

calculating future requirements

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The Pensions Bill, currently going through Parliament, may bring about significant changes to the ongoing structure of UK pension provision in both the short and medium term.

Here, **Adrian Walker** focuses on the review of Personal Accounts – an area that will have a wide impact on the pension market.

From April 2012 employers will be required to automatically enrol eligible employees into a qualifying pension scheme or participate in the Personal Accounts Scheme.

An eligible employee is one who:

- Ordinarily works in England, Scotland or Wales and is aged between 22 and State Pension Age.
- Is paid qualifying earnings in the band £5,035 to £33,540 (2006/07 terms), increased by annual earnings growth. The earnings will include salary, wages, commission, bonuses and overtime, statutory sick/maternity/paternity/adoption pay.

A qualifying pension scheme can take the form of either a registered occupational scheme or a personal pension scheme (referring to a personal pension or collection thereof to which the employer makes a contribution).

qualifying money purchase scheme – funding criteria

The qualifying criteria for a money purchase scheme requires an employer contribution of at least 3% of qualifying earnings, and total contributions (both employer and employee) of at least 8% of an employee's qualifying earnings in the pay reference period. There is currently a proposed three-year phasing-in period by the end of which the full funding rate must be achieved. It is not yet clear whether third-party contributions on the employee's behalf will be treated as employee contributions for this purpose.

This criteria will cause employers significant difficulty, not just in monitoring their qualifying status but also in terms of employee remuneration. The qualifying earnings detailed above include fluctuating elements as well as other statutory benefits in the band £5,035 to £33,540.

Current proposals require a qualifying personal pension scheme to monitor whether the proposed contribution rate of basic pay is greater than or equal to contributions based on 8% of total pay between £5,035 and £33,540. A provider is unlikely to hold this level of salary information, so monitoring is likely to involve additional administrative costs.

If an employee has basic earnings of at least £28,505 (based on the qualifying earnings band of £5,035-£33,540) or above, the requirement to check against qualifying earnings falls away (assuming they meet the 8% rule) since sufficient contributions are guaranteed. Put another way, employers with employees whose basic earnings are less than £28,505 could be affected.

automatic enrolment

To comply with automatic enrolment requirements the scheme must not require the employee to express a choice

the pensions regulator

Employers will be required to provide The Pensions Regulator (TPR) with information about how they will meet their obligations. TPR will use this information to assess an employer's compliance with the requirements and enforce these duties by sanctioning the non-compliant.

It will be able, by regulation, to determine a fixed penalty of up to £50,000 for employers who ignore the requirements. Following warning notices, escalating penalty notices can be issued daily up to a maximum of £10,000 for serious failures to comply.

Wilful failure to comply with the requirement to automatically enrol, re-enrol eligible jobholders or enrol jobholders when asked to do so can result in a prison sentence of up to two years.

or provide information in order to remain an active member, for example the member will not have to choose which investment fund in which to invest.

There will be no duty for employers to automatically enrol individuals into another scheme if they are already in an existing workplace personal pension arrangement that meets the money purchase qualifying criteria.

Employers will have to deal with the enrolment issue for new workers and those who have not previously joined a workplace personal pension arrangement. This may include employees without qualifying earnings but who may require an employer to enrol them into the qualifying pension scheme where there is a direct payment arrangement in place. However, the employer will not be required to make any contribution for that member.

contribution limits for personal accounts

The annual limit on contributions to Personal Accounts will be £3,600 (set at 2005 earnings levels), increased in line with average earnings growth from 2005. Money Purchase Schemes will be allowed to reject small contributions on grounds of financial viability without affecting their quality scheme qualifying status. There is as yet no decision on a higher contribution limit in the first year, although the Government is considering a figure of £10,000.

transfers to and from personal accounts

There will be a general ban on transfers between Personal Accounts and alternative registered pension schemes. However, in certain circumstances individuals will be allowed to move funds into and out of Personal Accounts. Examples of these are where Personal Accounts will be able to receive an early leaver's cash transfer sum, or a pension credit resulting from a pension share. The prohibition on transfers will be reviewed in 2017.

personal accounts scheme

Employees will be automatically enrolled (unless a member of a qualifying scheme) into the Personal Accounts Scheme. They will be able to opt-out of Personal Accounts in the prescribed period and any employer/employee contributions must be refunded in accordance with prescribed requirements.

The scheme is also available to:

- non-employees, including the self-employed and non-workers.
- employees who are outside of the age range (22 to State Pension Age) with access to employer contributions, if their earnings fall inside the earnings band, up until age 75.

Those who opted out of saving will be re-enrolled by their employers into a

qualifying scheme or Personal Accounts Scheme, initially at intervals of three years.

deferral periods

Automatic enrolment will normally take place immediately after an employee becomes eligible. However, where employers offer defined benefit schemes or make contributions greater than the minimum required to money purchase schemes, it will be possible to have a waiting period before the employer is required to undertake enrolment. From Government comment it would appear likely to be a three-month period, but a definitive position will be set by future regulation.

summary

The funding requirement will be a major consideration in whether employers with current money purchase group personal pension or occupational schemes will need to review future pension provision for their employees.

While 2012 may seem a long way off, there is a need to consider what the issues may be and possible structures of future employee retirement provision. Advice in this area will be key, and continued scrutiny of developments relating to both Personal Accounts and the exemption criteria is essential in ensuring employers and their employees are not caught unawares. ●

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