

Oury Clark Quick Guides:



Workplace Pensions

Auto Enrolment



Every employer in the UK must put certain staff into a pension scheme and contribute towards it. This is called 'automatic enrolment'. If you employ at least one person, you have a legal duty to offer a workplace pension scheme that can be used for automatic enrolment.



Duties start date

The date your first member of staff starts working for you. Your legal duties begin on this date. If you put your staff into your pension scheme on this date, you need to start paying contributions into it from the next payday after this date.

Choose a pension scheme

There are a number of solutions available in the UK to accommodate companies of any size. There are a number of factors to consider when choosing a pension provider including charges, performance and how the scheme integrates with your payroll software.

Postponement

You can't move your duties start date back but you can delay the automatic enrolment of your staff by choosing a postponement option. Postponement gives you up to three months from your duties start date to work out who you need to put into a pension scheme and enrol them. You can also postpone the enrolment of new employees. You will have to let your employees know you are postponing their enrolment by writing to them within six weeks of their employment start date. Employees can still ask to join the pension during this period.

Who must be put into a pension scheme?

Employees who **must** be put into a pension scheme you pay into are:

- Aged: 22 to State Pension Age:
- Earns more than: £10,000 a year / £833 a month / £192 a week:
- Normally work in the UK.

If any of your staff fall outside of the above age and earning criteria then you only need to put them into a pension scheme if they ask.

Exceptions

There are a handful of employees for whom it is optional to put into the pension scheme. Among the most common are:

- a sole director where there are no other employees
- they're genuine partners of a limited liability partnership – those partners who are not employees for tax purposes
- notice has been given for resignation, dismissal or retirement
- employees who do not ordinarily work in the UK and are on temporary secondment from a non-UK company

You may need to check with your employees whether any of this applies to them. Find out more at <http://www.thepensionsregulator.gov.uk/en/employers/>

How much must be paid in?

You have to contribute the 'Employer minimum contribution' shown below. Then the total contribution is reached by adding the employee's contribution (deducted from their earnings) and tax relief from the Government. However, you can choose to pay more if you want to.

Dates	Employer minimum contribution	Employee minimum contribution	Tax relief on employee contribution	Total minimum contribution
6 April 2019 onwards	3%	4%	1%	8%

Minimum contribution levels are based on the employee's qualifying earnings. For the 2022/23 tax year, this will be the employee's gross earnings that fall between £6,240 and £50,270 a year. This will include pay elements such as salary, commission, bonuses, overtime and statutory sick/parental pay. (£520 and £4189 a month or £120 and £967 a week). This means that qualifying earnings can't be more than £44,030.

Write to your employees

It is your legal duty to write to all your staff individually to explain how automatic enrolment applies to them. You must do this within six weeks after your duties start date.

How does an employee opt out?

Workers who have been automatically enrolled have the right to opt out of the pension scheme. If an employee wishes to opt out, they must notify the employer via a document called an 'opt-out notice' (this is only usually available from the pension scheme provider). When employers receive a valid opt out notice they are required to refund any contributions deducted from the worker's pay. The pension scheme provider is also obliged to reimburse the employer for any contributions they have made.

Provide a declaration of compliance to The Pensions Regulator

You're legally required to give information to The Pensions Regulator about how you've met your automatic enrolment duties. If you don't provide a declaration of compliance within five months of your duties' start date, you could be fined. You need to declare your compliance on The Pensions Regulator's website at www.autoenrol.tpr.gov.uk

This is a legal duty and you must do this by your deadline even if you don't have any staff to put into a pension scheme. If you don't do this, you may face enforcement action including fines.

Fines

The Pensions Regulator will initially just tell you to put things right. Any further failure may lead to the Government fining you a lot of money. And ultimately you could face criminal prosecution and even imprisonment. Find out more at <http://www.thepensionsregulator.gov.uk/en/employers/what-happens-if-i-dont-comply>

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FS9 Disclaimer: This note does not contain a full statement of the law and it does not constitute legal advice. Please contact us if you have any questions about the information set out above.

Ongoing duties

Once you have completed your declaration of compliance you still have ongoing duties towards your staff. These include

- paying money into their pension scheme
- dealing with requests to join and leave the pension scheme
- monitoring the ages and earnings of your staff
- keeping accurate records of what you have done

Keep records

You must keep records of how you've met your legal duties, including:

- the names and addresses of those you've put into a pension scheme
- records that show when money was paid into the pension scheme
- any requests to join or leave your pension scheme
- your pension scheme reference or registry number

You must keep these records for six years except for requests to leave the pension scheme which must be kept for four years.

Re-enrolment

Every three years after your duties' start date you'll need to assess staff not in your pension scheme, this includes certain staff that were previously enrolled but have left your pension scheme. If they meet the criteria to be put back into your pension scheme, then you must do so. This is known as re-enrolment.

For more information on these tasks go to: www.thepensionsregulator.gov.uk/en/employers/re-enrolment/i-am-or-will-be-an-employer-with-staff-to-put-back-into-my-scheme