

TECHNICAL BRIEFING NOTE

Workplace pension reform – categories of employee

This information is intended for HR professionals, pension trustees and individuals responsible for decision making on corporate pension schemes, and must not be relied upon by anyone else.

Which employees must an employer provide a pension scheme for under workplace pension reform?

The government's workplace pension reforms impose new duties on employers to make pension provision for their UK workers.

An employer's obligations, however, are different for jobholders and other workers. A **jobholder** is a UK worker aged between 16 and 75 who has qualifying earnings.

- Jobholders aged between 22 and State Pension age who earn at least the basic income tax personal allowance (£7,475 in 2011/12) must be auto-enrolled into a qualifying pension scheme within a strict timescale (if they are not already a member of one) - unless they opt-out. These are known as **eligible jobholders**.
- Jobholders aged under 22 or over State Pension age, or earning less than the basic income tax personal allowance, do not have to be auto-enrolled into a qualifying pension scheme - unless they opt-in. Employers must tell such employees about their right to opt-in.
- Employees who would be jobholders if they had qualifying earnings can tell their employer to include them in a registered pension scheme. However, this doesn't have to be a qualifying pension scheme. Again, employers must tell such employees of their right to be included in a pension scheme.
- **Accidental jobholders** are workers who don't normally have qualifying earnings, but have unusually high earnings in a particular week or month (perhaps because of an annual bonus payment or high overtime levels) which are in the qualifying earnings band for that pay reference period. Such workers do not have to be treated as jobholders unless their total expected earnings for the 12 month pay reference period would result in them having qualifying earnings.

People with more than one job

Where someone has more than one job, these rules apply separately to each employment.

Who is a 'worker' for the purposes of workplace pension reform?

An individual is a worker for the purposes of the government's workplace pension reforms if they have a contract of employment (or any other contract to do work or perform services personally) with the employer. It doesn't matter whether the contract is express or implied, written or verbal. It also doesn't matter whether the employee is on a temporary or fixed-term contract, or if they work full-time or part-time.

It should normally be relatively straightforward for an employer to identify whether an individual is a worker they have pension obligations for. It may, however, be more difficult in relation to:

- company directors; or
- agency workers with no contract of employment.

Company directors are not workers unless:

- they are employed by the company under a contract of employment; and
- there is at least one other person who is employed by the company under a contract of employment.

This means that one person companies are always exempt from the government's workplace pension reforms.

Agency workers who do not have a contract of employment are treated as employees of whoever pays (or is responsible for paying) them for their work. This could be the agency or the principal the work is done for.

Excluded employees

Members of the Armed Forces are not workers, but others in Crown employment and members of the police, fire or health services are.

Employees working offshore, or on a ship, are not workers.

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