Pensions Bulletin

Fact Sheet 3

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Auto-enrolment and NEST

1 Introduction

1.1 The Pensions Bill 2011 was published on 13 January 2011 and builds on the pension reforms that were introduced in the Pensions Act 2008.

1.2 In particular, the Bill confirms the requirement for employers to automatically enrol staff into a pension scheme from 2012. This will be done in stages over four years to September 2016.

1.3 This Fact Sheet provides a summary of the key measures contained in the Pensions Act 2008 and the Pensions Bill 2011.

2 Pensions Act 2008

2.1 The Pensions Act 2008 introduced a number of measures that aim to encourage a greater level of saving in the UK. There are three main aspects to these reforms:

- Duties that require employers to automatically enrol their eligible jobholders into a qualifying pension scheme.
- A compliance regime that is to be enforced by The Pensions Regulator, in order to make sure that employers meet their new duties.
- The introduction of a new workplace pension scheme, called the National Employment Savings Trust (NEST).

3 Employer duties

3.1 The employer duties will be 'staged in' over time. These duties include the requirements to automatically enrol eligible jobholders into a pension scheme, which meets certain criteria, and pay minimum contributions for them.

3.2 Key elements of the Pensions Act 2008 regulations are as follows:

- The duties will apply to all employers at some stage over a four year period from 1 October 2012. This will be done largely by 'PAYE scheme' size, such that the largest employers will become subject to the duties before smaller employers.
- Employers will be able to phase in their contributions. For defined contribution (DC) pension schemes, this means that employers will not pay the full contribution immediately; instead, **employers will pay 1% of the jobholder's qualifying earnings in October 2016, followed by a year at 2%, before moving to the full 3% in October 2017**.

The Pensions Trust

3.3 The Pensions Bill 2011 includes the following provisions:

- Introducing an 'earnings trigger' of £7,475 per annum. This is the level at which employees must be automatically enrolled into a workplace pension scheme. However, contributions will be based on qualifying earnings between £5,715 and £38,185 (at 2010/11 levels).

- An optional three month waiting period for employers before they have to automatically enrol their employees.

3.4 In practical terms, the employer duties do not apply to a particular employer until the relevant 'staging date' is reached. Staging dates for all employers are set out in a table in The Employers' Duties (Implementation) Regulations 2010, available via the following link: http://www.opsi.gov.uk/si/si2010/uksi_20100004_en_1

3.5 **In summary, the first staging date, for employers with a 'PAYE scheme' size of 120,000 or more, is 1 October 2012. Subsequent staging dates, for smaller employers, occur on the 1st day of each of the following months (excluding December) up to 1 September 2016, when the staging period is complete. Staging for new businesses, where PAYE income is first paid after 1 April 2012, will take place towards the end of the period.**

3.6 The number of persons within a 'PAYE scheme' is based on the latest information available to The Pensions Regulator at 1 April 2012.

3.7 Employers can bring forward their staging date to an earlier date provided that:

- the earlier date is not before 1 October 2012;
- the pension scheme to be used for early automatic enrolment is contacted; and
- The Pensions Regulator is notified.

3.8 To find out what the staging date is for your organisation, go to our website at www.thepensionstrust.org.uk and click on 'Auto-enrolment.'

3.9 Alongside the Pensions Bill, The Pensions Regulator has issued a leaflet for employers called 'An introduction to work-based pension changes', which provides a simple guide to the reforms and is available on The Pensions Regulator's website, www.thepensionsregulator.gov.uk

4 Automatic enrolment

4.1 Separate regulations set out the practical arrangements for automatically enrolling eligible jobholders into a pension scheme and paying contributions.

4.2 Key elements of these arrangements are:

- Jobholders have to be automatically enrolled (i.e. become active pension scheme members) with effect from their 'automatic enrolment date' (i.e. the date they become eligible for automatic enrolment).

- Employers must make arrangements to ensure automatic enrolment occurs within one month beginning with the automatic enrolment date.

- Employers also have a duty to provide information to jobholders and to the pension scheme trustees. This can be given to them at any time before the end of a period of one month beginning with the automatic enrolment date. There is also an information requirement for those who are already active members of the pension scheme too, which must be complied with within two months.

4.3 Requiring employers to auto-enrol jobholders and contribute for them does not mean that pension scheme membership is compulsory for individuals. They can still opt-out and the regulations set out a process for doing so. **Broadly, if a jobholder opts out within a month of being auto-enrolled, they and their employer get a refund of any contributions paid**.

4.4 The Pensions Act 2008 also requires **periodic re-enrolment of individuals who opt-out**, although not all jobholders have to be 'automatically' enrolled/re-enrolled (e.g. there is a minimum age requirement of 22 for auto-enrolment). Individuals who do not have to be automatically enrolled can require their employer to arrange for them to become an active pension scheme member and the regulations set out the process for 'opt-in notices' and consequent provision of information. For workers without 'qualifying earnings' the employer must provide access to a registered pension scheme (which need not be the scheme used for automatic enrolment) but is not required to pay employer contributions.

5 Compliance

5.1 The Pensions Regulator will police the workplace pension reforms and is provided with the powers to do so under separate 'registration and compliance' regulations.

5.2 Key provisions are:

- Employers will have to provide information to The Pensions Regulator, within two months of their staging date, telling them how they have complied with their duties.
- Employers will also have to update that information in the event of an employer making arrangements for automatic re-enrolment or where three years have passed since information was last provided.
- Employers and pension schemes are also required to keep certain records and information that will enable The Pensions Regulator to check compliance. Records must be kept in such form and manner so that they are capable of being arranged according to the corresponding employer pension scheme references and can be provided to The Pensions Regulator in a legible form.
- Records must be preserved for a period of six years.

5.3 The Pensions Regulator will inform employers about their duty to register at the same time they are told about auto-enrolment.

5.4 The compliance provisions also cover the following points:

- If contributions are not paid by their due date then interest may be payable on those contributions.
- If unpaid contributions are not made within three months of their due date, then the employer can be made to pay all outstanding amounts (i.e. the employee share too).
- The Pensions Regulator's powers include issuing penalties to employers for non-compliance of the employer duties.

6 National Employment Savings Trust (NEST)

6.1 The remaining regulations relating to workplace pension reforms essentially concern the establishment of NEST (formerly known as 'Personal Accounts').

6.2 In summary, these regulations:

- Provide for the basic arrangements concerning the NEST Corporation, which will act as the NEST Trustee.
- Implement a ban on transfers into and out of NEST, in most circumstances.
- Exempt NEST from certain pensions law provisions such as member nominated trustees, trustee knowledge and understanding requirements and employer-related investment restrictions.
- Wind up the Personal Accounts Delivery Authority (PADA) and transfer most of its property, rights and liabilities to the NEST Corporation.

7 Summary

7.1 Employers now have more certainty in terms of when and how they will be required to comply with the pension reforms. Every employer needs to review their existing pension arrangements with regard to eligibility, enrolment, re-enrolment contributions/benefit structure and default options.

7.2 Although final decisions do not have to be made until nearer 2012 or even later, planning and budgeting can and should start much sooner.

Further updates about auto-enrolment and NEST will be included in future issues of Pensions Bulletin and also via supplementary, more detailed, fact sheets.