

Stay on track

A guide to auto enrolment
and the employer duties



Pensions | 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 my auto enrolment start date?

The date your employer duties first apply, known as your 'auto enrolment start date', will be from the date your first employee starts work. For employers set up before October 2017, the auto enrolment start date was allocated by The Pensions Regulator (TPR).

What is the effect on my workforce?

You'll need to assess your workforce to determine who's to be 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 auto enrolment start date. You'll also have to re-declare compliance roughly every three years.

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 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 the effect on my workforce?

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

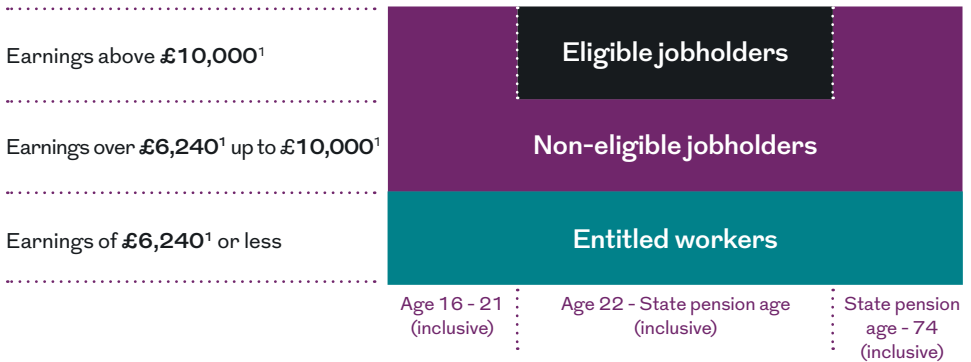
The different types of worker

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 £6,240 up to £10,000
- or**
- earn above £10,000 and are aged 16-21
 - earn above £10,000 and are aged between state pension age (SPA) and 74.

Entitled workers are people who:

- are aged at least 16 and under 75
- work or ordinarily work in the UK and
- earn £6,240 or less.

¹ These figures are for the 2023/24 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 self-employed and members of the armed forces are not treated as workers, so the employer duties don't apply to them.

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 pension savings under HM Revenue & Customs (HMRC) primary, enhanced, fixed or individual 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 auto enrolment start date
- any new worker’s first day of employment
- 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	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• 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.

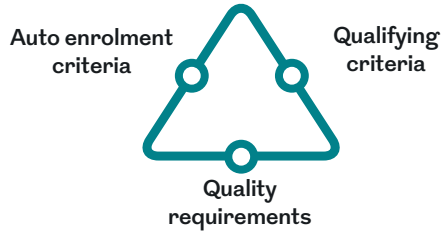
What is the effect on pension schemes?

You must complete a declaration of compliance to show that you have an auto enrolment scheme in place within five months after your auto enrolment start 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 £6,240 and £50,270 or less. These figures are for the 2023/24 tax 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.

Contribution levels required to meet the contribution quality requirement as a percentage of qualifying earnings

Total must be at least	Employer must contribute at least	Agreement must be in place for jobholder to make up at least the difference between the total and the employer amount.
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.

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 are shown in the tables overleaf.

9% of pensionable salary	<ul style="list-style-type: none">• 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 pay².
8% of pensionable salary, provided at least 85% of total payroll is pensionable	<ul style="list-style-type: none">• 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 pay².
7% of all earnings³	<ul style="list-style-type: none">• 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.

9% of pensionable salary		
Total must be at least	Employer must contribute at least	Agreement must be in place for jobholder to make up at least the difference between the total and the employer amount.
9%	4%	

8% of pensionable salary, provided at least 85% of total payroll is pensionable		
Total must be at least	Employer must contribute at least	Agreement must be in place for jobholder to make up at least the difference between the total and the employer amount.
8%	3%	

7% of all earnings ⁴		
Total must be at least	Employer must contribute at least	Agreement must be in place for jobholder to make up at least the difference between the total and the employer amount.
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 are 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 **[thepensionsregulator.gov.uk](https://www.thepensionsregulator.gov.uk)**

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