

Detailed guidance for employers

Getting ready: First steps to prepare
for the new employer duties

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Information to workers

Summary of information requirements in a quick-reference table format



The different types of worker

Diagram of the different categories of worker and the criteria for each category



Employer duties and safeguards

At-a-glance summary of the duties and safeguards

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About this guidance

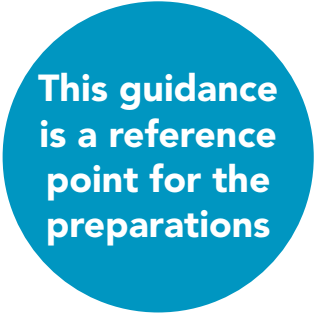
This guidance is aimed at professionals and employers with in-house pensions professionals.

An employer reading this guidance should note that it provides a summary of the main steps in getting ready and that much of the detail about the requirements is contained in our other guidance. These will be signposted in this document where relevant. This guidance is particularly relevant to employers setting up a pension for the first time.

We recognise that many employers will already have a pension for their workers, and that this will often match or exceed the minimum requirements contained in the duties. In these cases, such employers may just need to check that the minimum requirements are covered in their existing processes.

It will be helpful to employers to be familiar with the different categories of workers. These are explained in detail in **Detailed guidance no. 1 – Employer duties and defining the workforce**. A quick reminder is also available in the Key terms.

This guidance forms part of the latest version of the detailed guidance for employers (updated versions are published in April each year).



**This guidance
is a reference
point for the
preparations**

Introduction

1. The law on the employer duties and safeguards commenced in July 2012. One of these duties places a requirement on employers to automatically enrol certain workers into a pension scheme. There are other duties as well as automatic enrolment, including the provision of certain information to their workforce.
2. An employer is anyone who has entered into a contract with an individual that falls within the definition of 'worker'. For more information on the definition of worker see **Detailed guidance no.1 – Employer duties and defining the workforce**.
3. Each employer already in existence on 1 April 2012 was allocated a date from when the new duties will apply to them, known as their 'staging date'. An employer who first pays PAYE income¹ to a worker on or after 1 April 2012 up to and including 30 September 2017 is also allocated a staging date (excluding an employer who first pays PAYE income on or after 2 April 2017 up to and including 30 September 2017 and who does not have a PAYE scheme).
4. An employer in existence on or before 1 April 2012 but who does not have a PAYE scheme, or an employer created between 1 April 2012 up to and including 1 April 2017 who does not have a PAYE scheme, has a staging date of 1 April 2017.
5. An employer in existence on 1 April 2017 who does not fall into any of the groups described in paragraphs 3 and 4 also has a staging date of 1 April 2017.
6. Staging dates started from October 2012 and end on 1 February 2018. For an employer who has a staging date, the employer duties will usually apply to them from a date that is some time after they became an employer. As such, there are steps they can take in advance of their staging date to get ready for the start of the duties.
7. An employer who employs their first worker on or after 2 April 2017 will, in most cases, have the duties apply immediately they become an employer. They will need to be ready for automatic enrolment as soon as they take on their first worker. These employers are include:
 - An employer who becomes an employer on or after 2 April 2017 and does not have a PAYE scheme, irrespective of whether they pay PAYE income or not. (This includes an employers who first pays PAYE income on or after 2 April 2017 in respect of any worker up to and including 30 September 2017 and does not have a PAYE scheme.)
 - An employer who first pays PAYE income in respect of any worker on or after 1 October 2017.

It is an employer's responsibility to identify their staging date

¹ In our view PAYE income is total earnings in employment (salary, wage, fee etc) whether that amount is above or below the income tax threshold or the lower earnings limit for national insurance.

8. This guidance is divided into two sections. If the employer is one who falls into one of the different groups of employers in paragraph 3 to 5, they should read section 1 for further information about preparing for the introduction of the employer duties. If the employer is one who falls within paragraph 7, section 2 contains further information about new employers with immediate duties.

Section 1: Employers with a staging date

9. This section of the guidance is relevant to:
 - An employer already in existence on 1 April 2012
 - An employer who first pays PAYE income to any worker on or after 1 April 2012 up to and including 30 September 2017 (but not an employer who first pays PAYE income on or after 2 April 2017 up to and including 30 September 2017 who does not have a PAYE scheme (see section 2))
 - An employer in existence on or before 1 April 2012, but who does not have a PAYE scheme, or an employer created between 1 April 2012 and 1 April 2017 who does not have a PAYE scheme
 - An employer in existence on 1 April 2017 who does not fall into any of the groups described in the bullets above.
10. This section provides further information about what steps an employer can take to prepare for the introduction of the new duties before their staging date.
11. An employer's first step in getting ready is finding out their staging date. It is each employer's responsibility to identify their staging date and to work out when they will need to act to be ready for the new duties. To do this, they should work back from their staging date and plan the actions outlined in this guidance.
12. Although employers will be subject to the duties at different dates, it is important to note that some elements of the legislation, in particular the inducement and prohibited recruitment conduct safeguards (as highlighted in **Detailed guidance no. 8 – Safeguarding individuals**), are applicable to all employers from July 2012.

Identifying the staging date

13. An employer's staging date is set by law and is based on the number of persons in their largest PAYE scheme. The number of persons is wholly based on the information held by the regulator from HMRC at 1 April 2012. This information records employers' names against a PAYE scheme reference and the number of persons within that PAYE scheme. Employers should be aware that earlier changes made to their PAYE schemes may not be reflected in the information held by the regulator. The number of persons in an employer's PAYE scheme may change after 1 April 2012. However, their staging date will not be affected.
14. Staging started in October 2012 and has been rolled out from the largest to smallest PAYE schemes.
15. Employers with 250 or more persons in their largest PAYE scheme staged between October 2012 and February 2014.
16. Employers with 50 to 249 persons in their largest PAYE scheme staged between 1 April 2014 and 1 April 2015.
17. Employers with fewer than 50 persons in their largest PAYE scheme staged between 1 June 2015 and 1 April 2017. Some employers with fewer than 50 workers may have had staging dates earlier than this, perhaps because their PAYE scheme also included non-workers (eg pensioners being paid pension benefits). In this case, if they met certain conditions, they could choose to move their staging date back to a prescribed date between 1 August 2015 and 1 April 2017. See paragraphs 39 to 46 for more information.
18. New employers setting up business from 1 April 2012 up to and including 30 September 2017 had staging dates between 1 May 2017 and 1 February 2018 excluding an employer who first pays PAYE income on or after 2 April 2017 up to and including 30 September 2017 who does not have a PAYE scheme. For more information on employers who become employers on or after 2 April 2017 up to and including 30 September 2017 see paragraphs 204 to 216 in section 2.
19. These staging dates for new employers are not based on the number of persons in the employer's largest PAYE scheme, but by the date the employer first pays PAYE income in respect of any worker.
20. On rare occasions, an employer may employ certain types of worker but not have a PAYE scheme. This may be the case where workers are employed on personal service contracts and for whom an employer is not required to deduct and pay PAYE tax (see **Detailed guidance no. 1 – Employer duties and defining the workforce** for more information). In these circumstances, the employer will have had a staging date of 1 April 2017.

Complex PAYE structures and corporate groups

21. Most employers will have one PAYE scheme that they use for their workers. This PAYE scheme will be easily identifiable through their payroll systems.
22. Some employers may operate more than one PAYE scheme. If they do, the PAYE scheme with the earliest staging date will set the date that duties come into effect for the employer. This staging date will apply to all the workers they employ, regardless of which PAYE scheme the workers are in.
23. Some employers are part of complex corporate or group structures. To understand how staging will affect these structures, an employer will need to find out where in the group the workers' contracts of employment are held. This will identify who the employers are within the corporate structure, for the purposes of the employer duties and safeguards.
24. Workers may have a contract of employment with the individual business they work for, or contracts may all be held through one employer, regardless of which of the businesses the individual actually works for. This could mean that, for the purposes of the new duties, there are multiple employers within the group, or just one.
25. Once it has been established who in the group is an employer, each employer's staging date will be determined by the PAYE scheme, or schemes, they use:
 - an employer with a single PAYE scheme of their own will have a staging date determined by the size of that PAYE scheme.
 - an employer that uses multiple PAYE schemes will have a staging date determined by the earliest staging date applicable to any of the PAYE schemes they use. This will be the case even if the majority of the employer's workers are not in that PAYE scheme. For example, Employer X uses two PAYE schemes, scheme A and scheme B. Scheme A is solely for the use of Employer X and has two persons in it. It has a staging date of 1 July 2016. Scheme B is shared with two other employers within the group structure and has a total of 28 persons in it, 10 of whom work for Employer X. It has a staging date of 1 February 2017. Even though Scheme A only has two persons it has the earlier date and therefore sets the staging date of 1 July 2016 for Employer X.
 - any employers who share a single PAYE scheme with other employers will all have the same staging date, determined by that PAYE scheme, unless the employer matches the description of 'small employer' in paragraph 39.

26. If the employer meets the definition of 'small employer', they can choose to move their staging date to a new prescribed staging date between 1 August 2015 and 1 April 2017.

Takeovers and mergers

27. Where employers merge after 1 April 2012, but both employers remain as a legal entity in their own right and remain the employer for their respective workers, then the staging date of each legal entity will remain as it was before the merger.
28. If on a merger all existing worker contracts are transferred to one of the employers, then the employer duties fall to that employer and their staging date will be as it was before the merger.
29. Where a new entity is created as a result of a takeover, the new entity will be treated as a new employer.

New employers

30. Any employer who first pays PAYE income to a worker from 1 April 2012 up to and including 30 September 2017 will have a staging date between 1 May 2017 and 1 February 2018. The staging date is not based on the number of persons in the employer's largest PAYE scheme but by the date the employer first pays PAYE income to any worker (see table below).

PAYE income is first payable in respect of any worker	Staging date
From 1 April 2012 up to and including 31 March 2013	1 May 2017
From 1 April 2013 up to and including 31 March 2014	1 July 2017
From 1 April 2014 up to and including 31 March 2015	1 August 2017
From 1 April 2015 up to and including 31 December 2015	1 October 2017
From 1 January 2016 up to and including 30 September 2016	1 November 2017
From 1 October 2016 up to and including 30 June 2017	1 January 2018
From 1 July 2017 up to and including 30 September 2017	1 February 2018

31. An employer is anyone who has entered into a contract with an individual that falls within the definition of 'worker'. For more information on the definition of worker see **Detailed guidance no.1 – Employer duties and defining the workforce.**
32. In our view, PAYE income is total earnings in employment (salary, wage, fee etc), whether that amount is above or below the income tax threshold or the lower earnings limit for national insurance.
33. There will be some organisations included in the PAYE scheme information from HMRC who, on 1 April 2012, did not fall within the definition of 'employer' for the new duties. For example, one person companies (where an individual is a director of a company and that company has no other employees) are not employers for the new duties as the individual is exempt from worker status. If such a company takes on an employee they become an employer for purposes of the new duties. They will be treated as a new employer and will have a staging date as such.
34. Similarly, a company that has more than one director and no other employees on 1 April 2012 will not be an employer provided that one or none of these directors have a contract of employment (whether written or otherwise) with the company. In these circumstances, if the company takes on a worker they become an employer for purposes of the new duties and will be treated as a new employer and have a staging date as such.
35. Employers should note that where the information held by the regulator from HMRC showed that the number of persons in the largest PAYE scheme on 1 April 2012 was zero, we are also treating these organisations as not falling within the definition of employer for the new duties. This is because we have no evidence that they have any individuals on contracts of employment or personal services contracts falling within the definition of worker, but who aren't included on a PAYE scheme.
36. If such an organisation starts paying PAYE income to a worker after 1 April 2012, they will be treated as a new employer and their staging date determined accordingly. An employer in this position should contact TPR if they are unclear about the date from which they should be complying with their duties.

Insolvent employers

37. Where an employer enters insolvency proceedings of any type, for example bankruptcy, administration or liquidation, the employer duties and safeguards will continue to apply to the employer as long as it remains an employer as described in paragraph 31.
38. This means that, where an insolvent employer continues to employ workers, the employer duties and safeguards will still apply to the employer.

Employers with staging dates before 1 May 2015 and fewer than 50 workers on 1 April 2012

39. The legislation described a particular type of small employer for the purposes of staging. A 'small employer' was an employer who had fewer than 50 workers on 1 April 2012 and who had or was part of a PAYE scheme, or schemes, in which there were 50 or more persons on 1 April 2012.
40. Broadly, a 'small employer' was an employer who had fewer than 50 workers on 1 April 2012 but shared a larger PAYE scheme, perhaps because they were part of a corporate group. Or they were an employer who had fewer than 50 workers on 1 April 2012 but had a larger PAYE scheme (shared or single) because there were also non-workers in the PAYE scheme. This may be, for example, because the employer pays pension benefits to retired members of staff who no longer work there.
41. Small employers who matched the description above would ordinarily have had later staging dates between 1 June 2015 and 1 April 2017, if their PAYE scheme were either not shared or only contained workers. However, because their PAYE scheme was shared with larger employers, or contained non-workers, their original staging date was earlier than the staging dates for the small employers with fewer than 50 workers.
42. For this reason the legislation allowed these small employers to choose either to keep their original staging date or move it to a new prescribed date so that it became their modified staging date. The modified staging dates fell between 1 August 2015 and 1 April 2017 depending upon the date of the original staging date.

43. There was no requirement for a small employer to notify us if they chose to move their staging date to their modified staging date. However, we would expect the employer to complete a declaration of compliance with us within five months of the original staging date known to us and will continue with follow up action if their declaration is not completed on time. Therefore, small employers choosing this option were advised to notify us if they had chosen to move their staging date.
44. A small employer who chose to move their staging date to a later date essentially delayed the date that the employer duties first applied to them. We can take further action, including enforcement action, against an employer who falsely moved their staging date back in order to deliberately avoid their duties.
45. We may therefore ask employers for confirmation that they were able to move their staging date by providing evidence that the employer's circumstances as at 1 April 2012 were as described in paragraph 39.
46. In order to be able to provide such confirmation, a small employer will need to keep a record of the number of persons in their PAYE scheme on 1 April 2012 and the number of workers they had on 1 April 2012. PAYE records are subject to HMRC requirements on record-keeping, so an employer will already be retaining this information.

Bringing forward the staging date

47. Some employers may want to align their staging date with other key dates in their financial or operational calendar, eg the beginning of the financial year. To allow some flexibility, employers may choose a different staging date, as long as it is earlier than their originally allocated date. They cannot choose a later date (unless they met the definition of 'small employer' as explained above).
48. A change in staging date, once notified to TPR, will be officially recognised as the date from which the employer must comply with the new duties.
49. The new staging date will also become the date on which the employer will be assessed for re-enrolment duties. Once a staging date has been brought forward, an employer cannot revert to the original staging date.
50. Employers who want to bring forward their staging date are doing so in relation to all their workers. This may include workers in several PAYE schemes.
51. Where two employers share a PAYE scheme, and therefore have the same staging date, they may bring forward their staging dates independently.

Example 1

Giant Corp Ltd has three PAYE schemes for its workers:

- Scheme 1 comprises 3,050 people, giving a staging date of 1 July 2013.
- Scheme 2 comprises 10,100 people, giving a staging date of 1 March 2013.
- Scheme 3 comprises 9,225 people, giving a staging date of 1 April 2013.

Because scheme 2 is the largest, it has the earliest staging date, so this sets the date for all three PAYE schemes. Giant Corp Ltd's staging date is, therefore, 1 March 2013.

This is an especially busy period for Giant Corp Ltd, so they decide to bring their staging date forward. Looking at the table on TPR's website, they see that there are five possible dates listed before 1 March 2013 that they could choose as their new staging date.

They decide to bring their date forward to a quieter period and choose a new staging date of 1 November 2012. They must notify TPR of their intentions by 1 October 2012.

The new employer duties then apply to Giant Corp Ltd from 1 November 2012.

Example 2

Alight Consultancy Ltd has offices in London and Belfast. There is one PAYE scheme for the workers in both offices. Looking up their staging date, they identify it as being 1 April 2013.

Alight Consultancy Ltd has a subsidiary company, Alight Solutions Ltd, which also uses the same PAYE scheme for its workers.

Alight Consultancy Ltd's year end is 31 December and they decide they would like to align their staging date with this, as an easy way of remembering it. Looking at the table on TPR's website, they choose 1 January 2013 from the list of possible dates as their new staging date.

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As the new employer duties apply to Alight Consultancy Ltd from 1 January 2013, they must notify TPR of their intention to bring the date forward by 1 December 2012.

Alight Solutions Ltd, however, has not decided to bring its staging date forward.

It retains its original staging date of 1 April 2013 and the new employer duties apply from this date.

52. Employers must be ready to comply with their duties from the earlier date if they decide to bring forward their staging date.

Conditions to be met for bringing forward the staging date

53. Firstly, the employer must have an existing staging date – this can be checked on our website: www.tpr.gov.uk/staging
54. Secondly the employer must notify TPR of the new staging date they have chosen, up to and including the date they wish to use as their new staging date.
55. This notification must be in writing, which can include being sent by email. Employers can use the online registration portal available on our website to tell us that they are bringing their staging date forward. To access the online registration portal an employer will need the ten letter code included on letters from TPR. More details on notifying us are also available on our website: www.tpr.gov.uk/forward
56. If, on the date they are notifying us, the employer has workers who meet the eligible jobholder criteria and are not already members of a qualifying scheme, there is a further condition for the employer to be able to bring forward their staging date. The employer must have:
- contacted a pension scheme that could be used to comply with the employer duties from the earlier date
 - sought and obtained agreement that the selected scheme can be used to fulfil the duties from the new (earlier) staging date. This agreement must be obtained from:
 - the trustees or managers, for occupational pension schemes, or
 - the provider, for personal pension schemes, or
 - the scheme administrator as registered with HMRC.
 - notified TPR accordingly in writing.

Choosing the brought forward staging date

57. If on the date they are notifying us, the employer has workers who meet the eligible jobholder criteria and are not already members of a qualifying scheme, they must choose a new staging date from the range of dates available on our website: www.tpr.gov.uk/forward
58. Otherwise, the employer can choose any date up to their original staging date as their new staging date including the day they are giving us notice.

Deciding whether to use postponement at staging

59. Once the employer has identified their staging date, they will need to decide whether they intend to use postponement at their staging date in respect of one, some or all of their workers.
60. Postponement is described as 'postponement of automatic enrolment', and is sometimes referred to as a 'waiting period'. The way postponement works is to postpone the assessment of a worker for a period of up to three months. It is therefore effectively a postponement of whichever employer duty may apply, depending on the category of worker.
61. The way an employer exercises the choice to use postponement in relation to a worker is to issue that worker with a notice. Postponement is described in **Detailed guidance no. 3a – Postponement**.
62. Using postponement at an employer's staging date does not mean that the staging date itself is postponed. The staging date remains the date that the new duties start to apply to an employer.
63. However, if the employer is using postponement for of all of their workforce, the practical effect may be the same as if the staging date was postponed. This is because most of the activity that an employer has to start carrying out (with the exception of providing the postponement notice) would be put back by up to three months.
64. This is why it is key for an employer making their preparations to decide early on if they intend to use postponement at their staging date.

Making an initial assessment of the workforce

65. The next step for an employer is to take an initial view of their workforce, to determine what preparations they will need to make before their staging date. The makeup of the workforce is described in **Detailed guidance no. 1 – Employer duties and defining the workforce**.
66. An employer's initial assessment should take a view of the likely makeup of the workforce on their staging date. This does not have to be an in-depth assessment, but it is necessary as it will give an employer an idea about whether they will have workers to automatically enrol, or workers with a right to opt in or to join a scheme. An employer will then be able to determine what preparations they need to make, eg whether they need to have a pension scheme in place to fulfil their duties.
67. An employer will need to look at the contractual relationships they have with the people working for them to ensure they have correctly identified those who are considered workers. It is this group of people in respect of whom the employer may have duties.
68. An employer should assess each contract separately, even if they have more than one contract with an individual. If an employer has multiple contracts with the same individual, they will need to consider if the totality of those contracts constitute a single employment relationship with the worker. The employer may wish to consider taking appropriate advice, if they are unsure. **Detailed guidance no. 3 – Assessing the workforce** has more information.
69. Where the employer considers that a single employment relationship exists, they will need to treat all the contracts under the single employment relationship as one contract. If this is not the case, they will need to treat each contract separately.

TUPE transfers

70. Where a worker changes employer as a result of a Transfer of undertakings protection of employment (TUPE) transfer, the new employer will be responsible for complying with the employer duties in relation to that worker. This means they will have to assess the worker with effect from the transfer date and, where appropriate, automatically enrol them. In effect, they are treated as a new joiner for that employer.
71. Scheme requirements under TUPE operate in parallel with the employer duties and both must be complied with as necessary. If the transferred worker was in a pension scheme on the transfer date, the new employer must put them into a scheme that complies with TUPE provisions. The new employer may choose to use contractual enrolment to achieve this when they are transferred. If the worker is assessed as an eligible jobholder on the transfer date, they must be automatically enrolled into a qualifying scheme (see **Detailed guidance no. 4 – Pension schemes** for more information on the scheme qualifying requirements).

However, if the scheme the new employer used to meet the TUPE requirements is also a qualifying scheme, the new employer would not need to automatically enrol the worker. If the scheme used to meet TUPE provisions is not a qualifying scheme, the employer must use a different qualifying scheme to meet their automatic enrolment duties.

72. If the transferred worker was not in a pension scheme at the transfer date but was still entitled to become a member of a pension scheme on transfer, the entitlement to a TUPE-compliant scheme remains and must be honoured by the new employer. If the new employer assesses that the worker is an eligible jobholder on the transfer date and they use postponement (see **Detailed guidance no. 3 – Postponement** for further information) the worker should still be able to opt in to a TUPE-compliant and qualifying scheme during the postponement period.

The pension scheme for automatic enrolment

73. Having completed the initial assessment of their workforce, an employer will know whether they are likely to have an automatic enrolment duty from their staging date.
74. If so, they will need to select an 'automatic enrolment scheme'. This is a pension scheme that meets the automatic enrolment and qualifying criteria. The scheme can be based in the UK or within the European Economic Area (EEA). More information is in **Detailed guidance no. 4 – Pension schemes**. The employer may wish to seek advice on what type of scheme is most appropriate for their circumstances.
75. If an employer only has jobholders with a right to opt in, or entitled workers with a right to join, there is no requirement to select a scheme in advance of the staging date, although they can if they wish.
76. If an employer already provides a pension scheme for some or all of their staff, they have a number of options, including:
 - a. using their existing scheme for automatic enrolment (provided it meets the automatic enrolment and qualifying criteria). An employer may want to discuss any necessary amendments to the scheme rules, and the process for making them, with the trustees, managers or provider of the scheme
 - b. using their existing scheme as a qualifying scheme for existing members (provided it meets the qualifying criteria), and setting up an alternative scheme to fulfil their automatic enrolment duties
 - c. setting up an alternative pension scheme to fulfil their automatic enrolment duties for all their eligible jobholders.
77. An employer who does not already provide a pension scheme will need to identify a scheme that they can use to fulfil their duties.
78. Whether it is a new or existing scheme, an employer must be satisfied that it meets the criteria to be an automatic enrolment scheme before they can use it.
79. **Detailed guidance no. 4 – Pension schemes** has more information

on the criteria a scheme must meet to be an automatic enrolment scheme.

80. It is important to note that the criteria listed in **Detailed guidance no. 4 – Pension schemes** are the minimum features the scheme is required to have. There will be other things to consider before an employer makes a decision about what type of scheme to use.
81. Some employers will pay for professional advice while others will make decisions with information from a range of sources. The employer pages on our website have more information for employers to help them understand what to consider when choosing a pension scheme: www.tpr.gov.uk/ae-pension

Put administrative procedures in place

82. Once an employer knows which scheme they will be using, there are a number of administrative steps they can take before their staging date that will help them to fulfil their duties on time.

Contact the chosen scheme and understand the joining process

83. An employer will need to send data to the pension scheme and also find out certain information about how the pension scheme is set up. If an employer is using a new pension scheme, they should also find out from the scheme provider what is needed to achieve active membership and how long this will take the pension scheme to complete.
84. Trustees and managers of pension schemes need to be ready to process a large number of new joiners in a short period of time. They may also need to amend the joining process to fit with the requirements of automatic enrolment. As a result, the time to achieve active membership may take longer than usual. An employer should factor in this additional time when making preparations for their new automatic enrolment duties and should contact their chosen scheme about how long it will take.
85. It is important for an employer to know how long it will take to achieve active membership, as they only have six weeks after the eligible jobholder's automatic enrolment date to complete automatic enrolment and achieve active membership. More detailed information about the steps needed to complete the automatic enrolment process is in **Detailed guidance no. 5 – Automatic enrolment**.

Prepare data

86. The employer will need to provide the pension scheme with certain information about the eligible jobholder who is being automatically enrolled. A list of this information can be found in the section called Eligible jobholder information to the scheme in **Detailed guidance no. 5 – Automatic enrolment**.
87. An employer using an existing pension provider will only need to check that these data requirements are already included in their joining process. If the employer is using new pension provision, they should also check with the trustees or managers of the scheme whether, as part of the joining process, the scheme requires any additional information. Only if the employer is satisfied that they can provide the required information without any difficulty, will they be able to use the scheme for automatic enrolment. Familiarity with any additional data requirements will help smooth the process.
88. The employer may send any required information to the scheme ahead of their staging date, if they wish.

Contractual enrolment into a pension scheme

89. Some employers may choose to:
 - a. immediately enrol all workers into a pension scheme when they first start work with the employer
 - b. annually re-enrol workers back into the pension scheme if they have ceased membership in the year.
90. To do this, the employer must obtain the worker's consent to deduct pension contributions, and they often use contractual agreements with their staff (for example the contracts of employment) to obtain this consent. We describe this as contractual enrolment.
91. The new employer duties do not prevent an employer from continuing with agreements of this type, nor are they prevented from putting new agreements in place. However, the employer must understand how the employer duties impact on their current processes.
92. If an employer is enrolling workers into a pension scheme using a contractual agreement, enrolment is in accordance with the contract into which the worker has entered, instead of in accordance with the employer duties. The worker does not have the right to 'opt out' within the opt-out period of the scheme to which they have been contractually enrolled and receive a full refund of contributions. If the worker decides to leave the scheme, they are 'ceasing membership' under the scheme rules and they will only get a refund if the scheme rules allow.

93. For an employer who has chosen to use a contractual agreement to enrol their workers into a pension scheme, it is important to understand the interaction with the employer duties and the action they may still need to take. As a minimum, they will still be required to complete a declaration of compliance to tell us how they have met their duties. They should also ensure that the scheme they are using for workers who must otherwise be automatically enrolled under the employer duties is a scheme that would meet the qualifying criteria in relation to those workers if it were being used for automatic enrolment.
94. More information about the considerations for employers who are using contractual enrolment is in **Detailed guidance no. 6 – Opting in, joining and contractual enrolment**.

Other responsibilities

95. Existing employer responsibilities such as funding the scheme remain unchanged in light of the new duties. The extent of these ongoing responsibilities will depend on the type of automatic enrolment scheme selected. The employer pages on our website have more information for employers in matters relating to the efficient running of a pension scheme: www.tpr.gov.uk/employers

Getting information ready

96. One of the employer duties is to provide information to workers. Irrespective of the category into which those individuals fall, every employer will have an obligation to provide certain, specified information to groups of their workers within prescribed time limits:

- Jobholders being automatically enrolled, automatically re-enrolled or enrolled following opt in must be provided with information about what this means for them and their right to opt out.
- Jobholders with the right to opt in for the first time or entitled workers with the right to join for the first time must be provided with information about both the right of a jobholder to opt in to an automatic enrolment scheme and the right of an entitled worker to join a pension scheme.
- Workers for whom the employer has chosen to use postponement must be provided with information about the postponement of automatic enrolment and about the right to opt in or join during the postponement period.
- Eligible jobholders subject to the transitional period for schemes with defined benefits² must be provided with information about the deferral of automatic enrolment.

²
The transitional period for schemes with defined benefits allows an employer who provides a pension scheme with defined benefits (both defined benefit pension schemes and hybrid pension schemes where a defined benefit pension is offered) to choose to delay automatic enrolment (until after 30 September 2017) for workers who meet certain conditions. For more information, see **Detailed guidance no.3b – Transitional period for schemes with defined benefits**.

97. If the employer uses postponement to postpone the assessment of all their workers at their staging date, they will have to give notices to all their workers.
98. Until an employer completes the formal assessment of their workforce (as described in paragraphs 132 to 135), they cannot know with certainty which of these particular types of workers they have. However, this does not prevent an employer preparing the information in advance, and it is also not necessary to wait until their staging date to issue it.
99. The information requirements are described in **Detailed guidance no.10 – Information to workers**. A reference table of all the information requirements is also available in the Information to workers resource.

Giving the information

100. The responsibility is the employer's to give the statutory information to a worker, and to give the information in writing. 'Giving' information, in TPR's view includes:
 - sending information by post or internal mail
 - handing over information by hand
 - sending information by email
 - sending information in pdf attachments or other attachments by email
101. 'Giving' information does not include merely signposting to an internet or intranet site, attaching a URL or displaying a poster in the workplace. In these circumstances the employer is giving the worker the ability to access the information if they choose, but is not giving the worker the actual information.
102. In deciding on the method of giving the information, an employer should consider the appropriateness of the format for their workers, eg the extent to which electronic access is available to them. A range of formats may be required to ensure the information is given to all the workers to whom the employer is required to give information.
103. An employer should also check the completeness and the accuracy of the data they are using for giving the information. For example, where post is returned as 'gone away' or email is bounced back as the address is not recognised, an employer would not be considered to have given the information to the worker. Using the most up to date records (eg email addresses) for their workers should minimise the risk of the information not being given.

104. Someone acting on the employer's behalf, such as an independent financial adviser, pension scheme provider, benefit consultant, accountant or bookkeeper can provide the information, but it remains the employer's responsibility to make sure that the right information is provided to the right individual on time, and that it is complete and correct.
105. An employer may wish to provide all the information in one communication, eg as part of a handbook or joining pack. An employer who is considering combining multiple information requirements into one communication, or alternatively giving separate communications as and when the information requirements are triggered, should consider the appropriateness of their preferred approach for their workforce.

Setting up payroll

106. An employer's payroll system can support various aspects of the enrolment process and ongoing scheme membership, so it must be ready and able to deal with this. Not all aspects of the employer duties can be supported by payroll systems, but for those that are, it is important that the employer gets their system and processes ready ahead of their staging date.
107. An employer will need to pay their own contributions as well as the jobholder's contributions (if they are making any) to the automatic enrolment scheme. They must do this for as long as the jobholder remains in employment with that employer and an active member of the scheme.
108. The actual process of calculating and paying contributions is unchanged by any of the employer duties. However, what may change is the rate of contributions and the components of pay included in the calculation of pension contributions.
109. As part of setting up the scheme, the employer should understand the rate of contributions to be paid and the components of pensionable pay from which the contribution is to be calculated. This may involve discussion with the pension provider or it may involve reviewing the provider's online or hard copy information.
110. An employer should also establish from the scheme whether tax relief is to be given at source (contributions deducted from net pay) or under net pay arrangements (contributions deducted from gross pay)³, and ensure their payroll is set up accordingly.
111. A clear understanding of these elements, reflected in an employer's payroll process or system, will enable them to calculate and pay across to the provider the correct amount of contributions within the prescribed timescales.

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For more information on net pay arrangements, see HMRC's Employer Guide CWG2: www.hmrc.gov.uk/guidance/cwg2.pdf

112. If the jobholder is also paying contributions, the employer is required, by law, to deduct them for every pay reference period from their automatic enrolment date. ('Pay reference period' is explained in **Detailed guidance no. 3 – Assessing the workforce** and 'automatic enrolment date' is explained in **Detailed guidance no. 3c – Having completed the assessment**.) This applies from the staging date, even if the scheme is still processing the enrolment during the joining window. The employer should ensure that their payroll is able to make deductions of jobholder contributions and to transfer the money to the pension scheme.
113. When the law first comes into effect (on the employer's staging date), it is likely there will be a number of eligible jobholders to be enrolled at the same time. Payroll should be ready to make deductions and pay across to the scheme from the staging date. Employers who operate a weekly payroll should allow enough time to set this up because, if the eligible jobholder is making contributions, deductions must be made from the first week.
114. Trustees and managers of occupational (trust-based) pension schemes will operate a schedule of payments, as required by law. This schedule is usually agreed with the employer. It will set out the due dates for paying jobholder contributions (if any) and employer contributions to the scheme, and the amount of those contributions. Employers using an occupational pension scheme for automatic enrolment should build these dates into their payroll processes.
115. To use a personal pension scheme for automatic enrolment there will have to be direct payment arrangements in place. The due dates for the payment of contributions under these arrangements are set out in law. As with occupational schemes, the employer should build the relevant due dates into their payroll processes.
116. As is currently the case, the scheme rules, schedule of payments, or direct payment arrangements will define:
- the components of pay to be included in pensionable pay
 - the rates of contributions to be applied
 - the due dates for paying contributions.
117. Finally, the employer should build into their payroll processes the ability to refund without delay any contributions deducted from a jobholder who opts out during the opt-out period.

Getting ready to manage opt-outs

118. A jobholder has a one-month period after automatic enrolment during which they may choose to opt out. 'Opting out' has a specific meaning within the employer duties. It refers to a mechanism under the law which has the effect of undoing active membership, as if the worker had never been a member of a scheme on that occasion.
119. An employer should familiarise themselves with the steps they need to take if they receive an opt-out notice. Processes may need to be amended or new ones put in place to deal with opt outs. **Detailed guidance no. 7 – Opting out** provides more information.
120. One of the steps required is for the employer to refund any contributions made by the worker. The trustees or managers of the scheme must refund any contributions paid over to the scheme.
121. An employer using an occupational (trust-based) pension scheme to fulfil their duties will need to decide if they wish to negotiate a change to the due dates on the relevant schedule with the trustees or managers of the scheme to avoid the need for the pension scheme to refund contributions to the employer. **Detailed guidance no. 5 – Automatic enrolment** has more information about the time limits for paying contributions.

Getting ready to manage opt-ins

122. If an employer has identified that they are likely to have jobholders who have a right to opt in, they should familiarise themselves with the steps they will need to take if they receive an opt-in notice. For more information, see **Detailed guidance no. 6 – Opting in, joining and contractual enrolment**.

Assessing the impact on business processes

123. It is likely that the administration of the employer duties will fall across different areas of an employer's business. For example, the assessment of a worker's category to determine an employer's duties is broadly an assessment of age and earnings. An employer's HR function is likely to hold the information about a worker's age, whilst the payroll function will hold the information about their earnings.
124. We expect that supporting the employer duties will involve an employer's HR, pensions administration and payroll functionality as a minimum. It is also likely to include a third party, eg the provider of the pension scheme.

125. Some employers will have individual systems and software supporting their different functions. This may include outsourced administration. Where this is the case, an employer will need to ensure that the relevant systems and processes can interact and communicate with each other.
126. This may involve changes to business software. Business software providers have already been made aware of the changes they will need to make so their products are able to support the new employer duties.
127. Making changes to software and processes can take time, so employers should plan ahead. They should work with any third-party suppliers (for example payroll software providers) and the pension provider or administrator to ensure any necessary changes are made in time.

Record-keeping

128. An employer must cleanse and update worker records in preparation for their employer duties. As indicated above, the employer will need up-to-date earnings and age information to enable them to assess the duty they have in relation to each of their workers. They will have to provide correct worker details to their pension provider to achieve active membership in the scheme for those that need to be enrolled, and they will need current contact details in order to be able to write to every one of their workers.
129. As worker records may be held in a variety of places or on a number of storage systems, employers should ensure that they are able to locate the records for all their workers. They should remove or archive records of former workers, and check that they have items such as the correct date of birth, national insurance number and up-to-date postal or electronic contact addresses for each of their current workers.
130. Employers must also keep certain records that will enable them to demonstrate their ongoing compliance. They should build these record-keeping requirements into their existing processes.
131. More information on the records an employer must keep is available in **Detailed guidance no. 9 – Keeping records**.

Making a formal assessment of the workforce

132. An employer will already have an idea from the initial assessment of the workforce whether, on their staging date, they are likely to have:
- an eligible jobholder who they have to automatically enrol, or
 - a worker to whom they have to give information about the right to opt in or join.
133. The final step for an employer is to make a formal assessment of their workforce, to identify the different groups of workers and what the employer will be required to do – whether providing information or completing automatic enrolment.
134. The first time they will need to do this is on:
- their staging date, or
 - if they have chosen to use postponement for all their workers:
 - on the deferral date, or
 - on the date an opt-in or joining notice is received from a worker during the postponement period.
135. Further information on how to make the assessment can be found in **Detailed guidance no. 3 – Assessing the workforce**.

Section 2: New employers from 2 April 2017 with immediate duties start dates

136. This section of the guidance is relevant to:

- An employer who becomes an employer on or after 2 April 2017 and does not have a PAYE scheme, irrespective of whether they pay PAYE income or not
- An employer who first pays PAYE income in respect of any worker on or after 1 October 2017

137. In our view, PAYE income is total earnings in employment (salary, wage, fee etc), irrespective of whether that the amount of earnings is above or below the income tax threshold or the lower earnings limit for national insurance.

138. An employer for the purposes of the employer duties and safeguards is anyone who has entered into a contract with an individual that falls within the definition of 'worker'. For more information on the definition of worker see **Detailed guidance no.1 – Employer duties and defining the workforce.**

139. This section provides further information about the steps someone considering employing a worker for the first time on or after 2 April 2017 needs to take to prepare for becoming an employer for the purposes of the employer duties and safeguards.

Introduction

140. When someone is about to employ a worker for the first time, they need to take certain steps in preparation for becoming an employer, such as determining whether they need to register as an employer with HMRC, or taking out liability insurance. Getting ready for automatic enrolment is just one of these steps.
141. Anyone considering employing a worker for the first time on or after 2 April 2017 needs to be prepared for the onset of their employer duties.
142. The employer duties and safeguards will start to apply to an employer who falls within paragraph 136 above from the date their first worker begins to be employed (their 'duties start date').
143. To get ready for the onset of the employer duties and safeguards, anyone considering employing a worker for the first time on or after 2 April 2017 should:
- understand their duties start date
 - do an initial assessment of the worker or workers' likely age and earnings on or before the duties start date. This will indicate if the employer needs to put a pension scheme in place for automatic enrolment for the duties start date
 - put a pension scheme in place if the initial assessment identifies that the worker will meet the eligible jobholder criteria
 - get information ready
 - set up payroll processes and software if needed
 - decide whether to use postponement at the duties start date
 - be ready to handle opt ins if needed
 - keep records
144. These steps are described in further detail below in the remainder of this section.

Understanding the duties start date

145. The 'duties start date' is the date the employer duties start to apply to the employer, ie the date the first worker begins to be employed by them. For most employers who become employers on or after 2 April 2017, working out the date their first worker began to be employed by them will be straightforward.
146. The date that the first worker begins to be employed is the date from which the worker's contract with the employer takes effect, ie the contractual start of employment.
147. It does not matter whether the worker is going to be paid above or below the lower earnings limit for national insurance. Even if the employer is not required to set up a PAYE scheme by Her Majesty's Revenue and Customs (HMRC) the employer duties and safeguards will start to apply to them from the date their first worker begins to be employed by them. Employers created on or after 2 April 2017 who do not have a PAYE scheme should note when TPR expects them to complete their declaration of compliance. More information on this can be found on our website at: <https://www.thepensionsregulator.gov.uk/en/business-advisers/automatic-enrolment-guide-for-business-advisers/duties-for-new-employers>
148. If the worker attends meetings or other events on a voluntary basis before the worker's contract with the employer takes effect, this doesn't change the date from which their contract takes effect. The date the worker begins to be employed is still the date the duties begin to apply.
149. It may be less straightforward for employers who become employers on or after 2 April 2017 up to and including 30 September 2017. This is because during this period there is an overlap with the new employers who have a staging date (see section 1), as an employer who first pays PAYE income between 1 April 2012 and 30 September 2017 is allocated a staging date between May 2017 and February 2018. For more information on new employers during this period see paragraphs 204 to 216.
150. In addition, where a director-only company is considering taking on a worker such that the company will become an employer for the purposes of the employer duties and safeguards for the first time on or after 2 April 2017, they should be aware of the interaction of the duties start date with the operation of the exemption from the definition of 'worker' for a director. This is only relevant where the director-only company has one director who has a contract of employment and the company is considering taking on a second person on a contract of employment, as described in paragraphs 151-159 below.

Director-only companies

151. If an individual is a director⁴ of a company and the company has no other workers with a contract of employment (eg an employee), that individual is not a worker by virtue of any office that they hold or contract of employment under which they work. More information on this exemption from the definition of 'worker' can be found in **Detailed guidance no.1 – Employer duties and defining the workforce**.
152. This means that, where a company has one or more directors and no other employees, the company will not be an employer, provided that either only one of the directors has a contract of employment or none of these directors have a contract of employment (whether written or otherwise) with the company.
153. If a director-only company takes on a worker but none of the directors have contracts of employment they become an employer for purposes of the employer duties and safeguards. None of the directors fall within the definition of worker, even if the worker has a contract of employment. The duties start date will be determined by the start date of employment of the worker.
154. If a director-only company has one director who has a contract of employment and they take on a second person on a contract of employment employer duties and safeguards, the situation is slightly different. This second person could be another director with a contract of employment or another worker on a contract of employment.
155. In this case when the second person with a contract of employment starts employment the company becomes an employer for the purposes of the employer duties and safeguards for the first time. Further, they are an employer of two workers – the second person with a contract of employment and new duties, the director who has a contract of employment with the company (as this director is now no longer exempt from the definition of worker as described in paragraph 151 above.)
156. The duties start date is the date the first worker begins to be employed. In these circumstances, the earliest of:
- a. the date the director who has the contract of employment began to be employed, or
 - b. the date the second person with the contract of employment began to be employed
- will determine the duties start date of the new employer.

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Paragraph 32 of
**Detailed guidance
no.1 – Employer duties
and defining the
workforce** explains what
it means to hold office
as a director.

157. In practice, the date the director who has the contract of employment began to be employed will always be the earliest date and it is this which will determine the duties start date.
158. However, at the time of duties start date the company was not an employer for the purposes of the employer duties and the director was not a worker at the time did not employ any workers. So although the duties are deemed to apply from the start date of employment of the earliest director, the company is not required to give effect to those duties from that date. This operation of the exemption from the definition of 'worker' for a director means that the company will only be required to give effect to the employer duties from the date they to apply to the company from only become an employer for the first time (see example 1 below).

Example 1

Joe and Beth are both directors of HIJK Ltd since 23 February 2018. In addition, Joe has a contract of employment with HIJK Ltd. They set up a PAYE scheme in February 2018 and have been paying PAYE income since that date.

Beth is not a worker as she is a director without a contract of employment. Joe is also not a worker as there are no other employees employed by the company. HIJK Ltd is not an employer for the purposes of the employer duties and safeguards.

On 6 November 2018, HIJK Ltd take on a new worker, Lee, on a contract of employment. On this date therefore, HIJK Ltd becomes an employer for the first time with two workers – Lee and Joe.

The start date of employment of their first worker is Joe's start date of 23 February 2018 and therefore the duties start date for HIJK Ltd is 23 February 2018. However on 23 February 2018 the company was not an employer as they did not employ any workers. Neither Joe nor Beth was a worker on this date.

As a result the company is not required to give effect to those duties from that date. It is not until HIJK Ltd take on Lee that the company becomes an employer for the first time. HIJK Ltd does not have to give effect to the employer duties and safeguards until the date HIJK Ltd becomes an employer for purposes of the employer duties for the first time – from 6 November 2018 – Lee's start date of employment.

159. Essentially, therefore where a director-only company with one director with a contract of employment becomes an employer for the first time, the duties start date will be the date that director began to be employed. However, practically they will only be required to start to apply the duties from the date the second person with a contract of employment began to be employed because of the operation of the exemption mentioned at paragraph 151.

Making an initial assessment of the workforce

160. The first step for anyone considering employing a worker for the first time is to take an initial view of that worker's likely age and earnings on the duties start date. The makeup of the workforce is described in **Detailed guidance no. 1 – Employer duties and defining the workforce**.
161. This will give prospective employers them an idea about whether they will have a worker who they will have to automatically enrol, or workers with a right to opt in or to join a scheme. They will then be able to determine what preparations they need to make, eg whether they need to have a pension scheme in place to fulfil their duties.
162. Anyone considering employing a worker for the first time will need to look at the contractual relationships they will have with the people working for them to ensure they correctly identify those who are workers. It is this group of people for whom they may have duties.

The pension scheme for automatic enrolment

163. Having completed the initial assessment of the worker they intend to employ for the first time, anyone considering employing a worker for the first time (referred to as an 'employer' from now on) will know whether they are likely to have an automatic enrolment duty from their duties start date.
164. If so, they will need to select an 'automatic enrolment scheme'. This is a pension scheme that meets the automatic enrolment and qualifying criteria. The scheme can be based in the UK or within the European Economic Area (EEA).
165. If an employer only has a jobholder with a right to opt in, or an entitled worker with a right to join, there is no requirement to select a scheme in advance of their duties start date, although they can if they wish.

166. **Detailed guidance no. 4 – Pension schemes** has more information on the criteria a scheme must meet to be an automatic enrolment scheme.
167. It is important to note that the criteria listed in **Detailed guidance no. 4 – Pension schemes** are the minimum features the scheme is required to have. There will be other things to consider before an employer makes a decision about what the type of scheme to use.
168. Some employers will pay for professional advice while others will make decisions with information from a range of sources. The employer pages on our website have more information for employers to help them understand what to consider when choosing a pension scheme: www.tpr.gov.uk/ae-pension

Put administrative procedures in place

169. Once an employer knows which scheme they will be using, there are a number of administrative steps they can take that will help them to fulfil their duties on time.

Contact the chosen scheme and understand the joining process

170. An employer will need to send data to the pension scheme and also find out certain information about how the pension scheme is set up. They should find out from the scheme provider what is needed to achieve active membership, and how long this will take the pension scheme to complete this process.
171. It is important for an employer to know how long it will take to achieve active membership, as they only have six weeks after the eligible jobholder's automatic enrolment date to complete automatic enrolment and achieve active membership. More detailed information about the steps needed to complete the automatic enrolment process is in **Detailed guidance no. 5 – Automatic enrolment**.

Prepare data

172. The employer will need to provide the pension scheme with certain information about the eligible jobholder who is being automatically enrolled. A list of this information can be found in the section called Eligible jobholder information to the scheme in **Detailed guidance no. 5 – Automatic enrolment** but broadly they are going to need their worker's:

- date of birth
- salary
- National Insurance number
- staff contact details

Getting ready to manage opt outs

173. A jobholder has a one-month period after automatic enrolment during which they may choose to opt out. 'Opting out' has a specific meaning within the employer duties. It refers to a mechanism under the law which has the effect of undoing active membership, as if the worker had never been a member of a scheme on that occasion.

174. An employer should familiarise themselves with the steps they need to take if they receive an opt-out notice. **Detailed guidance no. 7 – Opting out** provides more information.

175. While the pension scheme may administer much of the opt-out process on the employer's behalf, one of the steps required is for the employer to refund any contributions made by the worker, and must not wait to have the money refunded to them first. The trustees or managers of the scheme must refund any contributions paid over to the scheme to the employer.

176. An employer using an occupational (trust-based) pension scheme to fulfil their duties will need to decide if they wish, when they set up the pension scheme, to negotiate due dates on the relevant schedule with the trustees or managers of the scheme that avoid the need for the pension scheme to refund contributions to the employer. **Detailed guidance no. 5 – Automatic enrolment** has more information about the time limits for paying contributions.

Other responsibilities

177. Existing employer responsibilities such as funding the scheme remain unchanged in light of the new duties. The extent of these ongoing responsibilities will depend on the type of automatic enrolment scheme selected. The employer pages on our website have more information for employers in matters relating to the efficient running of a pension scheme: www.tpr.gov.uk/employers

Getting information ready

178. One of the employer duties is to provide information to workers. Irrespective of the category into which those individuals fall, every employer will have an obligation to provide certain, specified information to their workers within prescribed time limits:

- A jobholder being automatically enrolled, automatically re-enrolled or enrolled following opt in must be provided with information about what this means for them and their right to opt out.
- A jobholder with the right to opt in for the first time, or an entitled worker with the right to join for the first time, must be provided with information about both the right of a jobholder to opt in to an automatic enrolment scheme and the right of an entitled worker to join a pension scheme.
- A worker for whom the employer has chosen to use postponement must be provided with information about the postponement of automatic enrolment and about the right to opt in or join during the postponement period.
- An eligible jobholder subject to the transitional period for schemes with defined benefits⁵ must be provided with information about the deferral of automatic enrolment.

179. The information requirements are described in **Detailed guidance no.10 – Information to workers**. A reference table of all the information requirements is also available in the **Information to workers resource**.

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The transitional period for schemes with defined benefits allows an employer who provides a pension scheme with defined benefits (both defined benefit pension schemes and hybrid pension schemes where a defined benefit pension is offered) to choose to delay automatic enrolment (until 30 September 2017) for workers who meet certain conditions. For more information see **Detailed guidance no.3b – Transitional period for schemes with defined benefits**.

Giving the information

180. The responsibility is the employer's to give the statutory information to a worker, and to give the information in writing. 'Giving' information, in TPR's view includes:
- sending information by post or internal mail
 - handing over information by hand
 - sending information by email
 - sending information in pdf attachments or other attachments by email
181. 'Giving' information does not include merely signposting to an internet or intranet site, attaching a URL or displaying a poster in the workplace. In these circumstances the employer is giving the worker the ability to access the information if they choose, but is not giving the worker the actual information.
182. In deciding on the method of giving the information, an employer should consider the appropriateness of the format for their workers, eg the extent to which electronic access is available to them. A range of formats may be required to ensure the information is given to all the workers to whom the employer is required to give information.
183. An employer should also check the completeness and the accuracy of the data they are using for giving the information. For example, where post is returned as 'gone away' or email is bounced back as the address is not recognised, an employer would not be considered to have given the information to the worker. Using the most up to date records (eg email addresses) for their workers should minimise the risk of the information not being given.
184. Someone acting on the employer's behalf, such as an independent financial adviser, pension scheme provider, benefit consultant, accountant or bookkeeper can provide the information, but it remains the employer's responsibility to make sure that the right information is provided to the right individual on time, and that it is complete and correct.

Setting up payroll

185. Payroll software which is set up for automatic enrolment can be used to work out who needs to be automatically enrolled into a pension scheme. Most aspects of the employer duties can be supported by payroll systems and it is important that the employer gets their system and processes ready ahead of their duties start date.
186. An employer will need to pay their own contributions as well as deduct and pay over the jobholder's contributions (if they are making any) to the automatic enrolment scheme. They must do this for as long as the jobholder remains in employment with that employer and an active member of the scheme.
187. If the jobholder is also paying contributions, the employer is required, by law, to deduct them for every pay reference period from their automatic enrolment date. ('Pay reference period' is explained in **Detailed guidance no. 3 – Assessing the workforce** and 'automatic enrolment date' is explained in **Detailed guidance no. 3c – Having completed the assessment**.) This applies from the duties start date even if the scheme is still processing the enrolment.
188. An employer should also establish from the scheme whether tax relief is to be given at source (contributions deducted from net pay) or under net pay arrangements (contributions deducted from gross pay)⁶, and ensure their payroll is set up accordingly.
189. As part of setting up the scheme, the employer should understand the rate of contributions to be paid and the components of pensionable pay from which the contribution is to be calculated. The scheme rules, schedule of payments, or direct payment arrangements will define:
- the components of pay to be included in pensionable pay
 - the rates of contributions to be applied
 - the due dates for paying contributions.
190. This may involve discussion with the pension provider, or it may involve reviewing the provider's online or hard copy information.
191. A clear understanding of these elements, reflected in an employer's payroll process or system, will enable the employer to calculate and pay across to the provider the correct amount of contributions within the prescribed timescales.
192. Finally, the employer should build into their payroll processes the ability to refund without delay any contributions deducted from a jobholder who opts out during the opt-out period.

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For more information on net pay arrangements see HMRC's Employer Guide CWG2: www.hmrc.gov.uk/guidance/cwg2.pdf

Deciding whether to use postponement at the duties start date

193. Postponement is described as 'postponement of automatic enrolment', and is sometimes referred to as a 'waiting period'. The way postponement works is to postpone the assessment of a worker for a period of up to three months. It is therefore effectively a postponement of whichever employer duty may apply, depending on the category of worker.
194. The way an employer exercises the choice to use postponement in relation to a worker is to issue that worker with a notice. Postponement is described in **Detailed guidance no. 3a – Postponement**.
195. Using postponement at the date the employer duties first start to apply (the duties start date) does not mean that the onset of the duties themselves are postponed. The start date of employment of the first worker remains the date that the employer duties start to apply.
196. However, if an employer is using postponement for all their workers, the practical effect may be the same as if the duties start date was postponed. This is because most of the activity that an employer has to start carrying out (with the exception of providing the postponement notice) would be put back by up to three months.
197. Having completed the initial assessment, an employer will have an idea whether they need to put a pension scheme in place for automatic enrolment or whether they are likely to only have an information duty at the duties start date. They will also have an idea of the administrative processes, (potentially including payroll software support) they need to put in place. Depending on the proximity of the duties start date they will be able to judge whether they need more time to prepare and whether they will need to use postponement.

Getting ready to manage opt ins or requests to join

198. If an employer has identified that they are likely to have a jobholder who has a right to opt in or an entitled worker with a right to join, they should familiarise themselves with the steps they will need to take if they receive an opt-in notice. For more information, see **Detailed guidance no. 6 – Opting in, joining and contractual enrolment**.

Record-keeping

199. Employers must also keep certain records in support of the employer duties that will enable them to demonstrate their ongoing compliance. They should build these record-keeping requirements into their administrative processes.
200. More information on the records an employer must keep is available in **Detailed guidance no. 9 – Keeping records**.

Making a formal assessment of the workforce

201. The final step for an employer is to make a formal assessment of their workforce to work out what they need to do – whether providing information or completing automatic enrolment.
202. The first time they will need to do this is on:
- their duties start date, or
 - if they have chosen to use postponement for all their workers:
 - on the deferral date, or
 - on the date an opt-in or joining notice is received from a worker during the postponement period.
203. Further information on how to carry out make the assessment can be found in **Detailed guidance no. 3 – Assessing the workforce**.

Employing a worker for the first time on or after 2 April 2017 and 30 September 2017 and the duties start date

204. When someone employs a worker for the first time on or after 2 April 2017 they become an employer for the purposes of the employer duties and safeguards., However, in some cases they may not be required to register with HMRC as an employer for the purposes of income tax and national insurance contributions.
205. For example, if the worker they are employing does not have a contract of employment but is contracted to perform work or services personally, other than as part of their own separate business ('a personal services worker'), they may not be required to register with HMRC as an employer.

206. If the personal services worker is treated as self employed by HMRC for both income tax and national insurance purposes, the employer will not be required to set up a PAYE scheme. If an employer only employs such personal service workers who are treated as self employed for both income tax and national insurance purposes they will also not pay PAYE income either.
207. Even if the worker is under a contract of employment there may be some cases when an employer who is an employer for the purposes of the employer duties and safeguards, is not required to register with HMRC as an employer. This may be, for example, because they pay their worker below the lower earnings limit for national insurance with no other taxable benefits and the worker has no other taxable income.
208. Where the worker is under a contract of employment but the employer is not required to set up a PAYE scheme by HMRC, the employer is still paying PAYE income in respect of their worker. This is because, in our view, PAYE income is total earnings in employment (salary, wage, fees etc), irrespective of whether that amount is above or below the income tax threshold or the lower earnings limit for national insurance.
209. This means that, when someone starts to employ a worker for the first time on or after 2 April 2017, there are three possible scenarios:
- they have a worker under a contract of employment before the date their first worker begins to be employed. When they pay their worker they will pay PAYE income for the first time.
 - they have a worker under a contract of employment but have not set up a PAYE scheme at the date their first worker begins to be employed. When they pay their worker they will pay PAYE income for the first time.
 - they have a worker who they employ is a personal services worker and they are not required to set up a PAYE scheme, nor do they pay PAYE income as the worker is treated by HMRC as self employed for both tax and national insurance purposes.
210. From 1 October 2017, it will not matter which of these three scenarios is relevant to the employer, the duties start date in all three scenarios is the contracted start date of employment of the first worker.

211. However, in the period on or after 2 April 2017 up to and including 30 September 2017, there is a distinction between the scenarios when it comes to determining when the employer duties start to apply to an employer. This is because there is an overlap with the new employers who have a staging date (see section 1).
212. If the employer falls within the scenario described in paragraph 209a (ie they have a PAYE scheme in place on the date their first worker begins employment), then when they pay their worker it is this act of paying the PAYE income that triggers the start of the duties. The employer will have a staging date based on the date that the PAYE income was first payable (see example 2). Employers in this scenario should use section 1 for more information on how to prepare for their staging date.

Example 2

ZYX Solutions recruited their first worker, Seth, to start working for them on 12 June 2017. Seth works under a contract of employment. He will be paid weekly in arrears on Friday each week. At the end of April, ZYX Solutions set up a PAYE scheme in preparation for the start of Seth's employment.

On 12 June 2017, when Seth started employment, ZYX Solutions became an employer for the purposes of the employer duties and safeguards. Seth was first paid his salary by ZYX Solutions on 23 June 2017.

As ZYX Solutions had a PAYE scheme in place before they became an employer they do not fall within the first bullet of paragraph 136 - 'an employer who became an employer on or after 2 April 2017 and does not have a PAYE scheme'. On 23 June 2017, they first pay PAYE income in respect of a worker. As they first pay PAYE income in the period up to 30 September 2017 they will have a staging date.

The staging date is determined by based upon the date that the PAYE income was first payable, in this case 23 June 2017. Their staging date is 1 January 2018 (see table 1 on page 10).

213. If the employer does not have a PAYE scheme at the time they take on their first worker in this period (02 April 2017– up to and including 30 September 2017) then their duties start date is the date their first worker begins to be employed by them. If the employer subsequently pays PAYE income for the first time in the period from the date they took on the worker up to 30 September 2017, then they will have a staging date based on the date the date that the PAYE income was first payable.
214. The earliest of the duties start date or staging date is the date that duties start to apply to the employer. The earlier of these two dates for an employer will be the date their first worker begins to be employed by them. So, in this scenario, even although the employer first pays PAYE income in the period up to 30 September 2017, the date that the employer duties apply to the employer is the date their first worker begins to be employed (see example 3).

Example 3

QRobotics were set up on 27 August 2016 by Max who is self-employed. QRobotics took on their first worker under a contract of employment on 4 September 2017. Their worker is part time, is weekly paid weekly, and does not earn above the lower earnings limit for national insurance contributions. QRobotics have checked HMRC's guidance and determined that they do not need to set up a PAYE scheme.

On 4 September 2017, when their first worker starts employment, QRobotics becomes an employer for the purposes of the employer duties and safeguards. As an employer without a PAYE scheme on or after 2 April 2017, they have a duties start date of the date their first worker begins to be employed ie 4 September 2017. This is the date that the employer duties start to apply.

QRobotics pay their first worker on 8 September 2017. This is the date that they first pay PAYE income in respect of a worker. As they first pay PAYE income before 1 October 2017 they also have a staging date. However, as the duties commenced for QRobotics on 4 September this staging date will not matter as the duties have already started for QRobotics.

215. If the employer does not have a PAYE scheme at the time they take on their first worker person and does not pay PAYE income, then the duties start date will be the date their first worker begins to be employed by them (see example 4).

Example 4

zLite set up on 15 November 2015 by Tamala who is self employed. zLite took on their first worker on 2 August 2017 under a contract to perform work or services personally, other than as part of their own separate business (a 'personal services worker'). Having checked HMRC's guidance zLite has determined that they do not need to set up a PAYE scheme.

zLite became an employer for purposes of the employer duties and safeguards from 02 August 2017. As an employer without a PAYE scheme on or after 2 April 2017, they have a duties start date determined by of the the date their first worker begins to be employed – ie 2 August 2017. This is the date that the employer duties start to apply to zLite.

216. Appendix A contains a flowchart of the key considerations in establishing the date that the employer duties start to apply to an employer created between 2 April 2017 and 30 September 2017. However, employers created in this period, should also note how TPR will treat their duties start date. More information on this can be found on our website at: <https://www.thepensionsregulator.gov.uk/en/business-advisers/automatic-enrolment-guide-for-business-advisers/duties-for-new-employers>

217. What next?

Every employer who is likely to have any enrolment duties should read the following guidance:

- **Detailed guidance no. 4 – Pension schemes**
Explains the criteria that pension schemes must meet to be able to be used in relation to the new duties.
- **Detailed guidance no. 5 – Automatic enrolment**
- **Detailed information on the entire automatic enrolment process.**
- **Detailed guidance no. 7 – Opting out**
What to do if a jobholder chooses to opt out of the pension scheme after being enrolled.

Employers who are likely to have workers with a right to join a scheme outside the automatic enrolment process should read **Detailed guidance no. 6 – Opting in, joining and contractual enrolment.**

For more information on how an employer determines if they have an enrolment duty, an employer should read **Detailed guidance no. 3 – Assessing the workforce.**

An employer who is considering using postponement should read **Detailed guidance no. 3a – Postponement.**

Employers must also be aware of the legal safeguards that have been put in place to protect the rights of individuals under the pensions reform. These safeguards apply to all employers from the date the law commenced in July 2012. For many, this will be some time ahead of their staging date, so it is vital that employers gain familiarity with these safeguards to ensure compliance. **Detailed guidance no. 8 – Safeguarding individuals** has full details.

Key terms

Summary of the different categories of worker

The table below is a quick reminder of the different categories of worker. These are explained in detail in **Detailed guidance no. 1 – Employer duties and defining the workforce.**

Category of worker	Description of worker
Worker	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 <ul style="list-style-type: none">• is aged between 16 and 74• has qualifying earnings equal to or 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.

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Detailed guidance for employers no. 2

Getting ready: first steps to prepare
for the new employer duties

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