

What is the significance of the recent easements concerning workers who are no longer subject to mandatory automatic enrolment?

Since October 2012, employers have been required to automatically enrol all UK workers who meet certain eligibility conditions into a qualifying workplace pension scheme.

Why have easements been introduced?

Employers have identified a number of scenarios where, even though an individual meets the eligibility conditions, there are good reasons why automatic enrolment may not be desirable or appropriate for them, or could have unintended consequences.

In such cases, the legislation required employers to automatically enrol the individual and then the burden was on that individual to take steps to opt out of the pension scheme.

The Government recognised these concerns and, following consultation, introduced new easements from 1 April 2015 which modify or remove the duty to automatically enrol an individual in certain circumstances.

When do the new easements apply?

The new easements cover four specific scenarios –

1. Where the employer has 'reasonable grounds' to believe that the individual has tax protected status (e.g. fixed protection).

2. Where the individual is in a notice period before leaving employment.

3. Where the individual was contractually enrolled into a qualifying workplace pension scheme and then opted out within the 12 months before an automatic enrolment [or re-enrolment] duty applies.

4. Where the individual has been paid a winding-up lump sum in the previous 12 months, subsequently left employment and then been reemployed by the same employer.

The easements are generally permissive, giving the employer a power or discretion to enrol an individual rather than being required to do so.

What is the potential significance of the easements?

They aim to simplify the administration burden for employer and employee by avoiding the need to enrol individuals whose circumstances mean they need to opt-out of the pension scheme very shortly after being enrolled.

Individuals with tax protection can now be spared the inconvenience of having to opt-out on a regular basis to avoid invalidating their protection and, triggering significant tax charges. Although this currently affects only a relatively small number of individuals, with the forthcoming reduction to the lifetime allowance it seems likely this will be increasingly relevant in future.

Employers who choose to contractually enrol their entire workforce will also no longer need to explain to frustrated employees who have opted out of the pension scheme shortly before an automatic enrolment duty arises (for example, before their 22nd birthday) that the employer will have to automatically re-enrol them.

In a broader sense, the changes are also an indication that the Government is willing and able to respond to feedback from employers in order to continue to develop and improve the automatic enrolment system.

What does this mean in practice?

As it is still relatively early days since their introduction it remains to be seen how much of an impact the easements will actually have in practice.

However, it is worth noting that:

- the easements are narrowly drafted and are only expected to cover relatively few individuals
- practical issues may affect an employer's ability to make use of the easements. For example, are their systems capable of picking up the date on which a member hands in their notice and then excluding them from the usual automatic enrolment process? Employers will also still be reliant on individuals to tell them at an early stage that they have tax protections
- the easements were introduced rather late in the day for many larger employers who already have established systems based on the original requirements. They will need to decide whether to make changes now or whether it is in fact 'simpler' to maintain the status quo. ■



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