

Questions and answers

Question 1: Staging dates are based on current employee numbers?

True or false?

Answer: False. A staging date is based on the size of the largest PAYE scheme the employer was using as of 1 April 2012.

Question 2: How can you find out your staging date?

Answer: Use our staging date tool. Enter all your PAYEs and the earliest date will apply. Or, if within 12 months of staging, refer to our letter confirming the date.

Questions and answers continued...

Question 3: Nominating a contact is the same as registration?
True or false?

Answer: False. They are two distinct processes. (See our planning tool)

Question 4: An existing pension can **always** be used for automatic enrolment?
True or false?

Answer: False. Although an existing scheme **may** meet the requirements to be used for automatic enrolment it will not always be the case. The employer should check with the pension provider.

Questions and answers

Question 1: How can an employer find out their staging date?

Answer: Use our **staging date tool** or, if available, refer to our letter.

Question 2: What should an employer do if they receive more than one letter from us with different staging dates?

Answer: If an employer has more than one PAYE scheme, use our staging date tool and enter **all** PAYE references (earliest date applies) - or contact us.

Question 3: If, as of 1 April 2012, an employer was paying some of their own employees using another company's PAYE reference, this will **not** affect their own staging date, as that PAYE is registered in the other company's name. True or false?

Answer: False. The employer **would** be considered to be using that PAYE reference and, if that PAYE was the largest PAYE scheme used as of 1 April 2012, it would determine their staging date.

Questions and answers continued...

As of 1 April 2012, ACME Industries plc owned two subsidiary companies:

- ACME Industries had 11,500 workers and was using three PAYE schemes
- Betamax Components Ltd had 450 workers and was using their own PAYE scheme, whilst Gamma Ray Ltd had 49 workers and were paying their staff using one of ACME Industries' PAYE references

Question 4: Which companies can delay their staging date?

Answer: Gamma Ray Ltd was using one of ACME Industries' PAYE schemes and **may** have a staging date on or before 1 April 2015. If so, as they had less than 50 workers on 1 April 2012, they may choose to move their staging date to a pre-prescribed alternative date between August 2015 and April 2017.

Question 5: On 1st January 2014, ACME sold Betamax to another company. How will this affect these companies' staging dates?

Answer: This will **not** change the staging date of any company, but the workers might be transferred to another employer.



The Pensions
Regulator

Is Eddie a worker?



Eddie is a self employed graphic designer. He works regularly for a company, Acme Workshops Ltd.

His role is unique. He designs (and, if necessary, prints on his own equipment) all the flyers and magazine ads. He also designs and updates their website and forum. Eddie is very important to Acme Workshops' marketing strategy. It is a nightmare when Eddie is too busy working for other customers, because his contract with Acme does not permit him to send a replacement.

Eddie works unsupervised and, generally, he works from home, but sometimes he works in the offices of Acme Workshops. Eddie invoices Acme Workshops at the end of each campaign design and guarantees the quality of his material.

Question 1 - Should Acme Workshops consider Eddie to be their worker?

Is Eddie a worker?



Eddie is a self employed graphic designer. He works regularly for a company, Acme Workshops Ltd.

His role is unique. He designs (and, if necessary, prints on his own equipment) all the flyers and magazine ads. He also designs and updates their website and forum. Eddie is very important to Acme Workshops' marketing strategy. It is a nightmare when Eddie is too busy working for other customers, because his contract with Acme does not permit him to send a replacement.

Eddie works unsupervised and, generally, he works from home, but sometimes he works in the offices of Acme Workshops. Eddie invoices Acme Workshops at the end of each campaign design and guarantees the quality of his material.

Eddie **cannot** reasonably be considered a worker, as:

- i) he is **not** an employee
- ii) he sometimes uses his own equipment
- iii) he works unsupervised & iv) he guarantees the quality of his work

Is Georgina a worker?



Georgina is a self employed IT professional who works full time for Acme Workshops Ltd. Georgina supports Acme Workshops' in house payroll system and is very important to Acme Workshops and no one else has the expertise to do her work when she's on holiday.

Georgina works in Acme Workshops' payroll team, alongside Acme Workshops' own employees in their offices, but sometimes she is allowed to work from home. Georgina invoices Acme Workshops at the end of each month based on the number of days she has worked.

Should Acme Workshops consider Georgina to be their worker?

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Georgina works in Acme Workshops' payroll team, alongside Acme Workshops' own employees in their offices, but sometimes she is allowed to work from home. Georgina invoices Acme Workshops at the end of each month based on the number of days she has worked.

Georgina **can** reasonably be considered a worker, because:

- ✓ she is supervised by Acme (needs permission to work at home)
- ✓ she works in their offices (uses their office equipment and supplies)
- ✓ she is paid a daily rate (the completed work is not guaranteed)



Questions and answers

Question 1: A director of a company with two employees does not draw a salary, but only takes dividends. Is the director considered a worker?

Answer: If a director is **not** drawing a salary, but is simply drawing the profits from the business that he or she has an ownership in, then the director would not be a worker (providing the director is **not** working under an employment contract or personal services contract). However, the two employees would be considered as workers.

Question 2: A director of a company is the only employee of the company and she does earn a salary. Would the director be considered a worker?

Answer: No, if an individual is a director of a company and the company has no other employees, that individual is not a worker by virtue of any office that they hold or contract of employment under which they work. The company is therefore not subject to the employer duties.

Questions and answers

Question 3: If someone is a personal services worker, but is not on PAYE, how could an employer deal with this?

Answer: It does **not** matter whether a person is paid through PAYE or not - if they are considered a worker they will need to be assessed and automatically enrolled if eligible. An employer could continue to pay them directly, without deducting tax and national insurance, but make a deduction for their pension contributions as and when appropriate. Alternatively, some employers have chosen to put these types of people onto their payroll system (marking them as non-tax payers), simply to ensure they are assessed by their payroll software.

Questions and answers

Question 4: Could a person, living and working overseas, who has been seconded from a UK employer on a 3 year renewable contract, be subject to the automatic enrolment legislation?

Answer: Yes, if the worker has the right of return to work in the UK for the seconding UK employer and is considered ordinarily working in the UK (even though they are currently living abroad). The seconding company retains responsibility for the worker and if they are subject to the automatic enrolment legislation would need to consider their total world-wide earnings to determine their qualifying earnings.

Question 5: A person normally resident in Australia, has a 1 year UK work visa and has chosen to work in the UK on a temporary or fixed term employment contract, but intends to return home after a year. Would you consider them to be a worker?

Answer: Yes. They are **not** seconded from an overseas employer and are wholly working in the UK. It does **not** matter that they are not a UK national or that they are not a permanent employee.



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Questions and answers

Question 6: Someone who is self-employed and VAT registered would **always** be considered to be a business in their own right and therefore **not** subject to assessment. True or false?

Answer: False. VAT registration or an individual's tax status (eg self employed) does **not** rule out someone from being considered a worker. The employer needs to consider if the person could be considered a **personal services worker** or not and make a reasonable judgement taking all relevant factors into account.

Question 7: Would a woman, wholly working in the UK, but on maternity leave, need to be assessed as a worker?

Answer: Yes and her maternity pay would be included in the calculation of her qualifying earnings.

Questions and answers

Question 1: Who does the law make responsible for carrying out the duties?

Answer: The **employer** (even if some actions are delegated to a third party).

Question 2: Who must be enrolled, if they request to opt in?

Answer: A non-eligible jobholder (at any time) or an eligible jobholder during postponement.

Question 3: Only employees are included in the automatic enrolment legislation. True or false?

Answer: False. Duties may apply to other workers, not just employees (eg personal services workers).

Questions and answers continued...

Question 4: If an eligible jobholder is an existing member of a non-qualifying pension scheme, what will the employer need to do?

Answer: They could stay in the non-qualifying scheme but this would not meet the employer duties. The employer could see if the existing scheme can be made **qualifying**, and if it can, make the changes and continue to use it. Alternatively, the employer could enrol them into a **new automatic enrolment scheme**.

Question 5: What happens if a worker sends in an opt-out notice before their opt-out window has started?

Answer: It cannot be accepted. The opt-out window will not open until they are an **active member** of the pension scheme **and** the employer has **issued** the enrolment letter.



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Questions and answers continued...

Question 6: How long can the assessment of workers be postponed?

Answer: Between one day and three months.

Question 7: If postponement is used, what three duties still apply?

1. Issue **postponement** notices, within six weeks (or within one month for assessments before 1 March 2014) - to all postponed staff (including new joiners)
2. Enrol any jobholders who **opt in** during postponement into an automatic enrolment pension scheme
3. Enrol any entitled workers who want to **join** a pension scheme.



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Questions and answers continued...

Question 8: What is the deadline to complete the declaration of compliance after staging?

Answer: Five months after the staging date for those staging from January 2014.

Question 9: Who do employers need to write to at **staging** (eg send a letter or email)?



Workers **not** in a pension scheme?



Active members of a qualifying pension scheme?



All workers?



Eligible jobholders being automatically enrolled?