April 2014

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Detailed guidance for employers

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

automatic enrolment

The Pensions Regulator

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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. An employer may need to return to this guidance when they have completed the others, as it should provide an easy reference point for the preparations they will have to make ahead of the introduction of the new employer duties. Some of the preparations detailed in this guidance are of most relevance to an employer setting up new pension provision.

We recognise that many employers will already have pension provision 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.

Use our automatic enrolment planner to understand what you need to do and when for automatic enrolment. It also summarises the main steps towards achieving compliance. Employers may find this helpful when navigating this guidance: **www.tpr.gov.uk/ae-planner**.

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** or a quick reminder is available in the Key terms.

This guidance forms part of the latest version of the detailed guidance for employers (published April 2014). The Department for Work and Pensions (DWP) recently introduced some technical changes to the legislation which came into effect on 1 April 2014. These changes were previously identified by relevant footnotes. In this version of the guidance all references to the one month deadline with a footnote highlighting the change to take effect from 1 April 2014 have been updated to 'six weeks' and the footnote removed. The reference to the four month deadline for completing a declaration of compliance (registration) with the Pensions Regulator has been updated to five months and the footnote removed. These are the only changes since the last version (excluding minor editorial changes).

This guidance is a reference point for the preparations

Introduction

1. The law on the new employer duties and safeguards commenced in July 2012. Each employer is allocated a date from when the new duties will apply to them, known as their 'staging date'. The staging dates start from October 2012. Finding out their staging date should be an employer's first step in getting ready for the new duties.

2. One of these duties places new requirements 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.

3. This guidance contains further information about what steps an employer can take to prepare for the introduction of the new duties.

4. An employer should work back from their staging date to understand when they should start to take the actions outlined in this guidance. It is each employer's responsibility to identify their staging date and to work out when they must act to be ready for the new duties.

5. 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.

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

Identifying the staging date

6. 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.

7. Staging starts from October 2012 and is being rolled out based on the largest to smallest PAYE schemes.

8. Employers with 250 or more persons in their largest PAYE scheme will be staged between October 2012 and February 2014.

9. Employers with 50 to 249 persons in their largest PAYE scheme will be staged between 1 April 2014 and 1 April 2015.

10. Employers with fewer than 50 persons in their largest PAYE scheme will be staged between 1 June 2015 and 1 April 2017. Some employers with fewer than 50 workers may have staging dates earlier than this, perhaps because their PAYE scheme also includes non-workers (eg pensioners being paid pension benefits). In this case, if they meet certain conditions, they can choose to move their staging date back to a prescribed date between 1 August 2015 and 1 April 2017. See paragraphs 27 to 38 for more information.

11. New employers setting up business from 1 April 2012 up to and including 30 September 2017 will have staging dates between 1 May 2017 and 1 February 2018. These staging dates are not based on the number of persons in the employer's largest PAYE scheme but by the date the employer first pays PAYE in respect of any worker.

12. 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 a staging date of 1 April 2017.

Complex PAYE structures and corporate groups

13. Most employers will have one PAYE scheme that they use in relation to their workers. This PAYE scheme will be easily identifiable to the employer through their payroll systems.

14. However, larger employers may operate more than one PAYE scheme. If they do, the PAYE scheme with the greatest number of persons in it will set the employer's staging date. This means that the duties will come into effect on the same date for all the workers they employ regardless of which PAYE scheme they are attached.

15. 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, for the purposes of the new duties, the employers are within the corporate structure.

16. 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.

17. Once it has been established who in the group is an employer, each employer's staging date will be determined by what PAYE scheme, or schemes, they use:

    a. an employer with a single PAYE scheme of their own will have a staging date determined by the size of that PAYE scheme

    b. an employer that uses multiple PAYE schemes will have a staging date determined by the largest PAYE scheme 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 500 persons in it. Scheme B is shared with several other employers within the group structure and has a total of 1,200 persons in it, 40 of whom work for Employer X. Employer X's staging date will be determined by the size of Scheme B, because it is the largest overall scheme that Employer X uses, even though it has significantly fewer of Employer X's workers.

    c. 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 27.

18. 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

19. 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 under the contracts of employment or service, then the staging date of each legal entity will remain as it was prior to the merger.

20. If on a merger all existing contracts of employment or service 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.

21. Where a new entity is created as a result of a takeover, the new entity will be treated as a new employer.

New employers

22. Any employer who first pays PAYE in respect of 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 in respect of any worker.

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

23. 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**.

24. There will be some organisations included in the PAYE scheme information from HMRC who do 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 a worker 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.

25. 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 would not be included on a PAYE scheme.

26. If such an organisation starts paying PAYE in respect of 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 the regulator if they are unclear about the date from which they should be complying with their duties.

Employers with fewer than 50 workers on 1 April 2012

27. The legislation describes a particular type of small employer for the purposes of staging. A 'small employer' is 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.

28. Broadly, a 'small employer' will be an employer who had fewer than 50 workers on 1 April 2012 sharing a larger PAYE scheme, perhaps because they are part of a corporate group. Their original staging date is based on the number of persons in their largest PAYE scheme which will be the PAYE scheme that they share with other employers.

29. Or a 'small employer' will be an employer who had fewer than 50 workers on 1 April 2012 but with a larger PAYE scheme (shared or single) because there are also non-workers in the PAYE scheme. This may be, for example, because the employer pays pension benefits to retired members of staff who have ceased employment. Their original staging date is based on the number of persons in their largest PAYE scheme.

30. In deciding whether or not an employer is a 'small employer', the employer will need to consider:

    - the number of workers they had on 1 April 2012, and
    - the number of persons in the PAYE scheme that they share on 1 April 2012, or the number of persons in their largest PAYE scheme on 1 April 2012, whichever is appropriate.

31. In order to establish the number of workers an employer had on 1 April 2012 they 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 workers. For more information on the definition of worker see **Detailed guidance no. 1 – Employer duties and defining the workforce**.

32. An employer may use PAYE records to help identify the number of workers they have but care will need to be taken to ensure that any workers who are not on PAYE are identified and included. Workers who are not under a contract of employment but who work under a contract to perform work or services personally and are not undertaking the work as part of their own business, may not always be included in the employer's PAYE scheme.

33. A small employer who matches the description above would ordinarily have an earlier staging date if their PAYE scheme was either not shared or only contained workers. For this reason the legislation allows a small employer to choose either to keep their original staging date or move it to a new prescribed date so that it becomes their modified staging date.

34. To establish their modified staging date, a small employer should firstly work out what their original staging date is. Table 1 shows the original staging dates and then their corresponding modified staging dates.

Table 1
List of modified staging dates

Original staging date	Prescribed date to which the employer can choose to move
1 October 2012 and 1 November 2012	1 August 2015
1 January 2013 and 1 February 2013	1 October 2015
1 March 2013 and 1 April 2013	1 January 2016
1 May 2013 and 1 June 2013	1 February 2016
1 July 2013 and 1 August 2013	1 March 2016
1 September 2013 and 1 October 2013	1 April 2016
1 November 2013 and 1 January 2014	1 May 2016
1 February 2014 and 1 April 2014	1 July 2016
1 May 2014 and 1 July 2014	1 September 2016
1 August 2014 and 1 October 2014	1 November 2016
1 November 2014 and 1 January 2015	1 February 2017
1 March 2015 and 1 April 2015	1 April 2017

35. There is no requirement for a small employer to notify us if they choose to move their staging date to their modified staging date. However, we will be expecting the employer to complete a declaration of compliance (registration) 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. Therefore, a small employer may wish to notify us if they have chosen to move their staging date.

36. A small employer who chooses to move their staging date to a later date is moving back, thereby delaying, the date that the employer duties first apply to them. We can take further action, including enforcement action, against an employer who falsely moves their staging date back in order to deliberately avoid their duties.

37. 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 are as described in paragraph 28.

38. 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

39. 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 meet the definition of 'small employer' as explained above). Employers must choose a new staging date from the range of dates available on our website: **www.tpr.gov.uk/forward**.

40. A change in staging date, once notified to the regulator, will be officially recognised as the date from which the employer must comply with the new duties.

41. 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.

42. 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.

43. Where two employers share a PAYE scheme, and therefore have the same staging date, they may bring forward their staging dates independently.

Employers must notify the regulator of the new staging date

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 the regulator'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 the regulator 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 the regulator'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 the regulator 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.

44. 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

45. Firstly, the employer must have an existing staging date – this can be checked on our website: **www.tpr.gov.uk/staging**.

46. Secondly, the employer must have:

   a. contacted a pension scheme that could be used to comply with the employer duties from the earlier date

   b. 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.

   c. notified the regulator accordingly in writing within a prescribed time limit.

Notifying the regulator

47. Employers must notify the regulator of the new staging date they have chosen.

48. This notification must be in writing, which can include being sent by email. Employers can use the online declaration of compliance portal available on our website to notify us that they are bringing their staging date forward. To access the online declaration of compliance portal an employer will need a Government Gateway ID and the ten letter code included on letters from the regulator. The regulator must be notified at least one calendar month before the new staging date an employer has chosen. More details on notifying us are also available on our website: **www.tpr.gov.uk/forward**.

Decide whether to use postponement at staging

49. 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.

50. 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.

51. The way an employer exercises the choice to use postponement in relation to a worker is to issue that worker with a notice. An employer can choose varying degrees of detailed information, depending on which of the four types of postponement notice they choose.

52. Postponement is described in **Detailed guidance no. 3a – Postponement**.

53. 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.

54. However, if the employer is using postponement in respect 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.

55. This will only be the case if the employer uses a particular type of postponement notice, known as 'general notice A'.

56. 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 and which type of postponement notice they intend to use.

Employers should consider the make up of their workforce

Make an initial assessment of the workforce

57. 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**.

58. 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 who they will have 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.

59. 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.

60. 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.

61. 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

62. 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 that arise 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.

63. Scheme requirements under TUPE operate in parallel to 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 place 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.

64. 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 able to opt in to a TUPE-compliant and qualifying scheme during the postponement period.

The pension scheme for automatic enrolment

65. 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.

66. If so, they will need to select an 'automatic enrolment scheme' to fulfil their duty. 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.

67. If an employer only has non-eligible 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.

68. If an employer already provides a pension scheme to 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.

69. An employer who does not already provide a pension scheme will need to identify a scheme that they can use to fulfil their duties.

70. When choosing their scheme to fulfil their duties, an employer might use an existing scheme or set up a new occupational or personal pension scheme.

71. Among the choices of new schemes for employers is NEST, the National Employment Savings Trust, which is a pension scheme with the following characteristics:

    a. It has a public service obligation, meaning it must accept all employers who apply

    b. It has been established by Government to ensure that employers, including those that employ low to medium earners, can access pension saving and comply with their automatic enrolment duties.

72. Alternatively, employers may find a pension provider offering pension schemes for automatic enrolment by contacting the Association of British Insurers at **www.abi.org.uk/pensionproviders**.

73. An employer may wish to take advice on how to find a suitable pension scheme, or they can find general information about pensions on the following websites:

    a. Money Advice Service: **www.moneyadviceservice.org.uk**

    b. The Pensions Advisory Service: **www.pensionsadvisoryservice.org.uk**

    c. Gov.uk: **www.gov.uk**

    d. The National Association of Pension Funds: **www.napf.co.uk**

74. To find a financial adviser or financial planner, an employer can contact IFA Promotion: **www.unbiased.co.uk**.

75. 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.

76. **Detailed guidance no. 4 – Pension schemes** has more information on the criteria a scheme must meet to be an automatic enrolment scheme.

77. 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.

78. Some employers will pay for professional advice while others will make decisions with information from a range of sources. The regulator will be supporting employers in understanding the process for selecting a pension scheme for automatic enrolment. The employer pages on our website have more information for employers to help them understand types of good quality features that will help deliver good member outcomes and should therefore be present in pension products: **www.tpr.gov.uk/selectpension.**

Put administrative procedures in place

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

Contact the chosen scheme and understand the joining process

80. 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 create active membership and how long it will take the pension scheme to complete this process. This is crucial in terms of meeting the automatic enrolment criteria.

81. 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 taken to achieve active membership may be longer than it would be ordinarily. An employer should factor in this additional time when making preparations for their new automatic enrolment duties and should contact their chosen scheme about the time it will take.

82. 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

83. The employer will need to provide the pension scheme with certain information about the eligible jobholder who is being automatically enrolled. A list of the information required to be provided to schemes is in the section called Eligible jobholder information to the scheme in **Detailed guidance no. 5 – Automatic enrolment**.

84. 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.

85. The employer may send any required information to the scheme ahead of their staging date, if they wish.

Contractual enrolment into a pension scheme

86. 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.

87. 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.

88. 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.

89. 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.

Familiarity with data requirements will smooth the process

90. 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 provide some information to their workers under the new duties and they will still be required to complete a declaration of compliance (registration) with the regulator to tell us how they have complied with 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 if it were being used for automatic enrolment.

91. 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

92. 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**.

Get information ready

93. 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.

94. Eligible jobholders

- For jobholders being automatically enrolled or re-enrolled, they must be provided with information about their automatic enrolment or re-enrolment, what it means for them and their right to opt out
- For eligible jobholders already members of a qualifying pension scheme, they must be provided with information about the scheme
- For eligible jobholders with the right to opt in for the first time, they must be provided with information about their right to opt in to an automatic enrolment scheme
- For eligible jobholders to whom the employer has chosen to use postponement, they must be provided with information about the postponement of automatic enrolment and about the right to opt in during the postponement period
- For eligible jobholders subject to the transitional period for DB and hybrid schemes, they must be provided with information about the deferral of automatic enrolment.

95. Non-eligible jobholders

- Non-eligible jobholders must be provided with information telling them about their right to opt in to an automatic enrolment scheme
- For non-eligible jobholders being automatically re-enrolled or enrolled after opting in they must be provided with information about enrolment, what it means for them, and about their right to opt out
- For non-eligible jobholders to whom the employer has chosen to use postponement, they must be provided with information about the postponement of automatic enrolment and about the right to opt in during the postponement period
- For non-eligible jobholders already members of a qualifying pension scheme with that employer they must be provided with information about the scheme.

96. Entitled workers

- Entitled workers must be provided with information telling them about their right to join a pension scheme
- For entitled workers to whom the employer has chosen to use postponement, they must be provided with information about the postponement of automatic enrolment and about the right to ask to join a scheme during the postponement period.

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 135 to 138), 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 the regulator'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, for example, the extent to which electronic access is available to all the workers to whom the information must be given. 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. Where the employer is using postponement for all workers, a general notice covering all workers is one of the information options available to them for the type of postponement notice to issue.

106. Where the employer is not using postponement, it may be possible to provide a generic communication where the specified information does not require individual data, eg the information to a jobholder about their right to opt in.

107. Where the information includes personal or individual data, it will be necessary to communicate with workers individually but it is still possible to provide a communication which combines all the different information requirements that may apply to that worker.

108. An employer who is considering combining multiple information requirements into one communication (whether as part of choosing their postponement notice or not) or considering whether to issue separate communications as and when the information requirements are triggered should, consider the appropriateness of their preferred approach for their workforce.

Set up payroll

109. An employer's payroll system can support various aspects of the enrolment process and ongoing scheme membership, so it must be ready to deal with this and be capable of doing so. 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.

110. 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.

111. 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.

112. 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.

113. 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)[1], and ensure their payroll is set up accordingly.

114. 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.

115. 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' and 'automatic enrolment date' are explained in **Detailed guidance no. 3 – Assessing the workforce**.) 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.

1
For more information on net pay arrangements see HMRC's Employer Guide CWG2: **www.hmrc.gov.uk/guidance/cwg2.pdf**

116. 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.

117. 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.

118. 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.

119. As is currently the case, the scheme rules, schedule of payments, or direct payment arrangements will define:

a. what components of pay are included in pensionable pay

b. the rates of contributions to be applied

c. the due dates for paying contributions.

120. 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.

Get ready to manage opt-outs

121. A jobholder has a one-month period after automatic enrolment during which they may choose to opt out. 'Opting out' has a specific meaning in pensions reform. 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.

122. 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.

123. 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.

124. 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.

Get ready to manage opt-ins

125. 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**.

Assess the impact on business processes

126. 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 what duties the employer has 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.

127. 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.

128. 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.

129. 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.

130. 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

131. An employer must ensure that they cleanse and update their 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 what 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.

132. 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 address for each of their current workers.

133. An employer must also keep certain records in support of the employer duties that will enable them to demonstrate their ongoing compliance. An employer should build these record-keeping requirements into their existing processes.

134. More information on the records an employer must keep is available in **Detailed guidance no. 9 – Keeping records**.

Make a formal assessment of the workforce

135. An employer will already have an idea from the initial assessment of the workforce whether, on their staging date, they are likely to have:

    a. an eligible jobholder who they have to automatically enrol

    b. a non-eligible jobholder with a right to opt in to whom they will have to give information

    c. an entitled worker with a right to join to whom they will have to give information.

136. The final step for an employer in preparing for their staging date 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 that will be providing information or completing automatic enrolment.

137. The first time they will need to do this is on:

    a. their staging date

    b. if they have chosen to use postponement and the general notice A postponement notice:

        – on the deferral date, or

        – on the date an opt-in or joining notice is received from a worker during the postponement period.

138. Further information on how to make the assessment can be found in **Detailed guidance no. 3 – Assessing the workforce**.

What next?

For an employer to start making the preparations outlined in this guidance, a good place to start would be reading the other guidance in this series to identify what is relevant for them.

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

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: • 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: • is aged between 22 and state pension age • has qualifying earnings above the earnings trigger for automatic enrolment.
Non-eligible jobholder	A jobholder who: • is aged between 16 and 21 or state pension age and 74 • has qualifying earnings above the earnings trigger for automatic enrolment or • is aged between 16 and 74 • has qualifying earnings below the earnings trigger for automatic enrolment.
Entitled worker	A worker who: • 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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