



Employee Capital Plans (PPK)

Automatic enrollment of
employees in the PPK in 2023

Guide for the employer



Automatic enrollment of employees in the PPK in 2023

What is it all about?

Auto-enrollment in the PPK – automatic, re-enrollment in the PPK – includes employees aged 18-54 who previously opted-out from participation in the plan.

Why does auto-enrollment apply to PPK?

Since the opt-out forms from making contributions to the PPK submitted by employees are not indefinite – they expire by the end of February of the year in which the statutory auto-enrollment takes place, i.e., 2023, 2027, 2031, 2035, etc. Auto-enrollment applies to all employers, regardless of the date of launching the PPK in the past.



What's next?

- **Employer must enroll in the PPK employees who previously opted-out *immediately after March 1, 2023.**
- **Participation in the PPK is voluntary**, so employees have the right to opt-out from participation in the PPK at any time after March 1 this year – by submitting an opt-out forms from making contributions to the PPK.
- Contributions to the PPK for **persons enrolled in the PPK in March as part of auto-enrollment**, the employer is obliged to transfer **between April 1 and April 17, 2023.**



Employees who currently participate in the PPK do not have to do anything to confirm their further willingness to participate in the plan!

***immediately** – in accordance with the interpretation of the PFR Portal PPK published on the website Mojeppk.pl, the term "immediately" should be interpreted in accordance with the jurisprudence of the Supreme Court, according to which it means *a real date, considering the circumstances of place and time* ((cf. e.g., judgments of the Supreme Court of December 13, 2006, II CSK 293/06 and of June 30, 2011, III CSK 282/10).

Automatic enrollment of employees in the PPK in 2023

Who does the employer have to inform about the auto-enrollment in the PPK?

Auto-enrollment in the PPK – automatic, re-enrollment in the PPK – includes employees aged 18-54 who previously opted-out from participation in the plan.

Who must the employer inform about the auto-enrollment in the PPK??

The employer must inform about the rules of auto-enrollment by February 28, 2023, at the latest (in a way that allows the employer to prove that the information was passed on to employees) **to all persons who have submitted an opt-out forms from making contributions to the PPK, i.e.:**

- PPK participants who have resigned from contributing to the PPK and are under 55 and will not reach this age by the end of March 2023;
- employees who resigned from contributing to the PPK before concluding a PPK running contract on their behalf and are under 55 and will not reach this age by the end of March 2023;
- employees/PPK participants who have resigned from contributing to the PPK and will be 55 before April 1, 2023, and will be able to make savings in the PPK only after submitting the appropriate opt-in form.

Please note that the above information obligation also applies to **employees who are on long-term leaves** – e.g., sick leave, maternity or parental leave – and will not return to work before March 1, 2023.



Employees still do not want to participate in PPK?

They must re-submit an opt-out form from making contributions to the PPK – but not earlier than from March 1, 2023.

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Who does the auto-enrollment to the PPK apply to?

The employer must re-enroll in the PPK in March **the following three groups of employees** as part of auto-enrollment:

Group 1

PPK participants who have resigned from contributing to the PPK and are under 55 and will not reach this age by the end of March 2023



When? The employer **must** enroll this group of employees immediately after March 1 this year.



How to do it? The participation status of these persons in the PPK Online Service will automatically change to "active" on March 1 this year.

From that moment, the employer must calculate and make contributions to the PPK for these people (unless they submit an opt-out form after March 1 this year).

Group 2

employees who resigned from contributing to the PPK before concluding a PPK running contract on their behalf and are under 55 and will not reach this age by the end of March 2023



When? The employer **must** enroll this group of employees immediately after March 1 this year.



How to do it? The employer must enroll these persons in the PPK by registering in the PPK Online Service. **The administrator of the PPK Online Service must do it immediately after March 1 this year.**

From the moment of registration of employees in the PPK Online Service, the employer must calculate and make contributions to the PPK for these people (unless they submit an opt-out form after March 1 this year).

Group 3

employees/PPK participants who have resigned from contributing to the PPK and will be 55 before April 1, 2023, and will be able to make savings in the PPK only after submitting the appropriate opt-in form



When? The employer **must** enroll this group of employees immediately after March 1 this year.



How to do it? The employer must enroll these persons in the PPK by registering in the PPK Online Service. **The administrator of the PPK Online Service must do it immediately after March 1 this year.**

From the moment of registration of employees in the PPK Online Service, the employer must calculate and make contributions to the PPK for these people.

Auto-enrollment of employees in the PPK in 2023

What does this mean for the employer in practice?

1. By the end of February this year at the latest, **the employer must inform all employees who are not currently participating in the PPK** that their opt-out forms from making contributions to the PPK expire on February 28, 2023.
2. Therefore, **the employer is legally obliged to immediately after March 1 this year enroll in the PPK:**
 - employees aged 18-54 who participated in the PPK (they have a concluded PPK running contract), but submitted an opt-out form at any time, which is valid until now – in the PPK Online Service on the night of February 28 to March 1, the participation status of these people will automatically change to „active”;
 - employees aged 18-54 who have never participated in the PPK (they do not have PPK running contracts concluded), i.e., they submitted an opt-out form before being registered in the PPK Online Service – in order to enroll these persons, a registration file must be uploaded to the PPK Online Service (as in the case of new employees who do not submit an opt-out form);
 - employees aged 55-69 [as at the end of March this year], if they submit a declaration of making contributions to the PPK by the end of February 2023;
3. **From the first remuneration paid in March 2023, contributions to the PPK should be calculated and collected for employees for whom the employer will conclude PPK running contracts** (in accordance with point 2 above).



Auto-enrollment of employees in the PPK in 2023

What does this mean for the employer in practice?

4. Contributions to the PPK for persons currently participating in the plan are made by the employer in the usual way, while **contributions for persons enrolled as part of the auto-enrollment to the PPK in March 2023 must be transferred to the financial institution between April 1-17 this year**. Funds (contributions) can be transferred under one common list in April or under two separate lists.
5. **From March 1, 2023, employees covered by the auto-enrollment to the PPK may submit "new" opt-out forms** (valid until February 28, 2027) – they can do so at any time (after March 1 this year):
 - if the opt-out form is submitted to the employer after March 1 this year and before the cut-off of the payroll for remuneration paid in March, the employer should exclude these persons from the list of active participants in the PPK Online Service and not collect contributions to the PPK in this month (and in the following months as well);
 - if the opt-out form is submitted to the employer after closing the cut-off of the payroll for remuneration paid in March, but before the transfer of contributions to the financial institution (between April 1-17, 2023), the employer must exclude these persons from the list of active participants in the PPK Online Service and return the contributions to the PPK that earlier were calculated and collected;
 - if the opt-out form is submitted to the employer after the transfer of contributions to the financial institution (between April 1-17, 2023), these persons should be excluded from the list of active participants in the PPK Online Service and the calculation and collection of contributions to the PPK should cease from the next remuneration paid.



Aon recommendations

1. Confirm with **the administrators of the PPK Online Service** that they are aware of the rules regarding auto-enrollment to the PPK and the practical rules for enrolling employees in the plan (pursuant to the breakdown on page 4) – for this purpose, it is best to **send them this document with a request to read it urgently** – regardless of whether we are talking about the employer's internal team or a representative of an external payroll provider acting on behalf of the employer.
2. In order to minimize the number of possible corrections to the payroll due for remuneration paid in March 2023, it is worth preparing **effective communication to employees** and reminding them of the right to submit a "new" opt-out form from making contributions to the PPK after March 1 this year a few business days before the end of February 2023.
3. **Opt-out forms from making contributions to the PPK must be finally submitted by employees to the employer in paper form** – in accordance with the provisions of the Act on PPK, only this form of resignation from making contributions to the PPK is sufficient to remove employees from the list of active participants of the plan.
4. **When enrolling employees in the PPK, it is worth remembering to provide information on the corporate e-mail address and corporate mobile phone number** – thanks to this, employees enrolled in the PPK will receive a welcome package from the financial institution in electronic form (e-mail), and a first, one-time password to their individual account on the online transaction service they will receive in SMS code. If the aforementioned data is not indicated, the welcome package is sent by two postal correspondence to the correspondence address of the employees indicated by the employer when enrolling in the PPK – this process may take up to 4 weeks.
5. **The employer does not have the right to discourage employees from participating in PPK** – it should be remembered that the nature of communication with employees regarding automatic enrollment in the PPK (and participation in the PPK in general) should remain at least neutral.
6. **The employer has the right to use information materials from various (reliable) sources.** In addition to the materials prepared by Aon, materials made available by the financial institution with which the employer has concluded a PPK management contract and the PFR PPK Portal (statutory operator of the information portal www.mojeppk.pl, acting as a center of knowledge and competence in the PPK social program) are also recommended.

Automatic enrollment in the PPK in 2023

Case studies (1/2)

- 1. The employer hired a 40-year-old employee on January 16, 2023. Two days later, the employee submitted an opt-out form from making contributions to the PPK. Until when is this form valid?**

Answer:

The submitted PPK opt-out form expires at the end of February 2023, like all other opt-out forms provided by other employees from 2019. If this employee does not want the employer to enroll her in the PPK, she may re-submit (submit another) opt-out form from making contributions to the PPK after March 1, 2023 (but not earlier). If she wants to start accumulating savings in the PPK, she does not have to do anything – the employer will automatically enroll her in the plan after the required period of employment (from 14 to 90 days – depending on the employer's decision).

- 2. The employer does not charge contributions to the PPK for a 45-year-old employee – PPK participant – because the opt-out form from making contributions to the PPK submitted by him is valid. Will the employer be obliged to calculate contributions to the PPK for this employee if from March 1, 2023, until the payment of monthly remuneration (March 10, 2023) he does not re-submit an opt-out form from making contributions to the PPK?**

Answer:

YES – the employer will have to calculate contributions to the PPK for this participant, because on March 1, 2023, his participation in the PPK will be automatically activated (pursuant to the provisions of the Act on PPK).

If this employee submits an opt-out form from making contributions to the PPK to his employer before the collected contribution is transferred to the financial institution, the employer will be obliged to return the previously calculated and collected contribution.

Automatic enrollment in the PPK in 2023

Case studies (2/2)

3. A 30-year-old employee hired on March 1, 2021, on the first day of employment, submitted to the employer an opt-out form from making contributions to the PPK, which is valid until the end of February 2023. The employer will pay this employee's the monthly remuneration on March 3, 2023. Will the employer calculate contributions to the PPK from this remuneration, if the employee does not renew the PPK opt-out form by that time?

Answer:

It depends on whether the employer managed to enroll the employee in the PPK before the payment of monthly remuneration on March 3, 2023 (conclude a PPK running contract for and on his behalf).

NOTE! In this case, this employee should be enrolled in the PPK immediately – which does not mean now (in the current moment). If the employer fails to enroll him before March 3, and the next monthly remuneration is paid on April 3, then the first contributions should be made from this remuneration in connection with the employee's auto-enrollment in the PPK.

4. The employer pays all employees a monthly remuneration on the 28th day of the same month. What should this employer do if a 35-year-old employee covered by auto-enrollment to the PPK, who after March 1 this year did not repeat the opt-out form from making contributions to the PPK, he submitted this declaration to employer on March 29, i.e., on the next day after receiving remuneration?

Answer:

In this case, the employer must return to this employee the previously calculated and collected contribution to the PPK, because the funds collected from employees covered by the auto-enrollment rules in March 2023 may be transferred to the financial institution from April 1 to April 17, 2023, only. At the same time, the employer will stop calculating and collecting further contributions to the PPK until March 1, 2027 (unless the employee submits a declaration of resumption of contributions to the PPK earlier).

The document was prepared by **Pension Practice Team** at **Aon Polska Sp. z o.o.**

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