

Pensions

making...auto-enrolment...easier

a "making it easier" guide to pensions law for trustees and employers

Introduction

Between October 2012 and September 2016 employers will need to start **automatically enrolling** all of their "jobholders" in a pension scheme which meets minimum requirements or in the National Employment Savings Trust (NEST). Jobholders may choose to opt out of the scheme.

10 steps to successful auto-enrolment

1. Employers should identify the date when they must start auto-enrolment. The largest employers will start from 1 October 2012, with smaller employers and new businesses phased in over the next four years. The Department for Work and Pensions has published a [timeline](#) showing when auto-enrolment will apply to employers of different sizes.
2. Employers should check in advance whether their **existing pension scheme** meets the minimum requirements for auto-enrolment. These include minimum contribution levels (for defined contribution schemes) or benefit levels (for defined benefit schemes). Jobholders must be auto-enrolled without first being asked to provide any information or to express a choice (for example, about the investment of contributions).
3. Employers should **identify their jobholders** and establish which of them are not already enrolled in a compliant scheme. Jobholders include employees, temporary workers, directors employed under a service contract and agency workers (who are considered to be employed by whoever is responsible for paying them). Only jobholders aged between 22 and state pension age who earn enough to pay income tax will need to be automatically enrolled in a compliant scheme if they are not already a member of one.
4. If any jobholders are not already enrolled in a compliant scheme, employers should **consider using NEST or their own** trust-based or contract-based defined contribution scheme to meet the auto-enrolment requirements.
5. Employers which use a **defined contribution scheme or NEST** will need to check that they are satisfying the requirements for **minimum contribution levels**. For auto-enrolment purposes, contributions are based on a definition of earnings which includes salary, wages, commission, bonuses and overtime. Contributions to an existing scheme may be based on a different definition of earnings, so company payroll systems and pension schemes may need to be updated. Employers who use a **defined benefit scheme** will need to check that the scheme meets **minimum requirements**.

Pensions law can be tricky... but it doesn't have to be. These 'making it easier' guides explain key issues in simple terms, giving practical help to trustees and employers.

We have produced a series of guides to auto-enrolment. Copies can be downloaded from www.pinsentmasons.com/pensions.

- [Assessing the workforce](#)
- [Using a DB scheme](#)
- [Using a DC scheme](#)
- [Communicating](#)
- [Safeguards and penalties](#)

Comments and ideas for further topics are welcome...

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6. Employers can put in place a **waiting period** of up to three months before a jobholder needs to be automatically enrolled into a workplace pension. Jobholders can, however, opt in during the waiting period.
7. Employers should also put processes in place to **identify auto-enrolment triggers** for existing employees and new joiners (eg when they turn 22 or reach the minimum level of earnings). **Individuals can opt out** of scheme membership. Someone who has opted out can apply to re-enrol, but only once in a 12-month period. **Automatic re-enrolment will apply** every three years, although employers will have some flexibility about when re-enrolment should take place.
8. Employers will need to **communicate with staff** about auto-enrolment and explain that they have the right to opt out if they wish. Employers must also **report to the Pensions Regulator** to confirm that they have complied with their auto-enrolment obligations.
9. Employers **cannot encourage jobholders to opt out** of auto-enrolment nor can they encourage job candidates to do so during the recruitment process – penalties will apply. Employers should bear this in mind when communicating with their workforce about the new requirements.
10. Employers should consider how these new requirements fit in with their **future HR strategy and remuneration policy**. Administration and payroll processes will also need to be adapted. It may be sensible to **put together a team** responsible for implementing the auto-enrolment requirements within the company.

Further reading

“The Department for Work and Pensions has published a [timeline](#) showing when the new requirements apply to employers of different sizes.

The Pensions Regulator has published [guidance](#) on the new employer duties.

More information about NEST can also be found [online](#) on the NEST website.

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Should you have any questions please contact your usual Pinsent Masons adviser who will be able to assist you further.

This note does not constitute legal advice. Specific legal advice should be taken before acting on any of the topics covered.

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