Understanding contractual enrolment

What is contractual enrolment?

All employers need to offer a pension scheme that can be used for automatic enrolment. But rather than having to work out which employees need to be put into an automatic enrolment pension scheme, employers can just put all of their employees in.

Each employee has to agree to join the pension scheme, and to have contributions deducted from their salary. This consent is given when they accept the terms set out in their employment contract.

So that's why it's known as contractual enrolment.

How does contractual enrolment work?

Instead of automatically enrolling just their eligible employees, employers can choose to:

- enrol all new employees straight away when they first start work
- re-enrol any current employees who cease membership of the pension scheme each year.

In both cases this is normally arranged with contractual agreements and employers must get consent from their staff to deduct pension contributions.

Note: There are different rules an employer must follow when using contractual enrolment rather than automatic enrolment.

Differences between contractual enrolment and automatic enrolment	
Contractual enrolment	**Automatic enrolment**
Employees must be asked whether they agree to join the pension scheme.	Employees don't need to give consent to join the scheme.
Employees don't have to join a contractual enrolment pension scheme. But if they don't, then automatic enrolment duties will apply to them.	Eligible employees have to be automatically enrolled before they can opt out (even if they don't want to be in a pension scheme).
Employees can leave the pension scheme, but if they do, they may not be entitled to a refund of their personal contributions (this will be determined by the rules of the pension scheme and the date they joined).	Employees can opt out after being automatically enrolled – as long as they're in the one month opt-out period. (They can still opt out after this period, but they wouldn't receive a refund.)
If the employer wants to deduct contributions from an employee's salary, consent is needed from the employee – usually through an employment contract.	Permission to deduct contributions from the employee's salary isn't needed, though contributions must be deducted in accordance with the Pensions Act 2008.
Postponement can't be used to delay contractual joining.	An employer's automatic enrolment date can be postponed by up to 3 months. (The employer can't defer their staging date but they can postpone the assessment of their employees.)

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How to use contractual enrolment correctly

1. The pension scheme used must meet the criteria of an automatic enrolment pension scheme, once the employer reaches their staging date.
2. All employees who must be enrolled under automatic enrolment regulations, must instead be contractually enrolled into the pension scheme by their automatic enrolment date.
3. Employees can leave contractual enrolment, but if they do, they may not be entitled to a refund of their personal contributions (this will be determined by the rules of the pension scheme and the date they joined).
4. Employees can't opt out of contractual enrolment in the same way they can with automatic enrolment. But they can stop being an active member of the pension scheme – meaning they stop making payments. If they do cease active membership, the employer still has a duty to review their status and eligibility for automatic enrolment.
5. All employers must still register with The Pensions Regulator to confirm they've complied with the automatic enrolment legislation by using contractual enrolment.

It's worth noting that contractual enrolment isn't a way for employers to avoid the automatic enrolment legislation. There are complexities and if in doubt we recommend you take legal advice.

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