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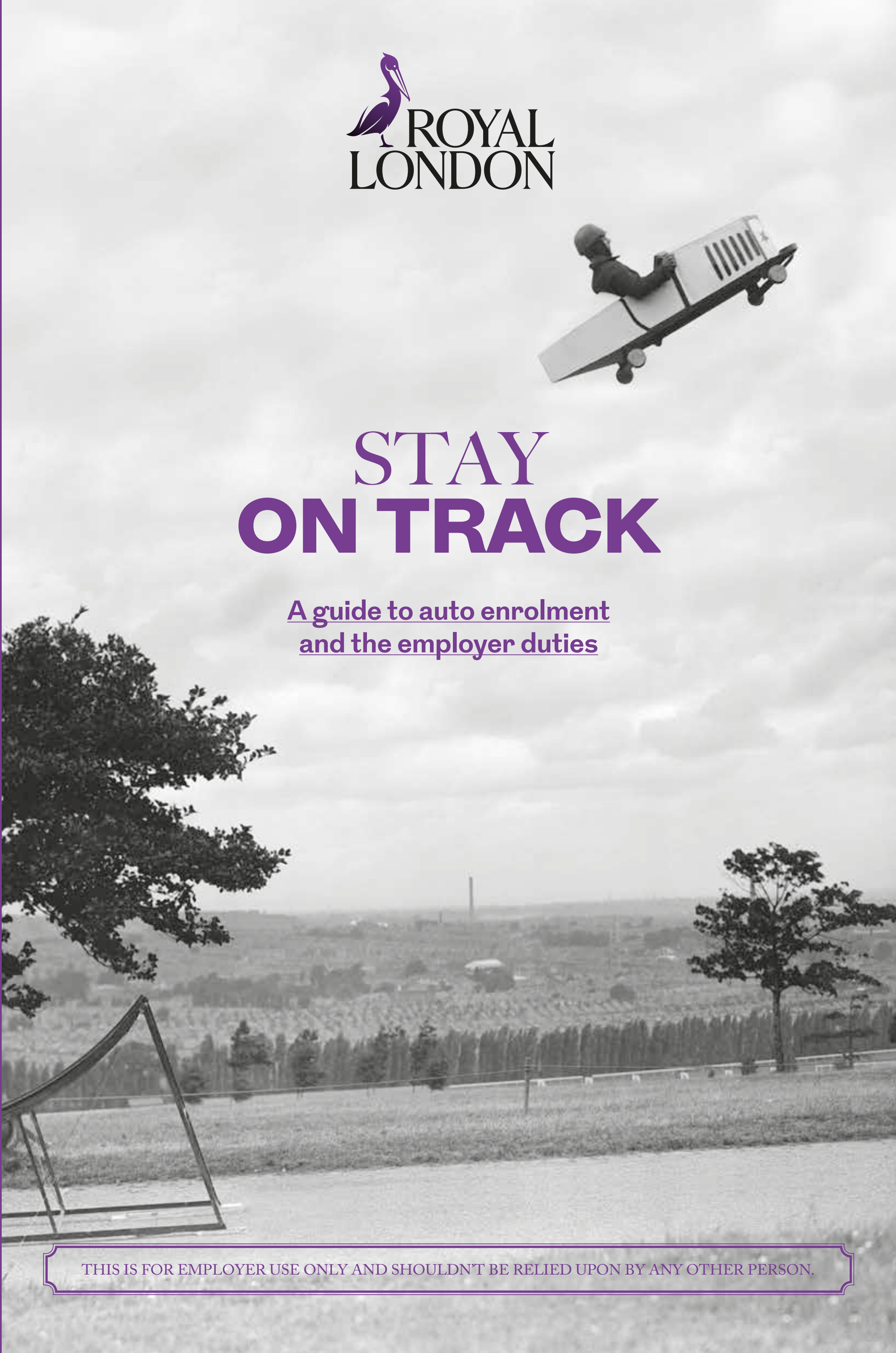

STAY ON TRACK

A guide to auto enrolment and the employer duties

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Workplace pensions

INTRODUCTION

The Government introduced auto enrolment to help more people save for their future. As a result, employers have to automatically enrol some workers into a workplace pension plan 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.

This guide tells you more about auto enrolment and the employer duties and what it means for you. It's based on our current understanding of the relevant legislation and regulations and may be subject to change.

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AUTO ENROLMENT AND THE EMPLOYER DUTIES **AT A GLANCE**

When is it happening?

The employer duties started being 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 treated 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 complete a declaration of compliance to show that you have an auto enrolment scheme in place within five months after your staging date. You'll also have to re-declare compliance roughly 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. The Pension Regulator (TPR) will be responsible for ensuring that you comply with your employer duties. Although TPR's 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 started being introduced in stages from October 2012.

Identifying your staging date

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.

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

Bringing forward your 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.

WHAT IS THE EFFECT **ON MY WORKFORCE?**

You'll need to assess your workforce to determine whether they're treated as a 'worker'. This can also include contractors and/or agency workers.

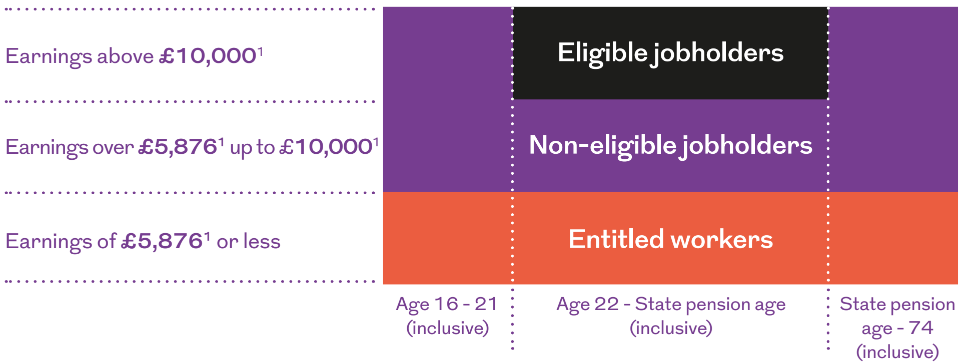
The different types of worker

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

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

The table over the page shows you how to identify each type of worker.

The different types 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 £10,000.

Non-eligible jobholders are people who:

- are aged at least 16 and under 75
- work or ordinarily work in the UK and
- earn over £5,876 up to £10,000

or

- earn above £10,000 and are under 22 or
- earn above £10,000 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 £5,876 or less.

[1] These figures are for the 2017/18 tax year.

Exclusions and exceptions from 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 and
- members of the armed forces.

Workers who meet certain exceptions

If a worker meets any of the following conditions, the employer duties may vary and/or may not apply to them:

- the worker has opted out or is no longer an active member of a qualifying scheme
- the worker has given notice or been given notice of the end of their employment
- the employer has reasonable grounds to believe that the worker is protected from tax charges on their retirement savings under HMRC's primary, enhanced or fixed protection
- the worker has been paid a winding up lump sum whilst working for the employer, and
    - left employment after the payment has been made, and
    - subsequently been re-employed by the same employer

- the worker meets the definition of a 'qualifying person' for the purposes of separate UK legislation on occupational pension schemes and cross-border activities within the European Union
- the worker is a director of a company. If an employer chooses not to auto enrol a director, they must still be given the option to opt in.

The employer duties for the worker can vary depending on which exception applies to them. In some circumstances, employers are given the choice whether to comply with a duty or not, while in others, the duty can be removed altogether. It's also possible for a worker to meet the conditions for more than one exception at the same time.

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 six weeks 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?**

Your employer duties will depend on the types of worker you employ.

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

Category of worker	Summary of your employer duties
Eligible jobholder	• Automatically enrol them into an auto enrolment scheme. • Deduct contributions from their salary and make contributions on their behalf. • Process any opt-out notices and refund any contributions paid. • Roughly every three years re-enrol those who have previously opted out, stopped making contributions or ceased membership more than 12 months before each re-enrolment date. • Keep records of the auto enrolment and opting out processes and provide them to TPR if requested.
Non-eligible jobholder	• Provide information about their right to opt in to an auto enrolment scheme. • Arrange pension scheme membership. • Deduct contributions from their salary and make contributions on their behalf. • Process any opt-out notices and refund any contributions paid. • Continually assess their age and/or earnings. • Keep records of the enrolment, opting in and opting out processes and provide them 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're 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 them to TPR if requested.

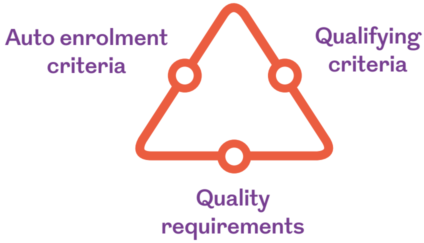
WHAT IS THE EFFECT
ON PENSION SCHEMES?

You must complete a declaration of compliance to show that you have an auto enrolment scheme in place within five months after your staging date.

You'll also have to re-declare compliance roughly 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.

Auto enrolment schemes must meet three sets of criteria:

- Auto enrolment criteria
- Qualifying criteria
- Quality requirements.



Minimum requirements

The minimum contribution level required for an auto enrolment scheme is based on qualifying earnings. Qualifying earnings are a band of earnings of more than £5,876 and £45,000 or less. These figures are for the 2017/18 tax year and are expected to change 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.

Contribution levels required to meet the contribution quality requirement as a percentage of qualifying earnings			
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.
Employer's staging date to 5 April 2018	2%	1%	
6 April 2018 to 5 April 2019	5%	2%	
6 April 2019 onwards	8%	3%	

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 can use one certification basis for one group of workers and a different certification basis for other workers.

The contribution levels for certification can be phased in until April 2019 and there are three certification options available, as shown in the table below.

Certifying in advance

You can certify for up to 18 months in advance. You must re-certify at least every 18 months or sooner if there is a 'significant change' such as:

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

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

9% of pensionable salary	• You can use a scheme definition of pensionable salary. • Contributions must be calculated from the first pound of pensionable salary. • Pensionable salary must be at least basic pay[2].
8% of pensionable salary, provided at least 85% of total payroll is pensionable	• You can use a scheme definition of pensionable salary. • Contributions must be calculated from the first pound of pensionable salary. • Pensionable salary must be at least basic pay[2].
7% of all earnings[3]	• All earnings must be pensionable. • Contributions must be calculated from the first pound of earnings.

[2] Basic pay must include earnings before deductions such as tax and National Insurance, holiday pay and some statutory benefits but doesn't have to include variable pay such as bonuses, overtime and commission.

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

Certification options

The tables below show the three certification options and how they can 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.
Employer's staging date to 5 April 2018	3%	2%	
6 April 2018 to 5 April 2019	6%	3%	
6 April 2019 onwards	9%	4%	

8% of pensionable salary, provided at least 85% of total payroll 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.
Employer's staging date to 5 April 2018	2%	1%	
6 April 2018 to 5 April 2019	5%	2%	
6 April 2019 onwards	8%	3%	

7% of all earnings[4]			
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.
Employer's staging date to 5 April 2018	2%	1%	
6 April 2018 to 5 April 2019	5%	2%	
6 April 2019 onwards	7%	3%	

[4] 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. TPR will be responsible for ensuring that you comply with your employer duties.

Penalties

TPR will 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.

You can find out more about auto enrolment and the role of TPR on their website at **www.thepensionsregulator.gov.uk**

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 are limited options at retirement which will result in less choice and flexibility for workers.
- 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.

WHY ROYAL LONDON?

We're the UK's largest mutual life, pensions and investment company. When we first opened our doors in 1861, we wanted to help people to help themselves. And it's been our way of thinking ever since.

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've developed 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 **employer.royallondon.com/autoenrolment.**

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