Punter Southall

Countdown to employer duties and auto-enrolment

May 2011

2012 – an overview

Issue 1

Over the coming months we will be producing a series of bulletins to count down to the introduction of the employer duties, taking you through the issues that you need to consider.

2012 is set to be a momentous year for UK sport with the London Olympics, but it will also be a significant year for UK pensions, with the commencement of the employer duties – though for many employers this new regime will be simply yet another pensions headache to deal with.

In this first note we begin with an overview of the new regime.

Background

We are now around 18 months away from the start of the pensions reforms that have been on the agenda since the Pensions Commission was established in 2002. However, the uncertainty over the reforms created by last year's general election, and the subsequent independent review of the new regime, meant that it was an issue that many have put on the backburner. So, following the Government's announcement that it would adopt the recommendations made by the independent review, and the publication in January of the Pensions Bill 2011, which makes provision for the changes arising from the review, employers can start to act in earnest. We are, however, awaiting secondary legislation which will provide some final details, although these are expected to be in line with the independent review's recommendations.

What are the employer duties?

In summary, the employer duties are a system of automatic enrolment into a pension scheme for all workers meeting certain criteria, and a minimum level of benefits or contributions to be provided for all those workers. All employers will need to comply, regardless of size – even those with just one employee.

When do employers need to comply?

The employer duties will be staged in over a four year period, with the largest employers first. Employer size for this purpose will be measured by the number of workers in an employer's PAYE scheme at 1 April 2012. The date at which employers need to comply (the 'staging date') is set out in Tables 1 and 2 in the note entitled 'Timetable for staging in the employers by size'. If an employer has more than one PAYE scheme, the largest PAYE scheme will determine the staging date for all the employer's PAYE schemes.

For any new employers with PAYE income first payable from 1 April 2012 onwards, the staging date is between 1 March 2016 and 1 September 2016, depending on exactly when PAYE income is first payable.

Employers can, however, choose to automatically enrol before this date, provided they do so either on one of the other staging dates set out in Tables 1 and 2, or on 1 December 2012, and that they have a suitable scheme in place and have notified the Pensions Regulator. This gives some flexibility to choose a more convenient start date – for example, retail businesses could bring forward their start date to avoid it clashing with the busy Christmas period. The largest employers, who will be staged in first, can choose to automatically enrol as soon as 1 July 2012.

Where can I get further information?

For more information please discuss with your usual Punter Southall contact or for specific advice, please contact:

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However, if employers operate a defined benefit (DB) scheme or a hybrid scheme and intend to automatically enrol all eligible workers into this scheme, then they have until 1 October 2016, but will need to give notice to eligible workers. The situation also becomes more complicated if the scheme is closed during this period:

> Suppose XYZ Co's staging date is 1 April 2013 and it operates a DB scheme which it intends to use for automatic enrolment from 1 October 2016. It subsequently decides to close the scheme and open a DC scheme for new accrual from 1 April 2015. It will need to automatically enrol into the DC scheme all eligible workers who were in the DB scheme and additionally any who were not. For this latter group of members it will also need to pay contributions back to the original staging date of 1 April 2013.

Employers who currently operate a waiting period can continue to do so, provided it is no longer than three months, but they will need to give notice to eligible workers, and workers can opt in during the waiting period. This will be particularly relevant for employers that have high staff turnover (e.g. retail businesses).

Every three years employers will need to re-enrol all eligible workers and there is a six month window for doing this – so if an employer's original staging date is 1 April 2013, then re-enrolment must take place between 1 January 2016 and 30 June 2016. This window is intended to give employers some flexibility to align the re-enrolment date with other events or to avoid busy times of the year.

Which employees need to be automatically enrolled?

All employees aged between 22 and State Pension Age (SPA) need to be automatically enrolled provided they are earning at least the income tax personal allowance threshold (£7,336 in 2010/11 terms).

Workers who do not meet these criteria are entitled to opt-in to a scheme. If they are between the ages of 16 and 22, or SPA and 75, and earning at least the lower threshold for contributions (see below), they are entitled to the minimum employer contributions.

How much will it cost?

It all depends on the type of scheme:

DB and hybrid schemes

A minimum level of benefits must be provided:

- Any contracted-out scheme will automatically qualify.
- Contracted-in schemes will need to meet a minimum level of benefits known as the 'test scheme'. We will look at this in more detail in a future issue.

DC schemes

There will be a minimum contribution of 3% of each worker's 'qualifying earnings'. Qualifying earnings are, provisionally, earnings between £5,715 (the National Insurance primary threshold for the 2010/11 tax year) and £38,185 (the upper earnings limit for 2006/07 uprated to 2010/11 earnings levels). The final details of these limits will be confirmed in forthcoming regulations. In addition, there will be a minimum total contribution of 8%; the balancing amount is likely to be paid by workers in most cases, but employers could cover the whole 8% if they so wish. Tax relief credited to a personal pension is included in the 8%.

These limits will, however, be phased in from 2012 as follows:

- From 1 October 2012 to 30 September 2016, the minimum employer contribution will be 1% (minimum total contribution: 2%);
- From 1 October 2016 to 30 September 2017, the minimum employer contribution will be 2% (minimum total contribution: 5%);
- The full 3% (total: 8%) will apply from 1 October 2017.

In practice most employers base contributions on a different salary definition, which means a comparison is needed between actual contributions and these minimum levels. The independent review recommended a practical approach to this, but final details will be in regulations expected in due course. We will look at this further in a future note.

Additional costs

Regardless of the type of scheme, employers are likely to incur additional costs initially, arising from the necessary advice and amending HR, payroll and administration procedures.

NESTWatch

Our next note will focus on the NEST scheme, a new national pension scheme set up to provide employers with a straightforward means of complying with the employer duties. In later notes we will keep you up-to-date with NEST developments as they emerge – look out for the 'NESTWatch' section.

For further information, visit our website at www.puntersouthall.com

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