

GREY PAPER NO. 22

March 2014

LOGO

AUTOMATIC ENROLMENT INTO A WORKPLACE PENSION

This is an addition to Grey Paper No. 11 (Sept. 2004) "Employment Law for Theatres" and only covers the automatic employment requirements into a workplace pension for eligible employees. It contains information which is current as at January 2014. Some of the information may become inaccurate over time, for example because of a change in the law.

INTRODUCTION

The Government has introduced legislation to reform Pensions. This Grey Paper provides an overview of the main points but Theatres may wish to take their own individual advice.

The Government's Pension Reform has two related but distinct strands:-

- ☐ The introduction of auto-enrolment and compulsory employer contributions.
- ☐ The introduction of the National Employment Savings Trust (NEST)

STAGING DATE – WHEN AUTO-ENROLMENT BECOMES EFFECTIVE

☐ For Theatres that employ under 30 employees the auto-enrolment requirements become a statutory requirement sometime between 1st January 2016 and April 2017. For Theatres that employ 30 or more employees the Staging Date will be prior to 1st January 2016. For theatres with under 30 Employees the exact date is known as the Staging Date and depends on your PAYE reference number. As an Employer you will receive at least 12 months notice in advance of your Staging Date. All Employers who were using a PAYE scheme on 1st April 2012 now have their Staging Date set. On your Staging Date an Employer may postpone the assessment of their employees for up to 3 months after their Staging Date.

☐ A full list of dates when Employers have to automatically enrol their workers can be found on the Pensions Regulator's website:-

www.thepensionsregulator.gov.uk/employers/tools/staging-date

EMPLOYEES SUBJECT TO AUTO ENROLMENT

All Employees should be classified into one of three categories:-

1. Eligible Jobholders (must auto enrol)
2. Entitled Workers (can request to join a scheme)
3. Non-Jobholders (can opt in to an auto enrolment scheme)

ELIGIBLE JOBHOLDERS

- ☐ They are aged between 22 and their State Pension Age and
- ☐ Reach the income tax threshold which is £9440 pa for the 2013/14 Tax year.

ENTITLED WORKERS

- ☐ They are aged between 16 and 74
- ☐ Their earnings are under the Lower Earnings Threshold which is £5668 pa for the 2013/14 Tax Year

NON-ELIGIBLE JOBHOLDERS

☐ They are aged between 16 and 74 and have earnings between the Lower Earnings Threshold which is £5668 and the income tax threshold which is £9440 pa (2013/14 Tax year)

NB:- The Secretary of State will review the earnings figures each Tax Year.

An Individual considered by HMRC as self-employed for tax purposes, may still be classed as a worker if they work under a personal contract of services.

AN EMPLOYEE'S RIGHT TO OPT OUT

☐ An Eligible Jobholder has a right to opt out of auto-enrolment. If this occurs within one month of the day they effectively become a member of the scheme, they will be treated as never joining the scheme and any payments made by them will be refunded. If they choose to opt out after this period depending on the scheme, the payments already made may not be refunded and will remain in the scheme until they retire.

☐ If a worker opts out or stops paying into the Workplace Pension the Employer has a duty to automatically enrol them back into the Pension Scheme at regular intervals, usually every 3 years.

CONTRIBUTIONS FROM EMPLOYER AND EMPLOYEE

The minimum contributions that have to be paid by employee and employer on Qualifying Earnings which are currently between £5668 and £41,450 (2013/14 tax year) are as follows:-

To October 2017 – 1% employer and 1% employee

October 2017 to 18 – 2% employer and 3% employee

From October 2018 – 3% employer and 5% employee

NB:- Employee contributions will qualify for tax relief at their highest marginal rate. For a basic rate tax payer this will have the effect of reducing their contribution by 20%.

WHO WILL PROVIDE THE AUTO-ENROLMENT PENSION SCHEME

Any Pension Scheme which meets the legislative requirements and can include the following:-

- ☐ Defined Benefit or final salary scheme
- ☐ Group Money Purchase Scheme
- ☐ Group Personal Pension
- ☐ Group Stakeholder Pension
- ☐ National Employment Savings Trust (NEST)
- ☐ Or other “super trusts”

NEST is a Government backed trust based defined contribution pension scheme. It was specifically established to support auto-enrolment and to make sure all UK employees have access to a suitable pension scheme for their employer duties. The scheme is not-for-profit and the Trustees have a legal duty to act in its members' best interest.

Further information about NEST can be found on their website at

www.nestpensions.org.uk/whatisnest

☐ Employers can elect to establish their own auto-enrolment pension scheme with a Provider whose product meets the legislative requirements. It is strongly recommended independent advice is sought before establishing such a scheme.

COMMUNICATING WITH YOUR WORKERS

☐ At the employer's Staging Date the employer needs to communicate with all its workers regardless of category providing details of its auto-enrolment scheme. Communications must be direct such as by letter, e mail, payslip or HR web portal.

☐ Each worker needs to be informed of their eligibility for the scheme on first joining a particular category.

GOVERNMENT AND ON GOING COMPLIANCE - THE ROLE OF THE PENSIONS REGULATOR (TPR)

TPR was established under the Pensions Act 2004 as an executive non- departmental public body, sponsored by the Department of Work and Pensions to monitor pensions schemes in the UK workplace. Its role is to maximise compliance with pensions regulations and to enforce if necessary.

If an employer breaches its compliance requirements the TPR can impose fines. It can issue fixed penalty notices (of £400) for breaches of non-compliance relating to auto-enrolment/re-enrolment, opt-ins, opt-out

refunds, or provision of information to workers. TPR can also issue escalating penalty notices for the most serious and persistent non-compliance.

The following safeguards have also been put in place to protect individuals:-

- ☐ Offer incentives to workers to opt out of their workplace pension.
- ☐ Offer incentives to workers during recruitment or imply that a worker can only be employed if they opt out of their workplace pension.
- ☐ Unfairly dismiss a worker because they stay in their workplace pension.

LEGAL DISCLAIMER

This Grey Paper, like many previously issued, is to be read as a guideline to the legislation, and the Guild and Michael Smith can accept no responsibility for any action taken upon its contents. All Theatres are again advised to take independent advice on any of the points raised here. This Grey Paper was prepared by **Michael Smith**.