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Mattinson Ginty & Partners (Employee Benefits) Limited

# A Guide to...

## Auto Enrolment

**Special points of interest:**

- Auto-Enrolment Starts October 2012
- Eligible employees are those over 22 earning £8,105 per annum
- Minimum employer contribution of 3%
- Minimum employee contribution of 4%

Royal Assent was given to the Auto Enrolment regulations on 3rd November 2011 and for some employers Auto Enrolment starts in October 2012.

Auto Enrolment is designed to get more people saving for their retirement as it is estimated that around seven million people in the UK are currently not saving enough for their retirement..

All employers will be allocated a staging date which will be based on the number of employees in their largest Pay As You Earn (PAYE) scheme on 1st April 2012. Any changes to the size of workforce after 1st April 2012 will not affect the staging date. The Pensions Regulator (tPR) will write to employers 12 months before their staging date and a reminder will be issued 3 months before their staging date.

There have been some changes to the staging dates and details can be found on our website.

The regulations mean that it will be **COMPULSORY** for all employers to contribute to a Qualifying Workplace Pension Scheme (QWPS) for eligible employees.

NEST will be the compulsory workplace pension scheme for any employer who does not operate a QWPS or better.

### How will it work?

Starting from October 2012 all employers, regardless of size, will be required to auto-enroll all eligible employees into a QWPS.

To ease the administration burden the Government is phasing in membership from 2012 through to 2018 starting with the largest employers first. A full list of the current staging dates is available on our website.

It is possible to bring your staging date forward but not


possible to delay it. A list of available earlier staging dates is provided by tPR. Employers who want to bring forward their staging date must notify tPR at least one calendar month before the new chosen staging date.

Employers with more than one PAYE scheme will have their staging date determined by their largest PAYE scheme. Small employers who are part of a larger PAYE scheme may have a later staging date than the PAYE scheme if they have less than 50 employees.

Employers will be required to register their pension scheme with tPR.


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## Eligibility

There are three types of employee (jobholder as defined by the new legislation) that need to be considered:

- Eligible Employees
- Non Eligible Employees
- Entitled Workers

Only "eligible employees" have to be automatically enrolled but the other two groups have certain rights under the regulations.

"Eligible employees" are those aged between 22 and state pension age and earning more than £8,105 per annum. Temporary and contract workers must be included (but not agency staff).

"Non eligible employees" are those who earn between £5,564 and £8,105 and fall outside of the age criteria for automatic enrolment. They have the right to opt in and, if they choose this option, the employer must contribute.

"Entitled workers" can choose to join the scheme but the employer does not have to contribute. Entitled workers are those earning below £5,564 per annum and aged between 16 and 74.

Employers have up to 3 months before automatically enrolling a new eligible jobholder into a pension scheme; however, employees who wish to opt in during this period may do so and receive an employer contribution.

The assessment of workers is therefore required on the following:

- On the staging date
- Whenever a new employee joins after the staging date
- On an employee's 16th birthday after the staging date
- On an employee's 22nd birthday after the staging date
- On the employer's re-enrolment date (normally every three years from the staging date)

## Contributions

The minimum contribution rates required under NEST are 3% from the employer, 4% from the employee and 1% tax relief—making a total contribution rate of 8%.

These contributions are to be based on 'band earnings' (currently between £5,564 and £42,475) and are to include any bonus, commission, overtime payments, Statutory Maternity Pay, Statutory Sick Pay and Statutory Adoption Pay.

## Qualifying Workplace Pension Scheme Certification

Employers who wish to operate a QWPS rather than use NEST will need to be able to certify that their pension scheme meets the required contribution level.

To meet the qualifying criteria a scheme must meet the contribution requirements, be an occupational, personal or stakeholder pension scheme and be tax registered.

If a scheme is already in place it is important to check that the scheme and provider will allow for auto enrolment and not require an employee to receive information prior to joining.

As pension schemes do not usually use banded earnings as their salary definition, tPR will allow alternative contribution levels to be used to define pensionable earnings. The following contribution levels will meet the certification rules.

- A minimum 9% contribution of basic earnings, including a 4% employer contribution.
- A minimum 8% contribution of basic earnings, including a 3% employer contribution, provided that basic earnings constitute at least 85% of the total pay bill.
- A minimum 7% contribution of the total pay bill, including a 3% employer contribution, provided the total pay bill is pensionable.

Basic earnings must be based on earnings before deductions such as tax, NI, holiday pay and certain statutory benefits but it does not have to include variable pay such as bonuses, overtime and commission.

Both the employer and employee can elect to pay higher contributions than the minimum. It is possible for the employer to pay the whole contribution and for the scheme to be a QWPS.

Salary exchange will also be permitted for auto enrolment and minimum contributions will be based on the post exchange earnings.

Employees must however be able to choose **not** to use salary exchange even if they remain in the pension scheme .

Contributions into a QWPS or NEST will be phased in over 3 phases:

**Phase 1—October 2012 to September 2017**

**Phase 2—October 2017 to September 2018**

**Phase 3—October 2018 onwards**

In terms of contributions, this has the following effect:

### If using the NEST:

**Phase 1** will require a minimum employer contribution of 1% of banded earnings with the employee contributing 1% gross. Total 2%.

**Phase 2** will require a minimum employer contribution of 2% of banded earnings with the employee contributing 3% gross. Total 5%.

**Phase 3** will require a minimum employer contribution of 3% of banded earnings with the employee contributing 5% gross. Total 8%.

### If using a QWPS

As there are 3 different contribution levels the phasing of contributions is as follows:

### 9% contribution rate

**Phase 1** will require a minimum employer contribution of 2% with employees contributing 1% gross. Total 3%.

**Phase 2** will require a minimum employer contribution of 3% with employees contributing 3% gross. Total 6%.

**Phase 3** will require a minimum employer contribution of 4% with employees contributing 5% gross. Total 9%.

### 8% contribution rate

**Phase 1** will require a minimum employer contribution of 1% with employees contributing 1% gross. Total 2%.

**Phase 2** will require a minimum employer contribution of 2% with employees contributing 3% gross. Total 5%.

**Phase 3** will require a minimum employer contribution of 3% with employees contributing 5% gross. Total 8%.

### 7% contribution rate

**Phase 1** will require a minimum employer contribution of 1% with employees contributing 1% gross. Total 2%.

**Phase 2** will require a minimum employer contribution of 2% with employees contributing 3% gross. Total 5%.

**Phase 3** will require a minimum employer contribution of 3% with employees contributing 4% gross. Total 7%.

### Employee Opt Out

Whilst employers are required to auto-enroll employees into a scheme, employees have the right to opt out once auto-enrolled.

Eligible and non-eligible employees have one month from their auto enrolment date to opt out and have their contributions refunded.

Employees must contact the pension provider for the opt-out notice and send the completed notice to the employer.

Once received by the employer they must notify the pension provider, stop deducting contributions from salary and refund any contributions that have already been taken.

If an employee leaves the scheme after the opt-out period, they are not entitled to a refund of contributions.

Any employee who elects to opt out must however, be re-enrolled every 3 years.

### Defined Benefit Schemes (Final Salary Schemes)

These schemes will qualify as a QWPS if:

- A current Contracting Out certificate is in place
- The accrual rate for Contracted In schemes is broadly 1/120th of earnings or better for each year of membership.

There are additional criteria to be met on 'average salary' schemes, notably relating to revaluation of benefits.

## Employer Duties

The obligations and responsibilities laid on employers are referred to as 'duties' by the legislation and failure to comply may result in a penalty notice. The main duties are:

- Employers must assess their workforce to determine which types of worker they employ
- Employers must register with the Pensions Regulator within four months of their staging date
- Employers must auto-enroll employees within 3 months of becoming eligible into a QWPS
- Employer must deduct employees' contributions from salary and pay to QWPS
- Employer must process opt outs and make refunds
- Employers may not use prohibitive recruitment conduct (ie not employ people who intend to join the pension scheme)
- Employers must give all pre-determined material to employees at the appropriate times required by the legislation
- Employers must re-enroll employees (after a certain period) who opt out following auto enrolment
- Employers must keep records of the auto enrolment and opting out process for a prescribed period of time and provide to tPR if requested
- Employers must not induce employees to opt out of a Qualifying Scheme
- Employers must give information on pensions to their employees at the point of auto-enrolment, but **not** give advice
- Employers must contribute to their employees' pensions
- Employers must re-register the scheme every 3 years with the Pensions Regulator

Employers who fail to comply will be given 1 written warning followed by a £400 fixed penalty.

Persistent offenders will receive a daily penalty based on the number of employees. The fines can be as much at £2,500 per day for those with between 50 and 249 employees.

Failure to comply may also result in up to two years imprisonment.

## NEST

NEST will be an Occupational trust based pension scheme administered by Tata Consultancy Services with State Street Corporation acting as fund administrator.

The target market for NEST is low to medium earners and generally those employers with less than 20 employees.

The maximum contribution that can be paid into NEST for a member is £4,300 per annum.

NEST charges have now been confirmed as a 1.8% contribution charge (applied for an unspecified period) plus a 0.3% annual management charge.

## MGP

MGP are able to offer employers who wish to go down the QWPS route a first class administration service. We aim to take on board the majority of the burden the legislation will impose by acting as the employer's Pensions Department. This will allow employers to continue doing what they do best — running their business.

We are able to carry out a comparison exercise to check that existing pension schemes meet the auto-enrolment requirements. This work will be done automatically for our existing clients.

## Summary

**Action is required now**—employers need to know the cost of both the contribution element and the administrative element of the options available before deciding on the way forward. Depending on their 'staging date' employers will only have between 2 and 6 years to comply—for further information and support call MGP now.

**MGP's pension advisers can be contacted on**
**0161 273 8273**