

The Professional Passport Contractors Guide

The Contractors Guide to Pensions Auto Enrolment



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SETTING THE STANDARDS

An Introduction to Professional Passport



Crawford Temple
Chief Executive Officer
Professional Passport

Professional Passport started back in 2007 as a direct reaction to the MSC Legislation and the threat of debt transfer.

Working with HMRC to gain a full understanding of how they intended to apply the new legislation allowed us to develop the first provider audit standard of compliance in the market.

It is said that imitation is the best form of flattery and since our ground breaking work in 2007 others have tried to follow, with varying degrees of success. Professional Passport still remains the largest independent standard of compliance across the service provider sector.

Our audited and approved providers are relied on by some of the largest recruitment companies and their contractors.

Our unique IT contractors PI and PL insurance not only saves contractors money but ensures you only pay when you are contracting and it automatically covers the whole liability period; so you don't need run off cover - a further saving.

Our members helpline provides unlimited access to experts to help you with all your questions and queries; this is available to our Professional Members.

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Professional Passport continues to grow and adapt our services to the market in line with the ever changing legislation. Almost a year ago now we launched our Network Jobs Site, once again a first in the market. The free to post networked jobs site was designed and developed as part of our early preparation for the Agency Workers Directive. We also launched a quick and easy site for contractors to set up their own limited companies, Professional Passport Formations, at a significant discount to other services being offered.

our IR35 assignment reviews now include ...

...free defence cover for the first stage

- **Introduction**

- **The Umbrella Contractor**

This section covers everything an umbrella contractor needs to know including opting out of the arrangements, how the employer contribution is funded and questions and answers.

- **The Limited Company Contractor**

This section looks at the situation for both the one man limited company and those who have more than one employee, usually a spouse, and the impact this has with the new rules.

- **Professional Passport Approved Providers**

Using this guide

You can navigate directly to a chapter by clicking on the relevant chapter on this page.

You can search the document using the key words search facility available on PDF documents.

Need to discuss your individual situation with an expert?

Our professional members have access to our members telephone helpline that provides a range of experts to answer your questions across all of the key aspects relating to contracting.

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Disclaimer Statement

The content of this guide is for guidance only and is not designed to replace your professional advisers or replace the need for professional advice. Whilst every care has been taken to ensure its accuracy in all cases you should seek your own legal and professional advice for your own situation.

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Introduction

In October 2012 a requirement for employers to automatically enrol their employees in to a qualifying pension scheme came in to effect.

The introduction of these new rules is being phased in across employers taking the largest employers first and working through until all employers will have the same obligations to enrol their employees by 2017.

Employers have a requirement to make contributions on behalf of their employees who are eligible for auto enrolment. Employees that are eligible workers for the purposes of auto enrolment will be:

- aged between 22 and the State Pension Age
- not already active members of a qualifying pension scheme
- earning over £8,105 gross per annum [this figure will change annually]

If a worker falls outside of these criteria they could still have the option to join if they request it although the rules and obligations differ from those applied under auto enrolment. As the vast majority of contractors will meet the eligible worker definition the guide will focus on this aspect.

Contractors could find that they too are affected by these new rules.

If a contractor uses the services an umbrella provider they are likely to be caught.

If a contractor operates through their own limited company with more than one employee then they are likely to be caught.

The rules require employers to automatically enrol eligible workers however once enrolled a worker can then opt out if they wish.

The guide will explain each of these scenarios from a contractor's perspective.

contractors can be caught by the auto enrolment rules ...

...it is essential to understand how they affect you



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All Umbrella's will need to comply with the new Pensions Act introduced in October 2011.

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FREE Pensions Act Guide

RACS Group has produced an agency guide to the Pensions Act which contains information relevant to you. The guide is available from the DOWNLOADS section of our website...

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The Umbrella Contractor

Contractors that operate through an umbrella provider are employees of the umbrella company and as such will be subject to the new auto enrolment rules.

In this section we cover:

- timetable for changes
- the rules of being an 'eligible worker' for auto enrolment
- funding the contributions
- the joining process
- the opt out procedure

It is important to note that in this section we are covering each aspect at a high level to provide a basic understanding of what you are likely to come across. In some cases the umbrella processes may differ slightly; although the principles explained throughout this section will remain true.

All employers in the UK will be allocated a date from which they have to implement their new auto enrolment procedures. The dates range from 1st October 2012 right through to 2017 and, for existing employers, are based on the size of their payroll on 1st April 2012. This date is known as the 'Staging Date'.

Once the Staging Date is reached the umbrella provider will have to enrol their eligible workers unless they select the option to use 'postponement', which at this stage it appears many umbrella providers will do.

Postponement allows the umbrella to delay enrolling their workers for a maximum of 3 months, which can help to smooth the process of auto enrolment as well as providing time to supply to their employees all the information they are required to.

Umbrella providers are the employers ...

...they are responsible for auto enrolment

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The Umbrella Contractor

As a result contractors will find that once an umbrella reaches their staging date they are likely to receive information confirming that automatic enrolment has been postponed until a later date [the notice will provide the actual date] it may also provide further information about the scheme, the enrolment process and your rights to 'opt out', if you so wish.

It is important to note that whilst every 'eligible worker' must be enrolled in to a qualifying pension, once enrolled you have a short period where you can opt out, typically this will be around 1 month.

You can only opt out once you have been enrolled; there is no way to prevent an umbrella from enrolling you in to the scheme as the law requires them to do so.

The rules are clear on how a worker must opt out, the format of notice to opt out and the information it must contain. Once you are enrolled your umbrella is required to provide this information to you.

If you do wish to opt out then you must complete the notice with all the required information and return within the time period. Where you do this you will be removed from the pension and if any contributions have been taken these will be returned in full to you. It will be as if you never joined.

You should also note that the umbrella has a requirement to make contributions and you may find that contributions are made before you have had a chance to opt out; you cannot stop this as the law specifies how and when the contributions must be made. If you do opt out these will be returned, in full to you.

Where contributions need to be returned the umbrella must do this even if they have not received the funds back from the pension arrangement.

If you fail to provide a fully completed opt out form within the required timeframe you may find that the umbrella is unable to return contributions made, this is determined by a number of factors and these will be outlined in the scheme rules.

you can only opt out of the pension ...

...once you have been enrolled



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The Umbrella Contractor

The simple fact is that if you wish to opt out ensure you provide all the information required in the correct format and within the specified timeframe this will ensure a smooth process and the full return of any contributions made.

If you decide that you do want to remain in the pension then there is nothing for you to do, as the name suggests you will be automatically enrolled at the end of the postponement period and assuming you are an 'eligible job holder'.

The rules specify a range of categories of workers and how these workers must be treated with regards to auto enrolment. From our experience the majority of umbrella workers will meet the definition of an eligible jobholder and therefore need to be auto enrolled.

The categories are:

Earnings (2012-2013)	Age (inclusive)		
	16-21	22-SPA*	SPA*-74
Under lower earnings threshold	Entitled worker		
Between lower earnings threshold and earnings trigger for automatic enrolment	Non-eligible jobholder		
Over earnings trigger for automatic enrolment	Non-eligible jobholder	Eligible jobholder	Non-eligible jobholder

*State Pension Age

the majority of umbrella workers will ...

...meet the definition of an eligible jobholder

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The Umbrella Contractor

Entitled Worker:

Does have a right to join a pension scheme if they ask to do so. They must provide a joining notice to the umbrella for this to happen.

The umbrella must provide all entitled workers with information relating to the pension, including a joining notice, within one month of them becoming an entitled worker.

Non eligible jobholders:

Do not qualify for automatic enrolment but do have a right to opt in to an automatic enrolment scheme, if they choose.

An umbrella must provide their non-eligible jobholders with certain information about opting in to an automatic enrolment scheme and what this means for them.

The umbrella must provide this information to the non-eligible jobholder within one month of the date on which they become a non-eligible jobholder.



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The Umbrella Contractor

Summary of the different categories of worker

Category of worker	Description of worker
Worker	<ul style="list-style-type: none">• An employee or• someone who has a contract to perform work or services personally, that is not undertaking the work as part of their own business.
Jobholder	A worker who: <ul style="list-style-type: none">• is aged between 16 and 74• is working or ordinarily works in the UK under their contract• has qualifying earnings.
Eligible jobholder	A jobholder who: <ul style="list-style-type: none">• is aged between 22 and state pension age• has qualifying earnings above the earnings trigger for automatic enrolment.
Non-eligible jobholder	A jobholder who: <ul style="list-style-type: none">• is aged between 16 and 21 or state pension age and 74• has qualifying earnings above the earnings trigger for automatic enrolment or• is aged between 16 and 74• has qualifying earnings below the earnings trigger for automatic enrolment.
Entitled worker	A worker who: <ul style="list-style-type: none">• is aged between 16 and 74• is working or ordinarily works in the UK under their contract• does not have qualifying earnings.

eligible jobholders are the one category ...

...that must be automatically enrolled

The Umbrella Contractor

The employers contribution

Within the terms of auto enrolment there is an obligation for an employer to make contributions on behalf of their employees; the employees have to make contributions too. This is an area where there is likely to be confusion and misunderstanding by umbrella workers.

When a contractor operates through an umbrella provider a rate is agreed with the recruitment company for each assignment. This rate is set at a level to include compensation for additional expenses that are incurred by the umbrella over and above the situation if the worker was engaged through agency PAYE. This rate is often referred to as The Limited Company Rate.

The enhanced rate includes amounts for:

- The Umbrella Margin Charge
The amount the umbrella retains as their margin often shown as a weekly or monthly fixed cost.

continued >



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£51 - £300	£10	£8
£301 +	£16	£12.80

The Umbrella Contractor

< continued

- Employers National Insurance
All umbrella providers have to pay this on the income they pay to their workers.
- Holiday Pay
Umbrella providers have to provide for holidays for their workers often this is paid as an advance with each pay run although it can be retained and paid when requested.

When auto enrolment comes in the rate will also include the employers contribution for pensions auto enrolment.

In simple terms where a worker stays within the pension their take home will reduce slightly as the compensation in the rate for the employers contribution is being passed to the pension provider as the employer contribution.

Where a worker opts out of the arrangement this compensation will typically be included within their 'assignment bonus' calculation and will come through as additional pay.

The difference this will make is relatively small as when the amount comes through within the pay there are taxes that have to be applied, both Employers National Insurance as well as the employee PAYE and National Insurance.

The exact pay arrangements, and terms used, will vary by umbrella provider and will ultimately be determined by their employment contract with you.

As a summary this concept should be fairly representative of the majority of responsibly run providers in the market.



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Umbrella Contractors Questions and Answers

Will my umbrella know their staging date already?

Yes - all providers should know their staging dates either because they have been formally advised by The Pensions Regulator or, in the case of a new payroll, they can work it out from the information provided.

Should I pick an umbrella with a later staging date?

It makes no difference to you.

If you don't want to be part of the pension you can opt out and this puts you in exactly the same position as dealing through an umbrella with a later staging date, assuming everything else is equal.

There are many other factors that should influence your decision on which provider to select although staging date is probably not one of them.

If you have little or no expenses to claim then you are likely to benefit from selecting a lower charging umbrella. This could have a significant impact on your take home pay.

If you have a high level of expenses you may wish to select an umbrella that allows you to claim what you actually spend rather than limit you to set amounts.

Service levels will also be a consideration.

We would always suggest selecting a provider that has been audited and approved.

selecting a provider that has a later staging date ...

...makes no difference to you



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Umbrella Contractors Questions and Answers

Why is the umbrella taking the employers contribution from my money?

As we highlighted in the guidance the rate agreed with the recruitment company when using an umbrella provider or operating through your own limited company includes additional amounts to cover additional costs that apply.

One of the factors included within the rate is an amount to cover any employers contribution for pensions which is why the umbrella takes this from the gross funds they receive.

Your pay and how this is calculated will be covered in the employment contract you received from your provider. If you believe this is not being applied correctly then, in the first instance, we suggest you discuss this with the umbrella company directly.

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Umbrella Contractors Questions and Answers

What if something happens to the umbrella is my money in the pension safe?

Yes - the money must be paid in to a qualifying scheme and your own individual pot with that. The providers have no access or control over that money.

Many of the umbrellas we have spoken to are looking at "NEST" to provide the pensions.

NEST, National Employment Savings Trust, is an organisation set up specifically to deliver a pensions vehicle aligned to auto enrolment. It provides workers with a single pension 'pot' which is ideal for the contracting sector.

Why do I have to be enrolled before I can opt out?

Quite simply because that is what the law says. The Government wants to encourage workers to save for retirement and felt that this approach would result in more workers saving something.

Why can't I just send an email to my umbrella and tell them to opt me out?

Once again the rules are quite specific. The umbrellas are not being obstructive in insisting you comply with a specific process it is simply because the law states that is what has to happen for you to opt out.

If I left and then returned to an umbrella would I have to go through the joining process again?

If you had formally left and this was a new employment then you would be treated in exactly the same way as before. Under the rules you are classed as a new joiner.

This time you will know what to expect and do as you have been through it before.

The Limited Company Contractor

Whether you and your company are affected by the new pensions auto enrolment rules depends on the exact structure of your business.

For contractors who are the sole shareholder, director and employee of their company then they are exempt from the rules because:

The following people are not classified as workers:

- An individual who is the **only** employee in a company of which they are also a director

Contractors who also employ their spouses will find that they are caught by the rules and they have to take steps to comply.

As staging dates are based on the size of the payroll as at 1st April 2012 the Staging Date is not likely to be before 2015. You can check your staging date by visiting The Pensions Regulators Site here:

<http://www.thepensionsregulator.gov.uk/employers/staging-date-timeline.aspx>

Where you are caught by the rules you will find that you have the same obligations as every employer in complying with the rules.

You should be aware that the rules are complex and require specific steps to be taken by employers at set points of time, failure to do so can result in fines.

You can review the guidance here:

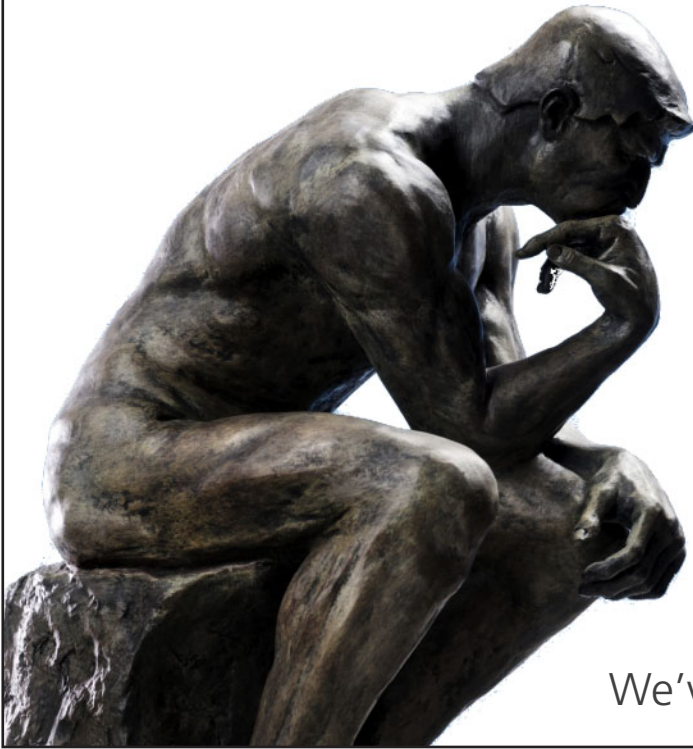
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There are also obligations to keep records in order to demonstrate, should you be asked to do so, that you have fully complied with your obligations. Failure to do so can result in fines.

Your accountant or specialist provider should be able to advise, support and guide you through this based on your circumstances.

We would suggest that it may be worth many contractors reviewing their structures at this time to see whether they are really benefiting from employing the spouse. The spouse can still remain as a shareholder; it is the 'employee' status that will trigger the auto enrolment obligations.

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