Briefing Note

Mercer & Hole

PENSION AUTO ENROLMENT – EMPLOYER GUIDANCE

Workplace pension law has changed and all employers are expected to place members of staff who meet certain criteria into a qualifying pension scheme and make contributions.

Employers were allocated a commencement date (called a 'staging date') for auto enrolment to begin depending on their payroll size on 1st April 2012.

Staff members who meet the criteria will automatically be enrolled into the scheme on their employers staging date. Staff members who do not meet the auto enrolment criteria MUST be told of their right to join the pension scheme if they wish.

Also, if a staff member does not wish to join the scheme then they're able to opt out after having been auto enrolled, but the onus is on them to do so.

Points for consideration

Compliance

- When is your staging date? Note: A table providing a full list of staging dates is overleaf.
- Do you know which staff members should be included?

Review any existing pension provision

- Unless recently established most existing pension schemes will not meet the qualifying rules for auto enrolment. Current rules must be reviewed for compliance.
- Will overall contribution levels need to increase to meet the criteria and if so from what date?
- Is there a default investment fund that suits the needs of the majority of your employees?
- Will employment contracts require updating?

Cost

- What additional administration is required, and by whom?
- What is the potential financial cost to the business?
- Can costs be mitigated e.g. salary sacrifice?

Staff members

- How can your business promote the benefits of saving into a work based pension scheme and explain the tax advantages that pension saving brings?

- Will any staff members (particularly senior staff/owners) lose 'Enhanced Protection' or 'Fixed Protection' if auto enrolled?

Which staff will be included?

All staff members earning £10,000 per annum and above in the 2018/19 tax year and aged between 22 and state pension age will need to be automatically enrolled by their employer into a pension plan within three months of joining the company.

Can any other staff member join?

Any member of staff can ask to join the pension scheme, but only those who earn more than the Lower Earnings Limit (LEL) (currently £6,240 per annum in the 2021/22 tax year) will be entitled to receive an employer's pension contribution.

If they earn less than the LEL, then an employer can make a contribution, but is not obliged to do so.

Staging/commencement dates by payroll size

Employer size (by PAYE scheme size) or other description	Staging Date
250 or more members	1 February 2014
50 to 249 members	1 April 2015
Test tranche for less than 30 members	30 June 2015
30 to 49 members	1 October 2015
Less than 30 members	1 April 2017
Employers without PAYE	1 April 2017
New employers April 2012 to March 2013	1 May 2017
New employers April 2013 to March 2014	1 July 2017
New employers April 2014 to March 2015	1 August 2017
New employers April 2015 to December 2015	1 October 2017
New employers January 2016 to September 2016	1 November 2017
New employers October 2016 to June 2017	1 January 2018
New employers July 2017 to September 2017	1 February 2018
New employers October 2017	Immediate duty

Penalties – Failure to Comply

Stage 1 – 'warning notice' – will receive a compliance/unpaid contribution notice

Stage 2 – 'wake up call' – fixed penalty of £400

Stage 3 – 'persistent offender' – an escalating penalty is incurred dependant on PAYE size

Penalties

- 500+ employees - £10,000 per day
- 250-499 employees - £5,000 per day
- 50-249 employees - £2,500 per day
- 5-49 employees - £500 per day
- 1-4 employees - £50 per day

Penalties – Prohibited Recruitment Conduct

Staff members cannot be actively encouraged to opt-out or withheld from joining the auto-enrolment pension scheme. If so, the following penalties will apply:-

- 250+ employees – fixed penalty of £5,000
- 50-249 employees – fixed penalty of £2,500
- 5-49 employees – fixed penalty of £1,500
- 1-4 employees – fixed penalty of £1,000

In addition to the above, The Pension Regulator can also pursue criminal prosecutions, leading to additional fines and even imprisonment.

What level of contribution is required?

If the scheme's contribution level is based on the standard criteria of total earnings between the lower and upper earnings limits (to £6,240 and £50,270 in the 2021/22 tax year) a total of 5% must be paid from the staging date, of which at least 2% must come from the employer.

There are alternatives to the above criteria. If you want to explore these, please make contact with us.

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