Leaflet 6 | August 2012

NAPF
Securing the future of pensions

New rules for pension saving made simple

Things to look out for

In previous leaflets, we've covered what the new rules for pension saving are, how these may affect you and the changes you may need to make. While **Automatic Enrolment** may seem simple it can become quite complex when you apply it to real-world situations.

In this leaflet, the last in the current series, we discuss a few issues which you may come across and possible solutions for dealing with them if you do. As these may affect you and your workforce in different ways you should always seek specific professional advice to ensure you do not fall foul of any of the new pension saving rules.

Getting ready for Automatic Enrolment

Comprehensive, accurate and up-to-date data will be crucial to implementing **Automatic Enrolment** in your organisation. Quality of data could become an issue for some organisations, especially if you store groups of employees on external systems.

For example, it is common for organisations employing casual workers not to store their dates of birth. The introduction of **Real Time Information (RTI)** for tax purposes should alleviate this issue because dates of birth are also required by HM Revenue and Customs (HMRC).

RTI will mean that employers and pension providers will tell HMRC about PAYE payments (ie tax deducted through a payroll system) at the time they are made as part of the payroll process. Payroll software will collect the necessary information and send it to HMRC Online.

It's possible payroll systems may not hold all the information needed to calculate pension deductions. For example, an employee's grade or date they joined the scheme.

It would therefore be wise to review your data requirements for **Automatic Enrolment** well in advance of your **Staging Date** because data cleansing exercises may take a reasonable length of time to complete.

Even if your data is accurate, it needs to be updated very quickly for new employees or where an employee is promoted, to ensure you can assess and make the necessary deductions in time. You therefore need to make sure your HR processes pass information over to your payroll systems in enough time.

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Pensions as part of a contract of employment

As discussed in **Leaflet 3-What are my pension scheme options?** and **Leaflet 4-Will I need to change how I do things?** if you already offer a pension as part of your employee's contract of employment you should continue to honour this agreement. It is important that you also seek advice to make sure you do not overlook any of the actions you need to take under the new pension saving rules.

If you are considering offering a pension scheme as part your employee's contract of employment and want to use this arrangement to fulfil the requirements of the new pension saving rules, there are some factors you need to consider.

Pension scheme membership established as part of your employees' terms and conditions of employment could bring more employees into pension saving. This is because, employees enrolled into pension saving as part of their contract of employment do not have the right to **Opt-out** and be treated as if they had never been members of the scheme. (They may of course stop being active scheme members but in these circumstances the rules of the pension scheme will prevail). As this could increase your costs overall you may need to review whether or not this is in keeping with your strategy for pensions.

If you decide to enrol your employees into pension scheme membership via their contracts of employment you still need to provide them with specific information about **Automatic Enrolment**. This is discussed in **Leaflet 5-What do I need to tell my employees?** You also need to tell them they have been enrolled into pension saving and provide details of the scheme they have been enrolled into, **before** their **Automatic Enrolment** date.

If you decide to postpone the introduction of the new pension saving rules but intend to establish pension scheme membership via a contract of employment, you still need to issue the appropriate **Postponement** notices. These are explained in **Leaflet 4-Will I need to change how I do things?**

You may need to assess your employees while they are still members of the pension scheme to determine what you will have to do if they cease to be active members of the scheme.

For example, if your employee stops being an active member of the pension scheme and does not meet the conditions to be an **Eligible Jobholder**, you will need to automatically enrol him or her into pension saving on the first occasion they become an **Eligible Jobholder**. If they are an **Eligible Jobholder** when they cease to be an active member of the scheme you will need to assess them on your re-enrolment date. Re enrolment is discussed later in this leaflet.

Any more tips for using Salary Sacrifice?

Salary Sacrifice

This is a contractual arrangement between employer and employee.

The employee's pay is reduced before he or she receives it and a corresponding sum is paid by the employer into the pension scheme.

Both the employee and employer save Tax and National Insurance on the amount sacrificed.

In **DC** schemes **Qualifying Earnings** are assessed using salary after it has been reduced.

Salary Sacrifice was discussed in **Leaflet 3-What are my pension scheme options?** While these arrangements can run alongside **Automatic Enrolment** you need to ensure they are not made a condition of pension scheme membership. You must also automatically enrol **Eligible Jobholders** into a **Qualifying Pension Scheme** if they do not want to use **Salary Sacrifice**.

You also need to be careful about the timing of communications about **Salary Sacrifice**. The Pensions Regulator suggests that you keep any guidance about **Salary Sacrifice** separate from **Automatic Enrolment** notifications so that you do not confuse your employees. For example, they may **Opt-out** not because they don't want to save but because they think they can't save unless they accept a **Salary Sacrifice** agreement. It is also conceivable if your employees think these two issues are integrated this could be seen as an inducement not to join a scheme.

In addition, if an employee **Opts-out** after entering into a **Salary Sacrifice** agreement, you will need to reverse the arrangement, which introduces an additional administrative burden.

In practice, you may decide to implement **Salary Sacrifice** after the employee's **Opt-out period** has expired. (See **Leaflet 4-Will I need to change how I do things?** which explains **Opt-out periods**.

What about Flexible Benefits?

You may need to reconsider the way your pension scheme operates within your flexible benefits package. You need to be careful that any options to exchange pension contributions for other benefits are not perceived as an inducement to **Opt-out** of the pension scheme.

The new rules for pension saving are not intended to restrict flexible benefits packages and individuals must be able to retain the right to choose how their benefits are made up. Nevertheless, you need to be confident that the sole or main purpose of the design of your flexible benefits scheme is not to encourage your employees to **Opt-out**.

Flexible Benefits

Some employers offer a range of employee benefits which may or may not include pension scheme membership. For example, healthcare, life assurance, cash. Flexible benefits schemes allow workers some freedom of choice about how they apportion their total pay and benefits. Traditionally, these schemes allow workers to choose what level of pay is committed to pension contributions alongside other benefits.

Employees who have protection for tax purposes

As highlighted in **Leaflet 5-What do I need to tell my employees?** anyone who has what is known as 'enhanced' or 'fixed protection' for tax purposes still has to be automatically enrolled into pensions saving.

To ensure no one loses the protections they already have, they will need to **Opt-out** within one month of being automatically enrolled. The people who run your pension scheme will be able to identify who these employees are and explain their circumstances more fully, if you think any of your employees may be affected in this way.

Using more than one scheme

You may be thinking about using different schemes for different groups of employees based on their role in your organisation or their length of service.

There are various reasons for adopting this approach, for example, recognising the different needs of diverse groups or securing more attractive commercial terms from pension providers (see **Leaflet 3-What are my pension scheme options?** for more information about the range of pension schemes you might use)

It is important to recognise the extra time that implementing more than one scheme might involve and you will need to allow for this in your project implementation plans. In particular, any transition between schemes must be carefully considered, for example, the transfer process, providing consistent communications, switching of funds and combined statements.

Have you any guidance for when everything is up and running?

Deducting pension contributions

In the case of an **Eligible Jobholder** you must deduct pension contributions on the first occasion you pay the employee after their **Automatic Enrolment Date**.

Automatic Enrolment Date

The first date your employee meets all the criteria to be an **Eligible Jobholder**.

In practice this can be an onerous requirement, especially if there is only a short time between establishing an employee's earnings information and paying them. This is a particularly common situation for weekly paid employees. In these cases, it is particularly important to ensure that your systems and processes comply with the deduction timescales.

You can of course explore the possibility of postponing your start date (See **Leaflet 4- Will I need to change how I do things?**) until shortly after payday, provided it remains within the same **Pay Reference Period**.

Postponing your start date maximises the time between the date you have to assess your employee for the purposes of the new pension saving rules and the date you have to deduct pension contributions, which also reduces the chances of needing to refund a contribution if the employee decides to **Opt-out**. It does mean, however, that normally the first pension contribution that is due will be in respect of only part of the earnings gained during the **Pay Reference Period**.

Pay Reference Period

An employee's **Pay Reference Period** is one week (or the period for which the employee receives their regular wage, if longer.) This will be the same period of time covered by your payroll.

For example, you may pay your employees on 25th January but the **Reference Pay Period** will be 31 days ie the whole month of January.

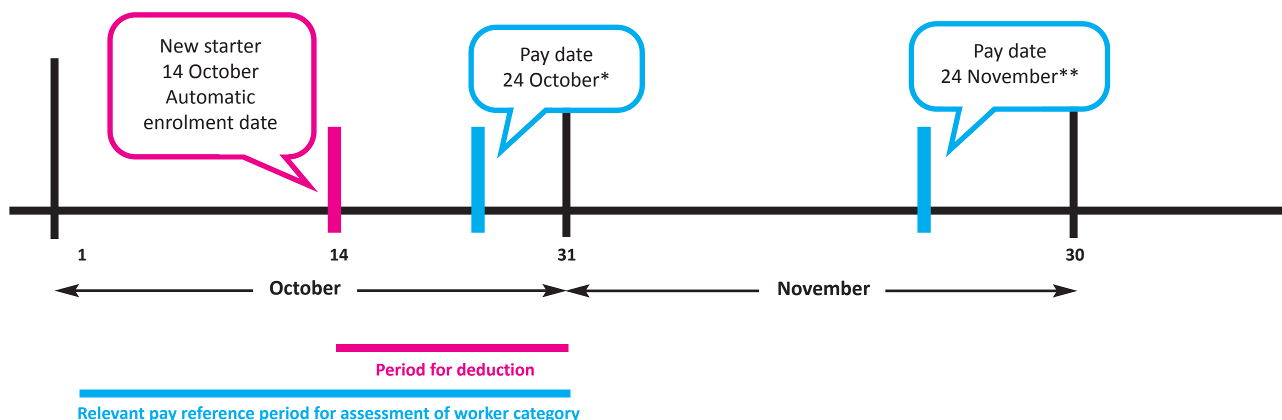
The **Relevant Pay Reference Period** is the **Pay Reference Period** which includes the date on which you are assessing your employee.

Calculating pension contributions

You need to recognise the earnings which are used to calculate pension contributions will not normally be the same earnings used to assess employee categories, which are based on earnings for the entire **Relevant Pay Reference Period**.

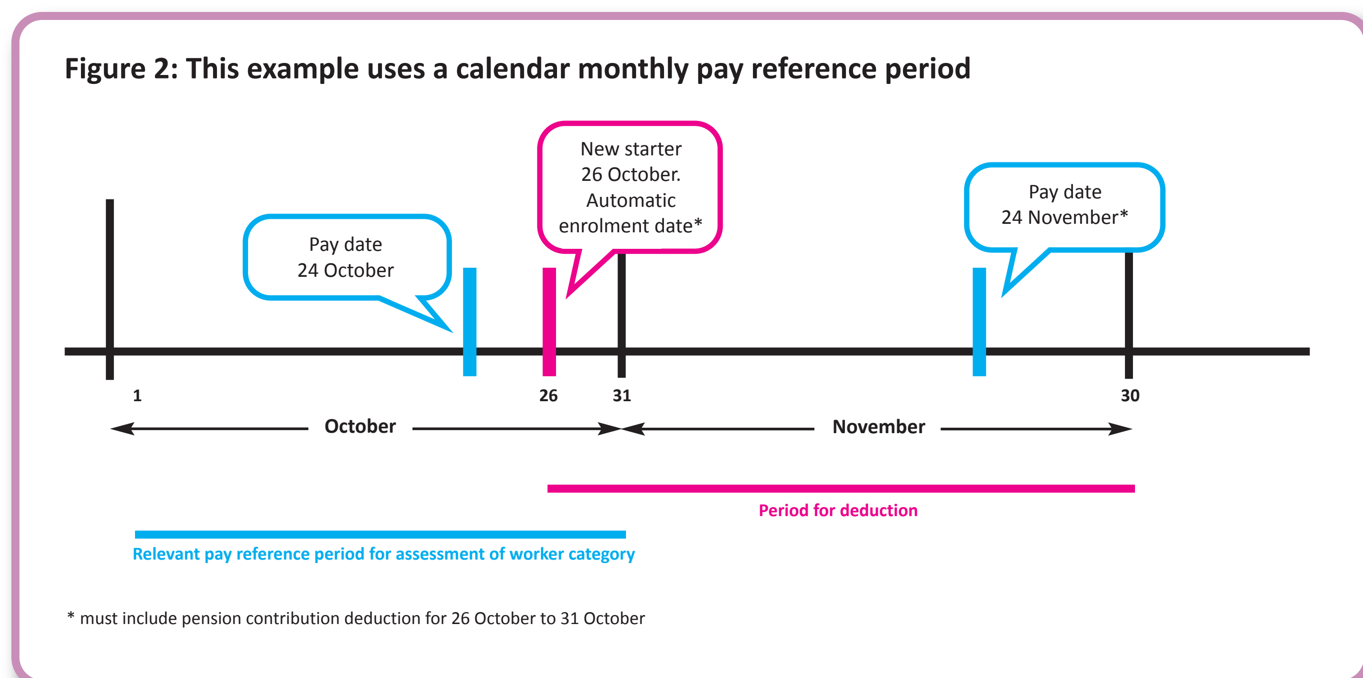
As we have mentioned already active membership of a pension scheme for **Eligible Jobholders** must start from the employee's **Automatic Enrolment Date**. This means that the first contributions are only due on earnings paid between the **Automatic Enrolment Date** and the end of the **Relevant Pay Reference Period** and thereafter for each subsequent **Pay Reference Period**. The Pensions Regulator has produced a diagram (see **Figure 1** which explains how this works).

Figure 1: This example uses a calendar monthly pay reference period



* must include pension contribution deduction for 14 October to 31 October
** must pension contribution deduction for 1 Novermber to 30 November

It could also be possible the first payment of pension contributions will be due for a period which is longer than the **Relevant Pay Reference Period**, if, for example, the **Automatic Enrolment Date** falls after your payroll date. Again the Pensions Regulator has produced a diagram to explain this (See **Figure 2** below).



In the case of employees who do not have to be enrolled automatically but who ask to join the pension scheme, pension contributions are due from the employee's **Enrolment Date.**

How do I deal with back pay?

Back pay can cause particular difficulties for **Automatic Enrolment**. As discussed in **Leaflet 4-Will I need to change how I do things?** pay in the **Relevant Pay Reference Period** used for assessing employee categories is the pay that is due to be paid regardless of the pay period it relates to.

If, for example, your employee completes three weeks' timesheets late and you pay all three in one go, you may need revisit previous weeks' assessments to establish what would have happened if the employee had been paid when his or her earnings were due.

It is important for you to establish your organisation's definition of 'due'. If it depends when the work was done, then it's likely a review will be necessary. If it's based on when the timesheets were submitted then you will not have to take any corrective action.

Since reviews are is likely to be time-consuming, and if not completed could result in a breach of the new pension saving rules, it's preferable to minimise the potential for back pay, either by adjusting your HR processes, or by exploring the scope for redefining when pay is 'due'.

Enrolment Date

The **FIRST** day of the **Pay Reference Period** after you receive the **Opt-in** notice.

Except

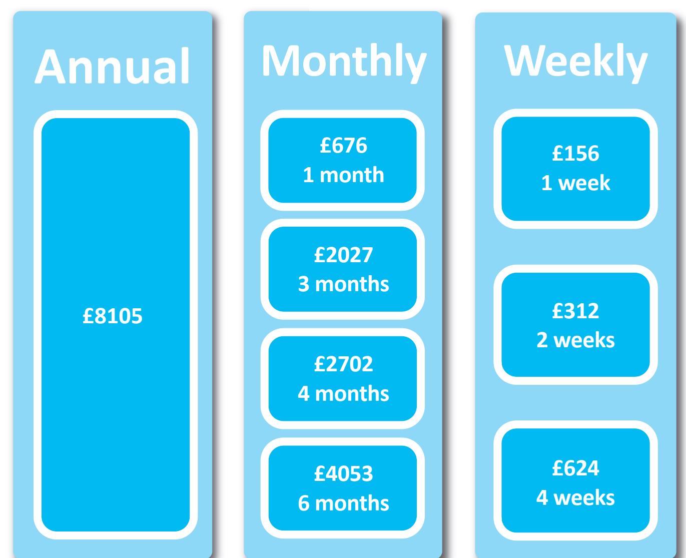
If you have already closed your payroll when you receive the notice, the **Enrolment Date** *is:*

The **FIRST** day of the **2nd Pay Reference Period** after the date you receive the notice.

What if my employees have spikes in their earnings?

It is possible for an employee who earns less than the triggers for **Automatic Enrolment** in a year (see the diagram below) to be eligible for **Automatic Enrolment** because of a temporary spike in earnings arising, for example, from overtime or a bonus.

Earnings triggers for different pay periods (2012/2013 figures)



Postponing enrolment dates

Discussed in **Leaflet 4-Will I need to change how I do things?** postponing enrolment dates is an effective way to minimise the number of employees you have to automatically enrol, particularly if they are only eligible due to temporary spikes in their earnings. This could help you to decrease your pension contribution costs and reduce the administrative burden of enrolling employees, with potentially very small contributions, who in any case are quite likely to **Opt-out** afterwards.

How do I use postponement?

When your employee first becomes eligible, (for example, a weekly paid employee doing overtime that increases their earnings above £156) you can postpone their enrolment date for up to three months.

As mentioned in **Leaflet 4-Will I need to change how I do things?** the period of time you delay the enrolment is called the **Postponement Period**. The last date of the **Postponement Period** is known as the **Deferral Date** and is the date when you have to assess your employee to see if he or she meets the criteria for **Automatic Enrolment**. If on the **Deferral Date** the employee qualifies as an **Eligible Jobholder** you have to automatically enrol him or her into pension saving.

If the employee does not meet the criteria for an **Eligible Jobholder** on the **Deferral Date** you can postpone **Automatic Enrolment** until the next time earnings match the relevant earnings trigger. And you can continue to do this as many times as you want.

Of course each time you postpone the employee's enrolment you have to issue a notice explaining that you are postponing. These notices are explained in more detail in **Leaflet 4-Will I need to change how I do things?** Obviously you need to bear in mind if notices are issued continuously this could become a frustrating experience for the employee.

Multiple postponements like these are useful if you have high numbers of weekly paid employees with variable earnings that oscillate around the earnings trigger or where you pay bonuses which push the employees into the **Eligible Jobholder** category.

It's possible, however, your HR and reward strategy will want to avoid the use of multiple postponements if, for example, you are keen that as many of your employees as possible will be enrolled into pension saving. If this is the case, you need to be aware that as these employees may not ordinarily be eligible for **Automatic Enrolment** at the time you wish to enrol them, you may have to establish pensions scheme membership via their contract of employment.

Re-enrolment

Re-enrolment needs to be before a fixed date in your calendar. You can choose your re-enrolment date three months either side of the third anniversary of your **Staging Date** (or previous re-enrolment date). On the re-enrolment date, you must assess all those employees who are not members of a **Qualifying Pension Scheme** and automatically enrol those who qualify as **Eligible Jobholders**.

You can, however, choose not to automatically enrol anyone who **Opted-out** within twelve months of the re-enrolment date. It's important you recognise the re-enrolment date is **not**, as some people assume, an employee-specific date ie it is not three years from the date when the employee **Opted-out**.

Can I not treat all my employees the same?

You can treat different groups of employees in the same way. For example, offer the same pension scheme benefits to **Non-eligible Jobholders** and **Entitled Workers**, or automatically enrol **Non-eligible Jobholders** and well as **Eligible Jobholders**. In theory this seems uncontroversial because you will be doing more than the new pension saving rules require. In practice, this kind of consistency may be hard to achieve.

For example, if you want to automatically enrol **Non-eligible Jobholders** or **Entitled Workers** you will need to set up pension scheme membership under a contract of employment. This is because you only have the legal right to automatically enrol **Eligible Jobholders**. If you do allow your **Entitled Workers** to **Opt-in** to your **Automatic Enrolment Scheme** you need to remember that their rights and what you have to tell them will be different from the information you need to provide to **Eligible** and **Non-eligible Jobholders**.

If you need to remind yourself about any of the terms on this page, the obligations you have to your employees or what you must tell them, read **Leaflet 1-What are the new rules, Leaflet 4-Will I need to change how I do things?** and **Leaflet 5-What do I need to tell my employees**

Dealing with queries

Your employees are likely to have many questions about the new rules for pension saving. They will want to know how they will be affected, why they have been treated in a particular way and what they should do.

An effective communication strategy should ensure your employees hear about the new rules for pension saving and what's going to happen well before any pensions contributions start to be taken from their pay. Nevertheless you will need to have plans in place to deal with your employees' questions. This may involve briefing supervisors, managers and HR staff about how to deal with these queries, providing online or offline FAQs, or establishing a central point for handling questions.

You will also need to make sure that any of your staff who are responsible for talking to your employees fully understand the parameters for providing financial or investment advice ie that they should be careful not to provide this level of advice unless they are regulated to offer this level of support.

And finally

The Pensions Regulator has produced a decision tree which summarises 7 key steps to prepare for **Automatic enrolment**.

What do I need to do now?

1. Make sure your payroll can cope with the requirements of **Automatic Enrolment**.
2. Review your data processing, in particular, how HR passes information to Payroll.
3. Seek advice about any contractual agreements you intend to use.
4. Decide how you intend to deal with employees/groups of employees where complying with the requirements of **Automatic Enrolment** may not be straightforward.
5. Seek advice if you are not absolutely sure you applying the new rules for pension saving correctly.

Other sources of information

There is a variety of information about the new rules for pension saving on websites:

http://www.direct.gov.uk/en/Pensionsandretirement planning/ Companyandpersonalpensions/Workplace Pensions/ DG_183783
http://www.dwp.gov.uk/policy/pensions-reform/workplace -pension-reforms/
http://www.thepensionsregulator.gov.uk/employers/ employers-in-depth.aspx#s967

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