

28 August 2015

3HR Legal Weekly

Employee Benefits

Automatic Enrolment – making postponement work for you

When staging for Automatic Enrolment (“AE”), a company must have made suitable arrangements to ensure that their pension scheme complies with their employer duties by the staging date. The introduction of postponement into the design of an Auto-enrolment solution does not allow an employer to delay this staging date, but can be used in a way that alleviates some of the burden placed upon them by the staging process, all the while ensuring that they still comply with their regulatory obligations.

By using postponement, the assessment and automatic entry of a company’s workforce onto a pension scheme can be deferred up to a maximum of three months - an employer might choose to do this, implementing a deferral period through postponement, for multiple reasons:

- To stagger the enrolment of different groups of workers over the deferral period, thus limiting the overall impact from staging into manageable workloads.
- The alignment of different groups of workers’ pay-reference periods with enrolment dates, allowing pension contributions to be calculated on full rather than partial pay period earnings.
- The avoidance of temporary or short-term staff workers being enrolled.
- The avoidance of employees with variable earnings being enrolled, due to occasional fluctuations in salary.

The options available to the employer allow the pension scheme to be designed to fit the unique circumstances of their business.

It must be noted that although postponement introduces a deferral to the employees’ automatic enrolment, jobholders who are not currently active members of a qualifying scheme will be given the option to opt in during this period. Additionally, any employee defined as an entitled worker will have the right to join the pension scheme. If postponement is to be implemented, it is an employer’s duty to issue a postponement notice to the workforce, notifying them that their automatic enrolment has been postponed and of any opt in rights they may have.

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Immigration

Possible Changes to the Tier 2 System

Q. I have heard that the Migration Advisory Committee (“MAC”) are considering changes to the Tier 2 system. Is there anything we should be aware of?

A. The MAC consider current immigration law and practices and make recommendations for change to the government. At present, they are still in the process of considering matters and there are no confirmed changes yet.

However, one of the issues currently being considered is to significantly restrict the Tier 2 (General) route for employing migrant workers. The current system allows sponsor companies to recruit such migrant workers to fill a role that is skilled to NQF Level 6 (and so falls within one of the job types specified by the Home Office) – if there is no suitable settled worker who can fill the role. The MAC are considering whether the ability to employ Tier 2 (General) migrants should be restricted to jobs falling within the Home Office approved list of shortage occupations or that is otherwise considered by the Home Office to be a highly skilled position.

If such a change is made to the current Immigration Rules then this seems likely to prevent the vast majority of the current types of jobs most of our clients offer on a Tier 2 (General) basis. There is no indication yet of how likely it is that a change like this will actually be introduced. However, if you do have any roles that you are currently considering to be filled by a Tier 2 (General) migrant then it may be prudent to make such applications as soon as you are in a position to do so, since changes to the Immigration Rules (in this regard) could be brought in early next year.

3HR regularly assists clients with all aspects of immigration law, including Tier 2 (General) applications and any associated Restricted Certificate of Sponsorship and Resident Labour Market Test work.

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