For employers

Corporate pensions

A guide to automatic enrolment and the employer duties

Supporting you every step of the way

Scottish Life
a division of Royal London

Introduction

The Government estimates that around seven million people in the UK are currently not saving enough for their retirement.[1] So from October 2012 they're introducing a law to get more people saving for their future. This means that employers will have to automatically enrol some workers into a pension scheme and give other workers the option to join.

You'll have different duties depending on the types of worker you employ. There are three different categories of worker, determined by their age and how much they earn.

We want to help you understand and prepare for the changes you'll have to make. This guide summarises the main changes and what they mean for you. It's based on our current understanding of legislation and regulations and may be subject to change.

[1] Department for Work & Pensions, Mind the gap, 31 August 2011.

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When is it happening?

The employer duties will be introduced in stages from October 2012. The date your employer duties first apply is known as your staging date and it's based on the number of people in your largest Pay As You Earn (PAYE) scheme on 1 April 2012.

What is the effect on my workforce?

You'll need to assess your workforce to determine whether they're classified as a 'worker'. There are three different categories of worker, determined by their age and how much they earn.

What are my employer duties?

Your employer duties will depend on the types of worker you employ. You'll need to automatically enrol some workers into a pension scheme and arrange membership for others. You're also responsible for the ongoing maintenance of the scheme and have an obligation to keep certain records.

What is the effect on pension schemes?

You must register that you have an automatic enrolment scheme in place with The Pensions Regulator (TPR) by at least four months after your staging date. You'll also have to re-register every three years. The good news is, if you have an existing pension scheme, you can use this to meet your employer duties as long as it meets certain criteria.

What happens if I do nothing?

The employer duties are not optional. TPR will be responsible for ensuring that you comply with your employer duties. Although their approach will be to educate and encourage compliance, you'll face substantial fines or even imprisonment if you don't comply.

What is NEST?

You may have heard about NEST, the National Employment Savings Trust. NEST is a pension scheme that is primarily aimed at low to medium earners and small employers that don't have access to a company pension scheme.

When is it happening?

The employer duties will be introduced in stages starting in October 2012. The date your employer duties first apply is known as your staging date and it's based on the number of people in your largest Pay As You Earn (PAYE) scheme on 1 April 2012. Larger employers will generally have their staging date earlier than smaller employers.

Identifying your staging date

Full details of the staging dates can be found in our **Employer duties – staging dates** leaflet.

TPR will tell you when your staging date is at least twelve months in advance. They will also send you a reminder three months before your staging date.

Bringing forward the staging date

You can choose to bring your staging date forward to coincide with other key company dates such as your end of year accounting. Full details of the dates available can be found in our **Employer duties – staging dates** leaflet.

You will have to contact TPR in writing to confirm the new staging date you have chosen. This should be done at least one calendar month before the new chosen staging date.

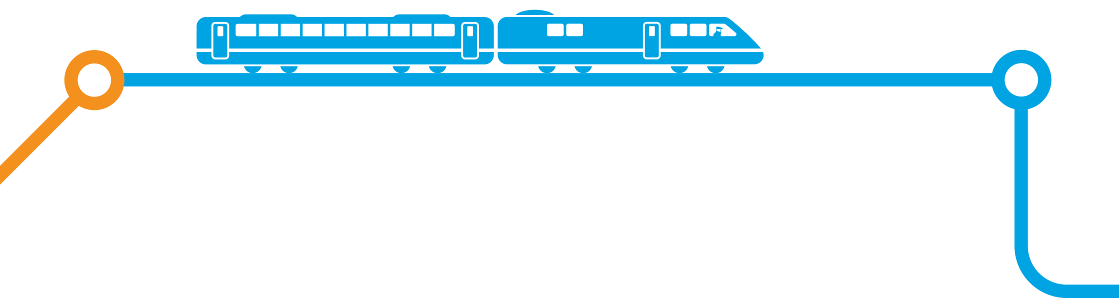
What is the effect on my workforce?

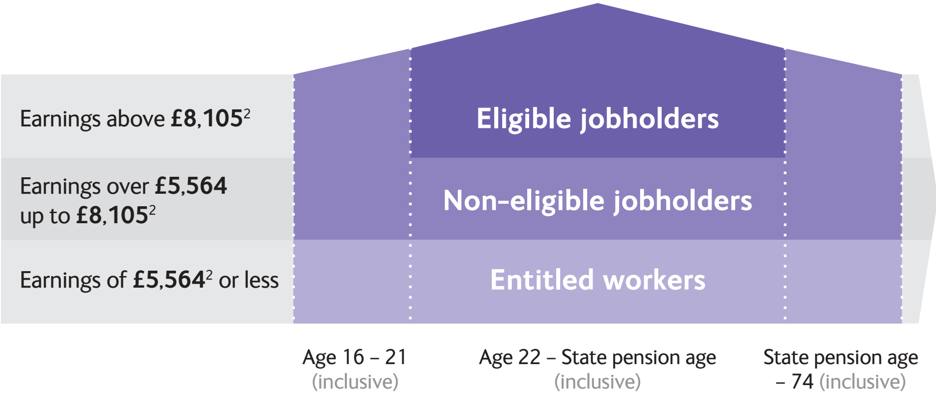
You will need to assess your workforce to determine whether they're classified as a 'worker'. The term 'worker' can also include contractors and/or agency workers.

There are three different categories of worker, determined by their age and how much they earn.

- Eligible jobholders – must be automatically enrolled into an automatic enrolment scheme
- Non-eligible jobholders – have the right to opt in to an automatic enrolment scheme
- Entitled workers – have the right to join a pension scheme

The table opposite shows you how to identify each type of worker.





Eligible jobholders are people who:

- are aged between 22 and State pension age
- work or ordinarily work in the UK and
- earn above £8,105.

Non-eligible jobholders are people who:

- are aged at least 16 and under 75
- work or ordinarily work in the UK and
- earn over £5,564 up to £8,105

or

- earn above £8,105 and are under 22 or
- earn above £8,105 and are over State pension age.

Entitled workers are people who:

- are aged at least 16 and under 75
- work or ordinarily work in the UK and
- earn £5,564 or less.

[2] These figures are for the 2012/13 tax year.

Exclusions to the employer duties

People who are treated as workers

The following people are treated as workers but are not covered by the employer duties:

- those who do not work or ordinarily work in the UK
- those under age 16 and
- those aged 75 and over.

People who are not treated as workers

The following people are not treated as workers so the employer duties don't apply to them:

- the self employed
- members of the armed forces
- and directors of companies unless they have a contract of employment to work for that company and there is someone else employed by the company under a contract of employment.

Postponement

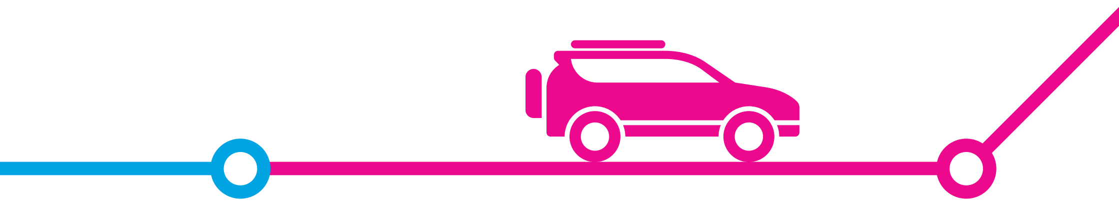
You can use postponement to defer the assessment of workers and your employer duties. The postponement period can't be more than three months.

The end of the postponement period is known as the deferral date and you must assess workers on this date.

What you must do if postponement is used

If you use postponement, you must provide workers with a postponement notice. This must be issued within a month and a day of:

- your staging date
- the worker's first day of employment after your staging date and
- the day that a worker becomes an eligible jobholder (for example, the day a worker reaches age 22).



What are my employer duties?

Employer duties for each worker type

The table below summarises your employer duties for each type of worker.

Category of worker	An overview of your employer duties
Eligible jobholder	■ Automatically enrol them into an automatic enrolment scheme. ■ Make contributions on their behalf. ■ Process any opt-out notices and refund contributions paid. ■ Re-assess worker type roughly every three years and re-enrol those who have previously opted out. ■ Keep records of the automatic enrolment process and provide to TPR if requested.
Non-eligible jobholder	■ Provide information about their right to opt in to an automatic enrolment scheme. ■ Arrange pension scheme membership and make contributions on their behalf. ■ Process any opt-out notices and refund contributions paid. ■ Continually assess their age and/or earnings. ■ Keep records of the enrolment process and provide to TPR if requested.
Entitled worker	■ Provide information about their right to join a pension scheme. ■ Arrange pension scheme membership. ■ Deduct contributions from their salary and pay these into the scheme. You are not required to make contributions although you can choose to do so. ■ Continually assess their age and/or earnings. ■ Keep records of the joining process and provide to TPR if requested.

What is the effect on pension schemes?

You must register with TPR that you have an automatic enrolment scheme in place by at least four months after your staging date. You'll also have to re-register roughly every three years. The good news is, if you have an existing pension scheme, you can use this to meet your employer duties so long as it meets certain criteria.

There are three sets of criteria, namely, automatic enrolment criteria, qualifying criteria and quality requirements. The following information relates specifically to contributions under the quality requirements.

Minimum requirements

The minimum contribution level required for an automatic enrolment scheme is based on qualifying earnings. Qualifying earnings are a band of earnings of more than £5,564 and £42,475 or less. These figures are for the 2012/13 tax year and are expected to increase each year. Qualifying earnings include salary, wages, overtime, bonuses, commissions, statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay and statutory adoption pay.

To allow you to spread the cost of your employer duties you can phase in the minimum contributions as shown in the table below.

<table>
<tr><th colspan="4">Contribution rates required to meet the contribution quality requirement as a percentage of qualifying earnings</th></tr>
<tr><th>Date</th><th>Total must be at least</th><th>Employer must contribute</th><td rowspan="4">Agreement must be in place for jobholder to make up at least any difference between the total and the employer amount.</td></tr>
<tr><td>October 2012 to September 2017</td><td>2%</td><td>1%</td></tr>
<tr><td>October 2017 to September 2018</td><td>5%</td><td>2%</td></tr>
<tr><td>October 2018 onwards</td><td>8%</td><td>3%</td></tr>
</table>

Certification

As an alternative to using the qualifying earnings definition, you can choose to use certification.

A certificate can cover all workers or groups of workers. For example, you might want to use the qualifying earnings basis for one group of workers and certification for another group of workers. You can also use different certification levels for different groups of workers.

The contribution levels for certification can be phased in over six years from October 2012 and there are three options available:

9% **8%** **7%**

If you choose the 9% or 8% certification options, you can use a scheme definition of pensionable salary and contributions must be based on the first pound of pensionable salary.

Pensionable salary must be at least basic pay. Basic pay must include earnings before deductions such as tax and National Insurance, holiday pay and certain statutory benefits but doesn't have to include variable pay such as bonuses, overtime and commission.

If you choose the 7% certification option, all earnings must be pensionable and contributions must be based on the first pound of earnings.

You can certify for up to 18 months using the payroll data that's available at the time you certify. You must re-certify at least every 18 months or sooner if there is a 'significant change' such as:

- changes to the scheme contribution rate or
- a company takeover/merger.

The certification options and how they may be phased in are shown in the tables overleaf.

Certification options

The tables below show the three certification options and how they may be phased in.

9% of pensionable salary			
Date	Total must be at least	Employer must contribute	Agreement must be in place for jobholder to make up at least any difference between the total and the employer amount.
October 2012 to September 2017	3%	2%	
October 2017 to September 2018	6%	3%	
October 2018 onwards	9%	4%	

8% of pensionable salary, provided 85% of total payroll[3] is pensionable			
Date	Total must be at least	Employer must contribute	Agreement must be in place for jobholder to make up at least any difference between the total and the employer amount.
October 2012 to September 2017	2%	1%	
October 2017 to September 2018	5%	2%	
October 2018 onwards	8%	3%	

7% of all earnings[3]			
Date	Total must be at least	Employer must contribute	Agreement must be in place for jobholder to make up at least any difference between the total and the employer amount.
October 2012 to September 2017	2%	1%	
October 2016 to September 2018	5%	2%	
October 2018 onwards	7%	3%	

[3] Earnings must include everything that's included in the definition of qualifying earnings.

What happens if I do nothing?

The employer duties are not optional. The Pensions Regulator (TPR) will be responsible for ensuring that you comply with your employer duties. Although their approach will be to educate and encourage compliance, you'll face substantial fines or even imprisonment if you don't comply.

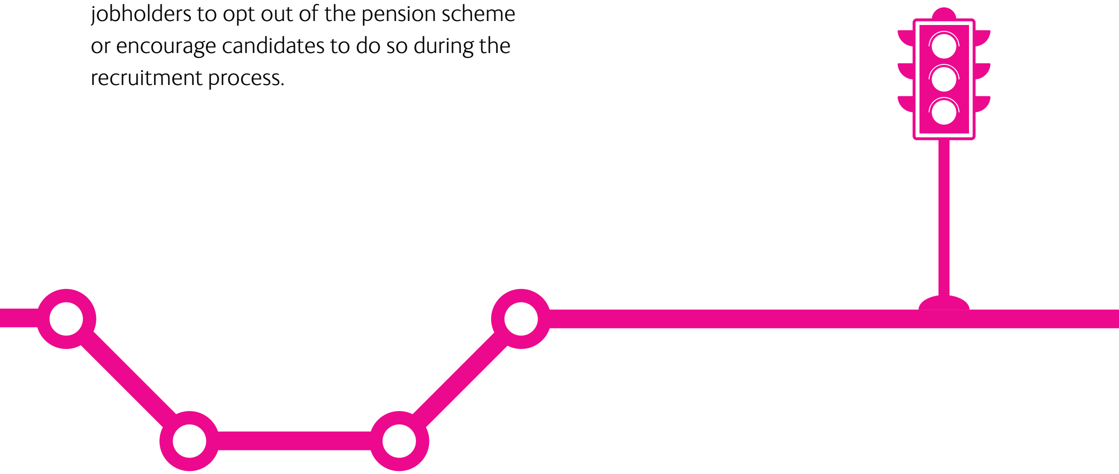
Penalties

TPR have the power to issue compliance notices and impose penalties if you don't comply with your employer duties for example, failing to automatically enrol eligible jobholders or failing to refund contributions to those who have opted out. Similarly you can't encourage jobholders to opt out of the pension scheme or encourage candidates to do so during the recruitment process.

Appealing against a penalty

You have a right to appeal against any penalties imposed by TPR and must do so in writing. If TPR decides to review a penalty, it will be suspended from the date they begin a review until the date the review is completed. They can then confirm, vary or revoke the penalty or substitute it for a different penalty.

You can find out more about automatic enrolment and the role of TPR on their website at: www.thepensionsregulator.gov.uk/pensions-reform



What is NEST?

You may have heard about NEST, the National Employment Savings Trust. NEST is a pension scheme that you can use to meet your employer duties and it's primarily aimed at low to medium earners and small employers that don't have access to a company pension scheme. It's designed to be a simple, low cost option and there are certain restrictions that apply.

- There is currently a general ban on transfers in or out.
- There is an upper contribution limit of £4,400[4] each tax year.
- There are limited options at retirement which will result in less choice and flexibility for workers.
- There are limited investment options. Workers will be automatically invested in a default fund based on time to retirement. This will not take into account an individual's attitude to risk.
- The death benefits paid from NEST are potentially subject to inheritance tax.

[4] This is the limit for the 2012/13 tax year but this figure will be adjusted annually.

How can Scottish Life help?

We're pension specialists and have a proven track record in designing solutions to meet your and your workers' needs.

We recognise that automatic enrolment poses a considerable challenge to your business. You'll need to introduce a range of new processes, record keeping and reporting requirements, to comply with your employer duties, so advanced planning is vital. The quicker you act the more time you'll have to consider your options and adopt the most appropriate strategy for your business. While it's likely your operational costs will rise, the decisions you make now will help you to manage these costs.

We want to work with you and your adviser to help you understand and prepare for the changes you'll have to make. We're developing a range of tools and support material to help you meet your employer duties now and in the future.

For more information, please contact your adviser or visit our website at www.scottishlife.co.uk/empautomaticenrolment www.scottishlife.co.uk

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