance. However, NEST is a national arrangement and, as such, has a rigid set of operating procedures that are unlikely to lend themselves to the existing industry pension requirements.

8 A ready-made industry solution

Alternatively, you may prefer to choose a flexible, reliable and experienced qualifying pension scheme provider – such as Welplan – to guide you through the process and to help you to deliver fully on your obligations.

Welplan Pensions is an industry-wide, defined contribution company pension scheme established in 1988 to meet the particular requirements of the building engineerng services industry, satisfying the needs of the industry's employees and tailored to meet the requirements of auto-enrolment.

Since October 2010, employers who have incorporated the H&V Operative National Agreement into the contracts of employment of their hourly-paid operatives have had a contractual obligation to contribute to employee pensions. The agreement, reached between the operatives' trade union Unite and the Association, positioned Welplan Pensions as the preferred supplier – and Welplan developed an auto-enrolment system to simplify the joining procedure.

▲Back to index

With this experience, Welplan is perfectly positioned to provide the solution for your entire workforce – whether employed under the Operative National Agreement or not – thus enabling you to meet your statutory pension obligations. Welplan Pensions, as a qualifying scheme, provides an auto-enrolment solution and enables re-enrolment as and when workers become eligible due to age, service or earnings.

POINT TO NOTE

Further guidance on the requirements of the auto-enrolment approach can be obtained from Welplan's Mike Jenkins on 07921 291252 or Dave Massey on 07715 123451.

9 Users of the Operative National Agreement

As stated above, employers who adhere to the terms of the H&V Operative National Agreement have had a *contractual* obligation to contribute to employee pensions since October 2010.

The current negotiations with Unite are aiming to increase the employers' contribution to 3% of basic earnings for all relevant employees – of whatever age. This would meet the requirements of Certification Tier 1 during the initial contribution phasing-in period.

The approach being adopted by the Association's negotiators – and, in particular, the practice of making monthly pension payments for the members of their workforce through the normal Welplan holiday pay and welfare benefit collection cycle – aims to enable employers to anticipate their statutory obligations under auto-enrolment, and simplify employers' administration.

Indeed, it would be difficult to calculate the amount of pay that would be pensionable under Tiers 2 and 3 as described above, as the definition of pensionable pay under both these approaches is variable, whereas under Tier 1 it is not.

In addition, this approach preserves the important "level playing field" which contractors using the Agreement value – irrespective of their size – and the Association's negotiators are seeking to take advantage of the favourable tax and National Insurance regime applying to pension contributions, compared with increases on the hourly rate.

10 Glossary of pension reform terms

Auto-enrolment. All eligible workers are automatically signed up to the company pension scheme, with an opportunity to opt out.

Defined Contribution (DC) Pension Scheme. A scheme that provides retirement benefits based on the build-up of a pot of money, accumulated through the investment of contributions, as opposed to a defined benefit scheme whereby the level of pension is based on either final or average earnings.

Eligible Jobholder. A jobholder aged between 22 years and state retirement age, earning more than the minimum earnings threshold, currently £8,105 (the personal income tax threshold for 2012/13).

Jobholder. A worker who ordinarily works in the UK, is between 16 and 74 years of age and is paid qualifying earnings in relation to a particular employment.

National Employment Savings Trust (NEST). A scheme set up by the Government that may be used for the purposes of auto-enrolment.

Qualifying Earnings. Minimum contributions for DC schemes will be based on earnings in excess of the National Insurance Lower Earnings Limit (£5,564 pa in 2012/13) and the Upper Earnings Limit (£42,475 pa in 2012/13).

Qualifying Scheme. A scheme that meets the necessary legal requirements in respect of contributions or benefits as stated in the Pensions Act 2008.

Staging Date. The need for employers to comply with the Pensions Act 2008 has been staggered over five years – from October 2012 to 2017 – starting with businesses with 120,000 or more employees. (Employers who operate more than one PAYE scheme will start their auto-enrolment duties for all schemes at the same time – ie, on the staging date of their largest scheme.)

State Retirement Age. For men, the current state retirement age (SRA) is 65. For women, the SRA started increasing from 60 to 65 from April 2010 and is currently set to reach 65 by 2020. The SRA for both men and women is set to increase from 65 to 68 between 2024 and 2046.

(However, the Government is reviewing the timetable for increasing the SRA. In January 2011, the Pensions Bill 2011 introduced changes designed to speed up the increase in women's SRA. If these changes are approved by Parliament, the SRA for women will reach age 65 in 2018 rather than 2020 and will then change to age 66 over the period between March 2019 and March 2020, rather than over the period between 2024 and 2026.)

The Pensions Regulator. The UK regulator of work-based pension schemes, responsible for maximising employers' compliance with their new duties.

▲Back to index