

PENSIONS IN 30 PODCASTS

03 Workplace pension reform and automatic enrolment

Key Points

- Anyone who employs workers in the UK will have to comply with new employer duties with effect from their 'staging date';
- An employer's 'staging date' is set out in legislation and falls between 1 October 2012 and 1 February 2018 depending on how many people work for the employer;
- Employer duties are to:
 - assess and categorise their workers;
 - automatically enrol any workers who
 - meet the criteria to be 'eligible jobholders'; and
 - are not members of a 'qualifying scheme'into an 'automatic enrolment scheme';
 - issue communications to all workers including certain prescribed information;
 - process opt-in and opt-out requests;
 - pay contributions for jobholders in pension savings in line with statutory minima; and
 - provide The Pensions Regulator with a confirmation of how they have complied with their duties.

Main Sources

- Pensions Act 2008
- The Employers' Duties (Registration and Compliance) Regulations 2010, SI 2010/5
- The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010, SI 2010/772
- The Pensions Regulator's detailed guidance: TPR detailed guidance

Employers' obligations

The Pensions Act 2008 obliges employers to automatically enrol certain workers into a pension scheme that meets statutory requirements. This includes ensuring that the pension scheme provides a minimum level of pension contributions or a minimum level of benefits. Employers must also provide certain prescribed information to all of their workers.

Employers will have to administer a re-enrolment process every three years, administer and process opt-out notices and pay refunds. They will also be required to keep records and register with The Pensions Regulator. Finally, employers will be obliged to adhere to certain safeguards to ensure compliance.

When does automatic enrolment start?

Employers are subject to employer duties with effect from their staging dates.

Employers were allocated a staging date based on the size of their PAYE scheme as at 1 April 2012. Newer employers are given a staging date based on when they first start paying PAYE income. The last staging date is 1 February 2018. From this date onwards, employer duties will apply to all employers.

To find out an employer's staging date you can visit TPR's staging date calculator.

Categorisation of workforce

Automatic enrolment affects groups of employees and workers in different ways. It is vital for employers to undertake a thorough assessment of the workforce to establish who falls into which category.

More information

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The duties for an employer are to:

- automatically enrol "eligible jobholders" i.e. UK workers aged at least 22 but under State Pension age, who earn qualifying earnings that are above the 'automatic enrolment threshold'. This threshold is reviewed annually and the current amount can be found on The Pension Regulator's website;
- enrol "non-eligible jobholders" who ask to be enrolled i.e. UK workers aged at least 16 but under 75 who:
 - have qualifying earnings between the lower level of qualifying earnings and the automatic enrolment threshold. The lower level of qualifying earnings is reviewed annually and the current amount can be found on The Pension Regulator's website; or
 - earn more than the automatic enrolment threshold but are aged at least 16 and under 22 or between state pension age and under 75; and
- enrol any entitled workers who ask to be enrolled i.e. UK workers aged at least 16 but under 75 who earn less than the lower level of qualifying earnings. The employer is under no obligation to pay contributions in respect of entitled workers.

In practice, it can be more difficult for employers to monitor casual workers' earnings because the relevant pay reference period will not always be clear. For example, a worker may work 15 hours in a month and 25 hours the following month. The employer will have to alter the worker's and its own contributions (if payable) on a monthly basis; in a large organisation, this will not be a feasible or practical way for the employer to operate.

Type of scheme used

An employer can choose to use an existing pension scheme to fulfil its obligations in respect of workers who are already active members of that scheme. The existing scheme must be a "qualifying scheme". To be a qualifying scheme, a scheme must be a tax registered occupational or personal pension scheme which meets the minimum quality requirements.

If an employer uses a scheme to automatically enrol workers, in addition to satisfying the "quality requirements", an automatic enrolment scheme must have:

- no barriers which prevent the employer using it to fulfil its employer duties (e.g. a fixed waiting period); and
- must not require the member to make any choice or provide any information.

Defined contribution scheme

If the employer is using a defined contribution scheme to fulfil its obligations, it is under a duty to pay minimum levels of contributions. Contributions are based on the employee's qualifying earnings; a band of earnings that is between the qualifying earnings lower and upper levels.

The lower and upper levels of qualifying earnings are reviewed annually. They are currently aligned with the National Insurance earnings limits. The current rate of this can be found on The Pension Regulator's website.

A phasing plan has been set for the amount of contributions to be paid. This will require:

- one per cent employer contributions and two per cent total contributions from an employer's staging date until 6 April 2018;

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- From 6 April 2018 until 5 April 2019 minimum contributions of two per cent (employer) and five per cent (total) will be required; and
- The final "steady state" will be reached from 6 April 2019, when minimum contributions must total 8 per cent of qualifying earnings, 3 per cent of which are paid by the employer.

The National Employment Savings Trusts (NEST) is a trust based defined contribution pension scheme that was set up by the government to support automatic enrolment. It can be used by any employer to fulfil its employer duties.

Defined benefit scheme

For defined benefit pension schemes the minimum requirement is for the scheme to satisfy the test scheme standard or the alternative DB quality test. Additional requirements apply to Career Average Revalued Earnings (CARE) schemes. For further information see the Regulator's detailed guidance no.4: TPR detailed guidance.

Certification

Certification enables employers to use schemes that do not operate on the basis of qualifying earnings to fulfil their employer duties. For further information see the Regulator's detailed guidance no. 4: TPR detailed guidance and the DWP's certification guidance: DWP guidance.

Opting out/re-enrolment

An enrolled jobholder can choose to opt-out of automatic enrolment by requesting an opt out form from their pension scheme and submitting it to their employer within the opt-out period. For further guidance and sample wording see the

Regulator's detailed guidance no. 7 on opting out: TPR detailed guidance.

Employers will have to repeat the automatic enrolment process once every three years. This process is known as automatic re-enrolment.

National Employment Savings Trust (NEST)

Key Points

- NEST is a trust based, defined contribution, occupational pension scheme that employers can use as an automatic enrolment scheme to comply with their employer duties under the Pensions Act 2008;
- NEST has a universal service obligation which means that all UK employers can use NEST to fulfil their employer duties.
- Other pension providers are offering automatic enrolment schemes as alternative solutions for employers;
- NEST initially had restrictions on the total amount of contributions it could accept for each member and on members transferring in other pension savings. These restrictions were removed in April 2017.

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Main sources

- Pensions Act 2008
- The National Employment Savings Trust Order 2010 No 917 (the "NEST Order") and the NEST Rules (the NEST Order and Rules is available from the NEST website).

What is NEST and the NEST Corporation?

NEST is a trust based, defined contribution, occupational pension scheme. NEST Corporation is:

- a non-departmental public body (NDPB);
- a trustee body;
- not for profit; and
- responsible for running the NEST scheme.

When and by whom was it established?

NEST was established on 5 July 2010 by the Secretary of State on the coming into force of the NEST Order. This fulfilled the duty placed on the Secretary of State for Work and Pensions under section 67 of the Pensions Act 2008 to establish a pension scheme that can be used by any employer to fulfil their employer duties under the Pensions Act 2008.

The establishment costs for NEST and the NEST Corporation are provided for by a loan from the Department for Work and Pensions.

Why was it established?

NEST was established to enable the employers of low earners to meet their obligations in relation to 'auto-enrolment' (i.e. workplace pension reform).

Who is the trustee and what is the governing documentation?

The trustee for NEST is the NEST Corporation. The NEST Corporation was established under section 75 of the Pensions Act 2008. Although operating at arm's length from the Government, NEST Corporation is accountable to Parliament through the DWP.

NEST is governed by the NEST Order and Rules: NEST Order and Rules. This is the equivalent of a trust deed and rules in a typical trust-based occupational pension scheme.

Employers who are admitted to NEST are required to sign up to its Employer Terms and Conditions: NEST Employer Terms and Conditions.

Panels

The NEST Employers' Panel allows employers using NEST to air their views. The NEST Members' Panel provides a similar channel for NEST's members. Both Panels must be consulted on any review of the NEST Statement of Investment Principles.

Investment Approach

Details of NEST's investment approach can be found on its website: [NEST investment approach](#)

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Are there any restrictions to NEST?

No. There were initially restrictions on the maximum level of annual contributions into NEST and transfers in to and out of NEST, but these were removed in April 2017.

More information

More information on NEST and the NEST Corporation can be found on the NEST website.

Charges

Employers pay no charges to use NEST.

NEST members pay:

- an annual management charge (AMC) of 0.3% on the total value of the member's fund each year, calculated on a daily basis; and
- a contribution charge of 1.8% on each new contribution into the member's pot.

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