

Guidance for employers on stakeholder pensions

Introduction

The 'Welfare Reform and Pensions Act 1999' requires employers to offer their relevant employees access to a stakeholder pension scheme, unless they are exempt.

The detailed legislation is set out in The Stakeholder Pension Schemes Regulations 2000.

Employers who are not exempt must provide their employees with access to a stakeholder pension scheme.

(please note that when we use the term 'provider' on these web pages, this is intended to encompass both trustees and stakeholder managers)

Providing stakeholder pensions

Exemptions

The legislation includes a number of instances where employers are exempt from the requirement to provide access to a stakeholder pension scheme. The exemptions apply:

- to employers with fewer than five employees;
- where an employer offers a personal pension that satisfies certain criteria;

Does offering employees a personal pension exempt employers from having to offer a stakeholder pension?

An employer may be exempt if:

- it is a term of each employee's contract that the employer will contribute at least 3% of basic pay into a personal pension on the employee's behalf;
- he/she offers a payroll deduction facility to members of the scheme; and
- the scheme imposes no penalties on employees who transfer out of the scheme or stop making contributions.

Notes:

- i. If this information is not in each relevant employee's contract, the exemption can still be claimed provided there is written evidence demonstrating that contributions are being made by the employer as above.
- ii. Employers' contributions can be conditional on the employee contributing the same amount.
- iii. Employers can contribute more than 3% but cannot require an employee to pay more than 3% of basic pay (calculated before tax and National Insurance etc).
- iv. Basic pay excludes commission, overtime and bonuses.
- v. For arrangements in place before 8 October 2001, matching contributions may be allowed at whichever rate has been agreed between employee and employer.

Employees who are not covered

Employers do not need to provide access to a stakeholder pension for:

- employees who are eligible to join the employer's occupational pension scheme within 12 months of starting work, except those aged under 18 or within five years of normal retirement age in the scheme;
- employees who have not worked for the employer for three months or more in a row;
- employees who have continuously earned below the lower earnings limit for the last three months;
- employees who are prevented by Inland Revenue restrictions from making contributions to a stakeholder pension scheme;

However, employers who are not required by law to provide access to a stakeholder pension may still wish to do so on a voluntary basis.

What do employers have to do?

The legislation requires employers to:

- designate a registered stakeholder pension scheme having consulted with relevant employees;

- provide employees and organisations representing them with basic information about the scheme;
- offer payroll deductions from an employee's earnings;
- maintain records of employee deductions and payments to the scheme.

Designating a stakeholder scheme

Identifying a stakeholder pension scheme

'Designation' is the term used to describe the process where an employer formally selects a stakeholder pension scheme which his or her employees are invited to join.

An employer can pick a scheme by:

- looking at the list of registered stakeholder pension schemes on the the Pensions Regulator's website;
- looking out for stakeholder pensions advertising;
- choosing a stakeholder pension scheme offered by a provider;
- using the services of an IFA or consultant to identify a scheme;
- choosing a scheme specifically for people in his or her type of business; or
- asking employees for their views.

Having identified a stakeholder pension scheme the employer must:

- make sure the scheme is on the Pensions Regulator's register of stakeholder pensions; and
- consult with employees and their representatives about the choice of scheme.

When the employer has decided on a scheme they should formally record the decision and:

- tell employees which scheme is designated; and
- give staff information about the scheme.

Employers must designate at least one scheme which will allow all relevant employees to join. Employers can designate more than one scheme if they wish.

Employees may join any scheme, but can only request payroll deductions relating to the employers designated scheme.

Before choosing a registered scheme provider, employers should look at their payroll and accounting systems to assess how easy it will be to manage the deduction of contributions. If this is not going to be straightforward, it might be worth selecting a provider who can set up payroll deduction facilities as part of their service.

Once a scheme has been designated, the employer has a responsibility to check periodically that the scheme is still registered with the Pensions Regulator. However, an employer is not liable for the performance of the designated stakeholder scheme.

Consulting with employees

The Welfare Reform and Pensions Act 1999 requires employers to consult with relevant employees and any organisations representing them before designating a scheme.

The consultation process is not laid down in regulations, so the means of consulting employees is for the employer to decide. There may already be a formal consultation procedure established; employees may be given details at a meeting; or they may be sent information and then asked for their views before the employer makes a final decision.

Employers only need to consult 'relevant employees - that is those who would be eligible to join the scheme.

Employers may also choose to provide additional information to employees, such as DWP or FSA leaflets.

Providing details of the scheme(s)

Once an employer has chosen a registered scheme, they must give certain information to employees about the scheme. This must include the scheme name and address. It may also be helpful to supply a telephone number or other contact details.

Its possible that the scheme may produce its own literature that could be used for this purpose. Employers may decide to allow the scheme providers to visit or contact employees in the workplace.

Time limits for designating a scheme

An employer who was previously exempt will have three months to comply from the time when he or she becomes liable under the regulations.

An employer who ceases to be liable and then becomes liable again, will have three months to designate a scheme from the point of becoming liable once more. For example, an employer with six employees is liable to comply, however if two people leave then the employer no longer has to comply. If the employer subsequently hires a further person they will once again be subject to the requirement.

If the employer decides to withdraw from the designated stakeholder scheme they must designate a new scheme before withdrawing from the previous one

If the employers designated scheme has its stakeholder registration withdrawn, the employer will have four months to designate a new scheme.

Provision of advice

An employer can provide help and guidance, give additional information or interpret the information, but should be careful not to advise employees. The provision of financial advice is strictly controlled by the FSA.

Employees wishing to join a different scheme

If an employee is unhappy with the designated scheme, they can choose their own scheme; but in this situation individuals will be responsible for making their own payments to the chosen scheme. If a new employee is already contributing to a different scheme they can continue to pay the provider themselves, or transfer to the employers designated scheme in order to benefit from payroll deductions.

If requested by the employee, the employer must deduct contributions from the employees salary for payment into the designated scheme, or any previously designated schemes to which at least one employee is still contributing. However, they may choose to help their employees by paying into any scheme of the employees choice.

Deducting contributions from employee salaries

Contributions to a stakeholder pension

Where an employer provides access to a stakeholder pension, they must also offer the facility to deduct employee contributions from pay. However, employees can choose to pay pension contributions direct to the scheme themselves.

Setting the level of contributions

Employee contributions to a stakeholder pension scheme are voluntary. Once the employer has designated a scheme, employees wishing to contribute must individually decide how much they wish to contribute and how often.

The scheme is responsible for setting its own minimum contribution, but the law says that the minimum contribution cannot be set at more than £20. Contributions can be made weekly, monthly or at other intervals. One-off payments can be made at any time.

The contribution amount deducted from pay can be a:

- fixed sum agreed between the employer, the employee and the scheme provider; or

- a percentage of pay.

Whether pay (for calculation purposes) includes additional elements such as overtime is at the employers discretion.

Stakeholder pension contributions must be deducted from employees pay after tax, National Insurance and other compulsory deductions.

Changes to the amount contributed

When an employee joins an employers stakeholder pension scheme, employers must explain the process and rules for employees requesting a change to the amount they contribute.

No charge can be made for changes to the amount contributed to a stakeholder pension.

The amount can be changed at the individual employees request. However, an employee cannot request more than one change every six months - unless the employer agrees to more frequent changes.

The employee can ask for payroll deductions to stop at any time.

If the employer refuses to accept the employees request to change the amount contributed, then the employer must write to the employee and explain why. If the request has been refused because more than one change has been made within the last six months, then the employer should tell the employee when they can next request a change.

If an employee needs to change the amount contributed more frequently than every six months, it might be worth the employee paying into the scheme direct (rather than via the payroll).

There must not be any charge if a person stops paying into their stakeholder pension.

Making sure the correct amount is deducted

It is the employers responsibility to ensure that the percentage of pay has been calculated correctly and forwarded to the scheme provider.

The deduction is made from the employees net pay, which is defined as pay after the deduction of tax, National Insurance and other compulsory deductions.

If there is insufficient money to make the full deduction, then no deduction should be made.

The Inland Revenue determines the maximum amounts that individuals can contribute into a pension fund.

The scheme administrator will make a claim to the Inland Revenue for tax relief at basic rate for all members. The members' tax refunds will be sent to the scheme administrator by the Inland Revenue. Higher rate taxpayers may claim the balance of tax relief due through self assessment.

Making payments to the scheme on time

There are set time limits for paying over the employees and any employers contributions to the stakeholder pension scheme.

The employer must pay over the employees contribution to the scheme provider within 19 days of the end of the month in which the deduction was made. For example, deductions made in February will have to be paid by 19 March at the latest, regardless of the frequency of the deduction. Failure to do so is an offence, which could result in a fine. It would therefore be sensible to arrange a payment date early in the month.

If the employer decides to contribute to the scheme, they can agree a separate payment date with the provider for the employer contributions.

The provider will use the payment record as a monitoring tool to ensure that the correct payments are made and that they are received by the due date.

If the amount of employee contributions paid differs from what's shown on the payment record (perhaps the employee has decided not to contribute in a particular month), the employer must make sure that the provider knows why.

It is an offence for an employer to breach these requirements, and a breach could result in the employer being fined by the Pensions Regulator or even taken to court.

Payment methods

There are no defined methods of payment. It is for the employer and the scheme provider to agree the method.

Payment methods to the scheme could include:

- cheques sent direct
- direct credit
- direct debit
- Internet facility, using direct debit.

Providers are permitted to refuse to accept payments in cash or by credit card.

Record keeping

Record keeping is a key part of the deduction arrangements. The employer must keep up-to-date records of the amounts and dates of contributions from employees and the employer. This record enables the scheme provider to monitor that the correct payments have been made and that they have been made on time.

There is no pre-defined method of providing employee information relating to the payment. The employer and provider can agree a mutually satisfactory method of achieving this.

The employer should confirm the recording arrangements in conjunction with the scheme provider.

Once the amounts of contributions are agreed, the details which must be recorded include:

- employers name;
- scheme contracted out number;
- employees name(s);
- employees National Insurance number;
- amount of contribution by the employee;
- dates when the contribution is to be deducted from the employees pay (frequency);
- date of payment to the trustee/scheme manager;
- employer contribution (if appropriate) - this should be shown separately;
- due date for employer s contribution.

After the completion of the record, the employer must send a copy to the scheme provider who will monitor the arrangements.

If there are changes to the amount originally agreed, the record must be updated and sent to the provider by the first due date on the record following the change.

If individuals are added to or removed from the payroll deduction facility, the details should be noted on the record and sent to the provider by the first due date on the record.