Sackers

Auto-enrolment, are you ready?

The questions employers need to ask

auto enrolment

October 2011

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Auto-enrolment, are you ready?

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This checklist looks specifically at what employers should be considering in the run-up to automatic enrolment. Employers can either complete the information themselves or, should you need assistance, Sackers would be happy to help.

Please see our summary for further details of the new requirements.

When will automatic enrolment first apply?

- What is the size of your workforce?
- Are you part of a larger group PAYE scheme?
- Are you familiar with the concept of a "staging date"?
- If so, do you know when your staging date is?
- Do you wish to use an earlier staging date?
- Do you intend to use a waiting period?

How is your workforce comprised and how many workers are in each category?

- Full-time?
- Part-time?
- Fixed term?
- Agency?
- Temporary?
- Other (for example, casual or freelance workers)?
- What percentage of your workforce is aged (a) under 22; (b) 22 to state pension age (SPA); (c) between SPA and 75?

Do you have to provide automatic enrolment for your entire workforce?

- How many of your workers are "eligible jobholders"? (see summary)
- How many are "non-eligible jobholders"? (see summary)
- How many are "entitled workers"? (see summary)

What (if any) existing pension arrangements do you have in place?

- Personal pension scheme?
- Group personal pension scheme (GPP)?
- Occupational pension scheme?
- None?
- How many individuals in your existing workforce are members of the above scheme(s) (list staff and their pension arrangements)?
- How many existing workers are not in any pension arrangement (list staff)?

What benefits are provided under your existing pension arrangement?

- Defined benefit (DB)? If so, is it final salary or average salary (i.e. CARE)?
- Defined contribution (DC)?
- A combination of the above (hybrid scheme)?
- Is it closed to new joiners / future benefits?
- Is it contributory?
- Is a salary sacrifice scheme in operation?
- Is it part of your flexible benefits package?

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Sacker & Partners LLP is the UK's leading specialist pensions law firm. Over fifty lawyers focus exclusively on advising in relation to pensions, including a team dedicated to the legal implications of auto-enrolment.

Are your pension arrangements fit for 2012?	• Do you belong to a group with a central pensions philosophy? • Do you already have automatic entry? • Do current pension arrangements present barriers to auto-enrolment? (e.g. are eligibility conditions too restrictive?) • If DB, is it contracted-out of the State Second Pension on the "reference scheme test basis"? • If contracted-in DB, is it broadly equivalent to, or better than, the "test scheme standard"? (see summary) • If DC, are minimum contributions sufficient to meet the quality test or the simplified certification requirements? (see summary) • Is there an investment default fund for all members? • If CARE, does it meet the test scheme standard as well as minimum revaluation requirements?
How is any salary sacrifice scheme set up?	• What steps do individuals need to take to participate (e.g. an annual election to opt-in or an indefinite opt-in subject to the individual's right to opt-out)? • Could the way in which it operates hinder automatic enrolment? • Is salary sacrifice part of a flexible benefit arrangement? • If so, could this package be seen as an inducement to opt-out of auto-enrolment?
How do you intend to meet the auto-enrolment requirements?	• Apply different arrangements to different workers? • Maintain existing pension arrangements for current active members? • Extend existing arrangements to workers who do not currently benefit from pension provision? • Set up a new occupational pension arrangement to cover (a) all workers; or (b) only those workers who will be covered by the workplace pension reforms? • Use a personal pension arrangement? What are your views on using a master trust versus individual arrangements? • Use the National Employment Savings Trust (NEST)?
What changes might be required to facilitate auto-enrolment?	• Will amendments be required to the terms of existing pension arrangements (e.g. eligibility conditions)? • Are changes to contributions / benefit levels for some or all workers contemplated? (Note the need for the employer to consult affected workers.) • Could any discrimination issues arise from the way in which you intend to implement the requirements?
Effect of auto-enrolment on different types of worker?	• Do any workers have enhanced protection for Lifetime Allowance purposes or will any be opting for fixed protection by 5 April 2012? • Do any workers have means tested benefits? • How many "eligible jobholders" do you estimate will opt-out of auto-enrolment? • How many "non-eligible jobholders" or "entitled workers" do you anticipate will wish to opt-in?
How well will your current administration systems cope?	• Is your Human Resources team familiar with the auto-enrolment requirements? • What changes will need to be made to payroll to facilitate auto-enrolment? • Are your current IT systems fit for purpose? • Are adequate procedures in place for maintaining appropriate records in respect of each worker? • Have you considered how much getting to the 2012 starting blocks will cost?

And we can provide practical help too. A further area where we assist employers with the implementation of auto-enrolment is through Sackers Support Services, a team of experienced pensions professionals that provide additional resource, project management and expertise where needed.

For more information about how you should be preparing now for 2012, and where Sackers and Sackers Support Services can help, please contact your usual Sackers adviser or Mark Wileman, Head of Business Development (mark.wileman@sackers.com).

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Summary of the new workplace pension reforms

Background

Starting in 2012, employers will be required to enrol their "eligible jobholders" into a qualifying pension scheme. Eligible jobholders are workers between the ages of 22 and SPA who earn more than the "minimum earnings threshold" (£7,475, based on 2011/12 figures). Once enrolled, eligible jobholders will have a period of time during which they can opt-out of membership, subject to an obligation on their employer to re-enrol them every 3 years.

The new auto-enrolment duty will come into force in stages from October 2012, starting with larger employers first. Employers will be able to choose to enrol eligible jobholders into their own designated "qualifying scheme" or use the Government established pension scheme, NEST.

Non-eligible jobholders and entitled workers

Although there is no requirement on an employer to automatically enrol non-eligible jobholders into a qualifying scheme (see below) such workers will have a right to opt-in. If they do so, the employer is then obliged to make contributions in respect of him / her.

Workers are classified as non-eligible jobholders if they:

- earn less than the minimum earnings threshold for auto-enrolment but more than the "qualifying earnings threshold" (£5,035, based on 2006/07 figures);
- are aged below 22 or between SPA and 75;
- have opted-out after being automatically enrolled but subsequently wish to rejoin the scheme; or
- are workers whose employer operates a waiting period before eligible jobholders can join its scheme.

Entitled workers are individuals who earn less than the qualifying earnings threshold. Although such workers may opt-in to pension savings they can be admitted to a scheme which is not a qualifying scheme and no employer contributions are required.

Qualifying schemes

Just as athletes the world over are attempting to meet Olympic qualifying standards for 2012, pension schemes also need to qualify if they are to be used for automatic enrolment purposes.

A qualifying scheme can either be an occupational pension scheme or a personal pension scheme and must normally be a registered pension scheme under the Finance Act 2004. It must also satisfy certain quality requirements, which vary depending on whether the scheme is a DB or a DC arrangement.

The DB test

A DB scheme will meet the quality test if it is contracted-out on the reference scheme test basis[†] or if it is broadly equivalent to, or better than, the "test scheme standard". The test scheme standard is based on a pension payable from age 65, equal to 1/120th of average "qualifying earnings" in the last three tax years before the end of pensionable service for each year of pensionable service (subject to a maximum of 40 years). This standard also assumes that the pension is revalued in deferment and increased in payment in line with the increase in CPI (subject to a maximum of 2.5% per annum).

The DC test

The quality test for a DC arrangement is based on the contributions made to that arrangement. By the end of the transitional period (in October 2017), contributions payable in respect of the jobholder must be at least 8% of qualifying earnings overall, with a minimum 3% contribution from the employer.

Designed as an administrative easement for employers who calculate their pension contributions from the first pound (rather than on qualifying earnings), the Government has put forward proposals for a simplified certification process to allow DC schemes to self-certify.

Is the finishing line in sight?

Recent amendments also put forward by the Government include:

- the introduction of an optional waiting period before an individual needs to be automatically enrolled (jobholders will still be able to opt-in during this period);
- delaying the automatic enrolment staging date for a test group of "micro" employers, in line with the current moratorium on regulation for small businesses which was announced in the 2011 Budget; and
- greater flexibility around the requirement to automatically re-enrol jobholders who have opted-out, so that employers are required to carry out the re-enrolment exercise three years after the employer's staging date (i.e. the date when the automatic enrolment duty first applies) or the previous re-enrolment date, with the option to choose a re-enrolment date up to three months on either side of the three year anniversary.

[†] Generally, for a scheme to satisfy the reference scheme test, 90% of members must have benefits equal to or better than a notional scheme providing a pension of 1/80th of qualifying earnings for each year of service and a 50% dependant's pension on the member's death.

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