

STAKEHOLDER PENSIONS - The Final Countdown

In April 2001, as a result of concerns at the number of people who are not making adequate provision for their retirement, the Government made it a legal requirement for many employers to offer employees access to a stakeholder pension scheme.

Despite widespread publicity at the time recent research has found that over 10% of firms have yet to arrange or implement a stakeholder scheme. The deadline for providing such schemes to all employees is 8 October 2001, after which date employers of 5 or more workers could face fines of up to £50,000. The aim of this bulletin is therefore to re-cap on the main details of the scheme ahead of the October deadline.

What is a stakeholder pension scheme?

Stakeholder pensions are designed to be secure, low-cost, flexible pension arrangements. They are defined in the Welfare Reform and Pensions Act 1999 as any "pension scheme" (e.g. occupational or personal) which is registered as such with the Inland Revenue and OPRA (the Occupational Pensions Regulatory Authority). In order to qualify to be registered, the scheme must meet minimum standards which include the following:

- A stakeholder pension scheme cannot charge more than 1 percent a year on the value of each member's funds and the types of charges and deductions that can be made are restricted;
- the scheme must accept transfers in, and there must be no additional charge for transferring to a different stakeholder pension;
- the minimum contribution to a stakeholder pension cannot be more than £20 per month;

To make sure all stakeholder pensions schemes are run in the interests of their members, these schemes will either have trustees, or they will be run by scheme managers authorised by the Financial Services Authority.

If the employer is required to offer access, what next?

If an employer has identified "relevant employees" to whom a stakeholder pension should be offered, access must be given by 8 October 2001. Employers should be aware that providing access does not mean that the employer has to set up and run a pension scheme, nor does it mean that the employee or the employer are obliged to make contributions to the scheme.

Where an employee does decide to make contributions, there is no corresponding obligation on the employer to make any contributions. The employer will, however, need to follow the steps below:

1. Choose a registered stakeholder pension scheme or schemes from the list of registered pension schemes held by OPRA (www.stakeholder.opra.gov.uk).
2. Formally consult employees who qualify for access regarding the choice of scheme (or schemes) and any organisations which represent them (such as trade unions and staff associations). While it is for the employer to determine the method of consultation, written details of proposed schemes should be distributed to all employees and their views on the proposals sought and considered. It is the employer's decision as to which scheme is ultimately chosen, providing that all "relevant employees" are eligible to join.

3. Provide employees with details of the chosen scheme including a contact name and address for contact. The law requires that the designated scheme provider should have "reasonable access" to the workforce. As such, employers may wish to allow a representative from the scheme to visit the workplace to discuss the benefits of joining with the employees.
4. Arrange to deduct contributions from employees' pay, for those who have chosen to participate in the scheme. Provide employees with details of the deduction arrangements and corresponding details of the employee, and their payments, to the scheme provider. Each employee determines the amount and timing of payments to be made on his/her behalf.
5. Send the contributions to the scheme provider within given time limits, keep records of all payments made, and inform the scheme provider of any changes to the timing or amount of payments.

Regulatory provisions

OPRA will register stakeholder pensions schemes and monitor their implementation.

OPRA will also ensure that employers are complying with their obligation to offer access to stakeholder pension schemes. Employers who do not offer access to relevant employees will be reminded of their obligation by OPRA, which has the ability to impose penalties on employers who deliberately avoid providing access.

Stakeholder pension scheme providers must check that all the payments they receive are on time and for the agreed amount. The scheme provider must report to OPRA if payments are late, not made or reduced without explanation. OPRA will investigate any such reports.

Employers may be fined by OPRA for not keeping a record of the payments the employer makes to the scheme, whether from the employee's salary or otherwise or if it fails to keep those records up to date. OPRA may also fine an employer for failing to provide corresponding records to the scheme provider, failing to inform the provider of changes or failing to make correct payments to the provider on time.

Conclusion

Although some employers may question whether it is appropriate for them to be concerned about the future welfare of their workforce, post-retirement or whether they should be required to incur expenditure in order for their workforce to make financial provision for retirement, as from 8 October 2001, provision of access to a stakeholder pension scheme will be compulsory. The first issue that the employer needs to address is administration, i.e. enlarging the remit of existing accounting, book-keeping and payroll functions to encompass the legal requirements of the stakeholder pension legislation. Once the financial impact of the new legislation has been assessed, employers may then feel more inclined to consider the social implications of the legislation and turn their minds to contributing to their designated scheme, although this is not a requirement of the legislation. Given the combination of an ageing population and increased employee rights and protection, could this be a compulsory requirement in the future?

September 2001

If you would like more information about the issues raised in this article, please telephone and ask to speak to Noel Deans, Belinda Copland or Helen Wyatt.

This guide is for general information and interest only and should not be relied upon as providing

specific legal or pensions advice.

[Top ^^](#)

This guide is for general information and interest only and should not be relied upon as providing specific legal advice. In relation to any particular matter, readers are advised to seek advice.

further information:

If you would like more information about any of Goodman Derrick's Employment Law services please telephone and ask to speak to a member of the Employment Group.

Goodman Derrick
90 Fetter Lane
London EC4A 1PT

tel +44 (0)20 7404 0606
fax +44 (0)20 7831 6407

e-mail law@gdlaw.co.uk