



CA14D

Contracted-out Guidance for

Money Purchase Pension Schemes and
Money Purchase Overseas Schemes

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Abbreviations

AP Additional Pension

APP Appropriate Personal Pension

APPSHP Appropriate Personal Pension Stakeholder Pension

ARP Accrued Rights Premium

ARR Age-Related Rebate

ASCN Appropriate Scheme Number

AVC Additional Voluntary Contribution

CEP contributions Equivalent Premium

CFSA Certificate of Fully Secured Annuities

COD Contracted-out Deduction

COMB Contracted-out Mixed Benefit

COMP Contracted-out Money Purchase

COMPSPH Contracted-out Money Purchase Stakeholder Pension

COSR Contracted-out Salary Related

DWP Department for Work and Pensions

ECON Employer's Contracting-out Number

EPB Equivalent Pension Benefit

ERI Employer Related Investment

EU European Union

FSA Financial Services Act

FSAVC Free Standing Additional Voluntary Contribution

GAD Government Actuaries Department

GB Great Britain

GMP Guaranteed Minimum Pension

GN Guidance Notes

HMRC Her Majesty's Revenue and Customs

ICTA Income and Corporation Taxes Act 1988

LEL Lower Earnings Limit

LPI Limited Price Indexation

NICs National Insurance contribution

NINO National Insurance number

NIRS National Insurance Recording System

NPA Normal Pension Age

ODCQ Office for the Determination of Contributions Questions

PAYE Pay As You Earn

PA 1995 Pensions Act 1995

PA 2004 Pensions Act 2004

PN Practice Notes

PPRP Personal Pension Protected Rights Premium

PROP Protected Rights Premium

PRP Pensioners Rights Premium

PSA 1993 Pension Schemes Act 1993

PSS Pension Schemes Services

SCON Scheme Contracted-out Number

SERPS State Earnings Related Pension Scheme

SI Statutory Instrument

SPA State Pension Age

SSA 1973 Social Security Act 1973

SSA 1986 Social Security Act 1986

SSA 1989 Social Security Act 1989

SSAA 1992 Social Security Administration Act 1992

SSPA 1975 Social Security Pensions Act 1975

SYE Scheme Year End

TP Transfer Premium

UEL Upper Earnings Limit

UK United Kingdom

Glossary of terms

This glossary is made up of definitions taken and adapted from various sources. Where it is necessary to the meaning of the guidance, definitions mirror those in legislation. For ease of reference and consistency with the pensions industry some definitions have been taken, in whole, or in part, or adapted from the joint PMI/PRAG publication 'Pensions Terminology'. A copy of this is available from the PMI. PMI is the Pensions Management Institute and PRAG is the Pensions Research Accounts Group.

Actuary

The actuary appointed for the scheme under section 47(1) of the Pensions Act (PA) 1995 or the actuary otherwise authorised by virtue of the Contracting-out Regulations 1996 to provide certification in accordance with section 12A(6) of the Pension Schemes Act 1993 (PSA) 1993.

Additional Voluntary Contributions (AVCs)

Voluntary contributions over and above a member's normal contributions. Providing that the scheme allows it, a member may choose to pay these contributions in order to secure additional benefits.

Age-Related Rebate (ARR)

A payment made to a scheme by the Commissioners of HMRC in accordance with section 42A(3) of the PSA 1993.

Appropriate Personal Pension (APP)

A personal pension scheme which an individual may join as a means of contracting-out of the Additional State Pension, commonly known as the State Second Pension (formerly SERPS).

Appropriate Personal Pension Stakeholder Pension (APPSHP) scheme

Appropriate Personal Pension scheme which operates in the same basis as an APP scheme but with stakeholder status.

Associated Employer (Connected Employer)

A connected employer as defined in Regulation 64 of the Contracting-out Regulations 1996.

Contracted-out Mixed Benefit (COMB) scheme

An occupational pension scheme which holds both Contracted-out Money Purchase (COMP) and Contracted-out Salary Related (COSR) benefits. COSR benefits may be Guaranteed Minimum Pensions (GMPs) in respect of service prior to 6 April 1997 or post '97 COSR rights after that date.

Contracted-out Money Purchase (COMP) scheme

A occupational pension scheme where the employer pays minimum payments which, along with any other contributions from the employer or member provide the member with a pension based on the value of his or her fund at retirement.

Contracting-out Money Purchase Stakeholder Pension (COMPSHP) scheme

A contracted-out occupational pension scheme which operates on the same basis as a COMP scheme but with stakeholder status.

Contracting-out Regulations 1996

The Occupational Pension Schemes (Contracting-out) Regulations 1996 .

Corporate body

Any body which meets the definition of a 'company' laid down in the Companies Act 1985.

Disclosure Regulations

The Occupational Pension Scheme (Disclosure of Information) Regulations 1996.

Disclosure of Information

The requirement for schemes to disclose certain information to their members, as set out in the Occupational Pension Schemes (Disclosure of Information) Regulations 1996.

Earners

An earner as construed in accordance with sections 3, 4 and 112 of the Social Security Contributions and Benefits Act 1992.

Employee

A person gainfully employed in Great Britain (GB) either under a contract of service or an office (including an elective office) whose income is chargeable to income tax under Schedule E.

Employer

Any person, Government Department or public authority who is treated as the employer for the purposes of the Occupational Pension Schemes (Contracting-out) Regulations 1996.

Employer Related Investment (ERI)

Restrictions imposed under section 40 of the PA 1995 on the amount of assets of the scheme which can be invested in the business of the employer or of an associated employer, including loans made to either of those parties.

Employment

Includes any trade, business, profession, office or vocation.

Former wife/husband/civil partner

A person who may acquire accrued pension rights under a pension share.

Friendly Society

A Friendly Society as defined in the Friendly Societies Act 1992 (including any society which, under section 96(2) of that Act, is to be treated as a registered Friendly Society within the meaning of that Act).

Insurance Company

An Insurance Company authorised to carry on long term business as such under the Insurance Companies Act 1982.

Limited Price Indexation (LPI)

An annual increase in pension benefits subject to section 51 of the PA 1995.

Lower Earnings Limit (LEL)

The weekly level of earnings on which an employee qualifies for State benefits including the State Pension. See also Upper Earnings Limit.

Minimum Payments

Amounts equal to the employer's and employee's contracted-out rebate, which an employer must pay into a Contracted-out Money Purchase (COMP)/Contracted-out Money Purchase Stakeholder Pension (COMPSHP) scheme for the benefit of each employee who is contracted-out by reference to that scheme.

Overseas Scheme

A scheme established under irrevocable trust, or by such other means as the Secretary of State may approve, and which is administered wholly or primarily outside of the United Kingdom (UK) as defined in Regulation 1 of the Occupational Pension Schemes (Contracting-out) Regulations 1996.

Pension Schemes Act

The Pension Schemes Act 1993.

Pension Sharing on Divorce

A term used where the courts agree or order that on divorce, Pension rights are to be shared.

Pensionable Age

Legislative terms used for State Pension age (SPA).

Pensions Act

The Pensions Act 1995.

Post '97 COSR Rights

A member's rights, other than any voluntary contributions paid in respect of that member, derived from being a contracted-out member of a scheme contracted-out on a salary related basis after 6 April 1997 (ie rights under section 9(2B) of the PSA 1993).

Prescribed Period

A period beginning on 6 April 1997 and running up to the final date at which re-election packages were accepted by the HMRC National Insurance Contributions Office, 31 January 1998.

Principal Employer

The company which establishes the scheme as named in documentation, or company named in any amending documentation which replaces them.

Protected Rights

The rights held under an Appropriate Personal Pension, Stakeholder Pension or a Contracted-Out Money Purchase Stakeholder Pension scheme which derive mainly from the contracted-out rebate and its investment return. These rights are subject to prescribed conditions relating to their investment and their use on retirement.

Public Service Scheme

An Occupational Pension Scheme established under Enactment, Royal Prerogative or Royal Charter as defined in section 1 of the PSA 1993.

Reference Scheme Test certificate

A certificate signed by an actuary confirming compliance with the scheme-based contracting-out test.

Safeguarded Rights

Rights as defined in section 68(A) of the Pension Schemes Act .

Schedule of contributions

A schedule of contributions specifying rates of contributions which have been certified by the actuary as being sufficient to meet the scheme funding requirement and satisfy requirements of the legislation.

Scheme Administrator

The person or persons resident in the UK or another state which is a member state, or a non-member EEA state having responsibility for the management of the scheme or, in the case of an Overseas scheme, the person who is, or the persons who are appointed in accordance with section 270 of the Finance Act 2004 (meaning of "scheme administrator"). A non-member EEA state means a state other than the UK, which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992.

Scheme Authorities

The Employer, Scheme Administrator, Trustee(s), Actuary or Auditor of a scheme.

Scheme Year

A year for the purposes of the scheme, as specified in the documents of the scheme or by the scheme trustees.

State Earnings Related Pensions Scheme (SERPS)

A term used to describe the additional pension (AP) provisions of the State Pension scheme earned from 6 April 1978 to 5 April 2002.

State Pension age (SPA)

The minimum prescribed age which a person must be before they can be paid a State Retirement Pension.

State Scheme Premiums

A payment made to the state scheme in certain circumstances, normally to reinstate a member or members' SERPS or State Second Pension entitlement.

State Second Pension

A term used to describe the AP provision of the State Pension Scheme earned from 6 April 2002.

Trade Union

An independent trade union recognised in relation to the earnings concerned.

Transfer Values

Value of the benefit to which a member is entitled on transferring to another occupational or personal pension scheme.

Trustee

A person or company appointed to carry out the purposes of a trust in accordance with the trust deed and rules, trust law, and where relevant, pensions law.

Upper Earnings Limit (UEL)

Level of earnings (equal to approximately seven times the Lower Earnings Limit) above which there is no liability for standard-rate employee National Insurance contributions and above which AP does not accrue.

Wholly insured scheme

A wholly insured scheme is a trust scheme which has no investments other than policies of insurance, the effecting of which constitutes the carrying out of long term business falling with Class 1 or 3 of Schedule 1 to the Insurance Companies Act 1982.

1 Introduction to this manual

About this manual

- 1.1 This manual
 - Is intended for employers and scheme administrators who wish to set up a money purchase occupational scheme in order to contract out of the additional State Pension, commonly known as the State Second Pension (formerly SERPS).
 - Make changes to contracting-out certificates.
- 1.2 **This manual gives general guidance only, and should not be treated as a complete and authoritative statement of the law.**
- 1.3 This manual, and those associated to it, are available to anyone who has an interest in the procedures for gaining and then maintaining a contracting-out certificate. You can get more copies from HMRC website www.hmrc.gov.uk.
- 1.4 This manual tells employers
 - how to contract out of the additional State Pension on a money purchase basis, and
 - what action to take to remain contracted-out, and
 - how to surrender and vary contracting-out certificates.
- 1.5 This manual deals only with schemes contracted out on a money purchase basis. Separate manuals cover other contracted-out schemes. These include:
 - CA14C a manual for schemes contracting out on a salary related basis
 - CA14E a manual for schemes contracting out on a mixed benefit basis
 - CA14F manual covering decision making and appeals procedures.

Statutory provisions

- 1.6 The statutory procedural provisions for contracting out are contained in the
- Pension Schemes Act (PSA) 1993, and
 - PA 1995, and
 - PA 2004, and
 - Welfare Reform and Pensions Act 1999, and
 - In Regulations associated to these Acts.
- 1.7 Northern Ireland has separate but corresponding legislation on pensions, the Pension Schemes (N.I.) Act 1993 and the Pensions (Northern Ireland) Order 1995 and associated Regulations. Any reference to Great Britain (GB) Acts and Regulations also refer to the corresponding Northern Ireland provisions. The appropriate references to the Acts and Regulations are noted in the margin of this guide and the following abbreviations have been used:

Admin Regs The Occupational Pension Schemes (Scheme Administration) Regulations 1996

C-out Regs The Occupational Pension Schemes (Contracting-out) Regulations 1996

C-out Amend The Occupational and Personal Pension Schemes (Contracting-out)

Regs (2002) (Miscellaneous Amendments) Regulations 2002

ICTA 1988 The Income and Corporation Taxes Act 1988

Invest The Occupational Pension Schemes (Investment) Regulations 1996

PA 1995 Pensions Act 1995

PA 2004 Pensions Act 2004

PSA 1993 Pension Schemes Act 1993

Sharing Regs The Pension Sharing (Safeguarded Rights) Regulations 2000

WR&P Act 1999 Welfare Reform and Pensions Act 1999

Responsibilities and contacts

Pension Schemes Services

- 1.8 Pension Schemes Services is part of the HMRC Charities Assets and Residence and
- registers occupational and personal pension schemes for tax reliefs and exemptions
 - considers elections from employers who wish to contract-out of State Second Pension, formerly known as SERPS and issues contracting-out certificates if the election is accepted.
 - issues revised certificates where elections to vary a contracted-out certificate are made
 - allocates Employer's Contracting-out Numbers (ECONS) and Scheme Contracted-out Numbers (SCONS)
 - supplies contracted-out employers with
 - An information pack when the contracting-out certificate is first issued
 - has the authority to cancel or vary contracting-out certificates on behalf of the Commissioners for HMRC.
- 1.9 All documentation and any enquiries relating to this guidance should be sent to
HMRC
Pension Schemes Services
Yorke House
Castle Meadow Road
Nottingham
NG2 1BG
0115 974 1600
Lines are open 9am to 5pm Monday to Friday
- 1.10 The information and instructions in this manual also apply in Northern Ireland.
- 1.11 Employers with employees in contracted-out employment in the Isle of Man should contact
DHSS
Social Security Division
Contributions Section
Markwell House
Market Street
Douglas
Isle of Man
IM1 2RZ
01624 685685
Lines are open 9am to 5pm Monday to Friday

The Pensions Regulator

1.12 The Pensions Regulator:

- is an executive non-departmental public body accountable to Parliament
- regulates occupational pension schemes
- has the authority to investigate schemes and take action to uphold the law

1.13 Send any enquiries to
The Pensions Regulator
Napier House
Trafalgar Place
Brighton
East Sussex
BN1 4DW
0870 606 3636
Lines are open 9am to 5pm Monday to Friday.
or you can visit the Pensions Regulator website at
www.thepensionsregulator.gov.uk

1.14 If you need more information about pensions you can order a copy of the following

Leaflet	Title
PTB1	Pensions: the basics. A guide from the government.
PM2	State pensions – Your guide
PM3	Occupational pensions – Your guide
PM4	Personal pensions and stakeholder pensions – Your guide
PM5	Pensions for the self-employed – Your guide
PM6	Pensions for women – Your guide
PM7	Contracting out of the State Second Pension – Your guide
PM9	A guide to the Financial Services Act for employers

1.15 You can get these leaflets by contacting

Department for Work and Pensions (DWP) on **0845 731 3233**.

The line is open 24 hours a day. If you have speech or hearing difficulties, a textphone service is available on **0845 604 0210**.

Or, you can write to the DWP for any of the guides at Pension Guide, Freepost, RLXH-JUEU-GZCH, Northampton NN3 6DF (you don't need a stamp).

You can also see these guides on the Pension Service website at
www.thepensionservice.gov.uk

All guides are available in Welsh, on audio tape, in Braille and in large print.

Further information

If you are unhappy with our service

- 1.16 If you are unhappy with any aspect of the service you have received from the HMRC Pension Schemes Services, you should complain to the customer services manager at the office you have been dealing with.

Decision Making and Appeals

- 1.17 When a formal decision is issued there is a right of appeal against that decision to an independent Appeal Tribunal. Further information is available in manual CA14F Technical Guidance on Contracted-out Decision Making and Appeals which is available to view at the HMRC website, www.hmrc.gov.uk

Data Protection

- 1.18 HM Revenue & Customs is a Data Controller under the Data Protection Act 1998. We hold information for the purposes specified in our notification made to the Information Commissioner, including the assessment and collection of tax and duties, the payment of benefits and the prevention and detection of crime, and may use this information for any of them.
- 1.19 We may get information about you from others, or we may give information to them. If we do, it will only be as the law permits, to check accuracy of information, prevent or detect crime, or protect public funds.
- 1.20 We may check information we receive about you with what is already in our records. This can include information provided by you as well as by others, such as government departments or agencies and overseas tax and customs authorities. We will not give information about you to anyone outside HM Revenue & Customs unless the law permits us to do so. Further information can be found on our website, www.hmrc.gov.uk or in our leaflet *Data Protection*.

Additional Information / Services

1.21 Additional Information about schemes in contracted-out employment can be found in:

Manual	Title
CA14	Termination of Contracted-out employment – Manual for Salary Related Pension Schemes and Salary Related Parts of Mixed Benefit Schemes
CA14A	Termination of Contracted-out Employment – Manual for Money Purchase Pension Schemes and Money Purchase Parts of Mixed Benefit Schemes
CA14C	Contracting-out guidance for Salary Related Pension Schemes and Salary Related Overseas Schemes
CA14E	Contracting-out Guidance for Mixed Benefit Pension Schemes and Mixed Benefit Overseas Schemes
CA14F	Technical Guidance on Contracted-out Decision Making and Appeals
CA15	Cessation of Contracted-out Pension Schemes Manual
CA16	Appropriate Personal Pension Scheme Manual – Procedural Guidance
CA16A	Appropriate Personal Pension Scheme Manual – Technical Guidance for Scheme Managers
CA17	Employees Guide to Minimum Contributions
CA19	Using the Accrued GMP Liability Service
CA20	Using the Contracted-out Contributions/Earnings Information Service
CA21	Using the National Insurance Number/Date of Birth Checking Service
CA22	Submitting Contracted-out Data Transactions using Magnetic Media
CWG2	The Employers Further Guide to PAYE and NICs
CA39	Contracted-out Contributions for Employers
CA70	Magnetic Media Transmission of Data to Appropriate Personal Pension, Contracted-out Occupational Schemes and Stakeholder Pension Schemes
CA84	Stakeholder Pension Scheme Manual – Procedural Guidance
CA85	Cessation of Contracted-out Stakeholder Pension Scheme Manual

2 Background to contracting-out certificates

General

- 2.1 A contracting-out certificate is an employer's authority to deduct National Insurance contributions (NICs) at the lower, contracted-out rate for those employments covered by the certificate.
- 2.2 A certificate issued to a holding company, see paragraphs 6.1 to 6.3, includes a schedule detailing the subsidiary employers covered by the certificate.
- 2.3 An employer must not pay or deduct NICs at the lower, contracted-out rate until they
- receive a contracting-out certificate, or
 - are included on a schedule to a certificate
- 2.4 Once a certificate is received, or the employer is added to a schedule, lower contracted-out rate contributions may be deducted and paid for the employees in employments covered by the certificate from its effective date. If necessary, a refund of excess contributions for previous tax years can be claimed from HMRC National Insurance Contributions Office.
- 2.5 We will send the contracting-out certificate (and schedule where appropriate) direct to the employer and, unless the employer has indicated otherwise, forward a copy to the administrator of the scheme. It is the responsibility of the employer to produce the certificate if required to do so by an Employer Compliance Officer.

Employees to be covered by the certificate

- 2.6 Employers may only deduct lower rate NICs from employees who are contracted-out members of the scheme and only for the period during which they would be liable for NICs, ie between age 16 and State Pension age (SPA).
- 2.7 Further information about NICs, contracted-out employment and other related issues can be found in leaflet CWG2, *The Employer's Further Guide to Pay As You Earn and NICs*.

Elections for the issue of a certificate

Timing of elections

C-out Regs:
Reg 5

- 2.8 Where possible, an election to contract-out should be submitted to us before the date from which the contracting-out certificate is to have effect. This may avoid retrospective adjustment of NICs and claims for a refund, see paragraph 2.4.
- 2.9 Where a notice of intention is required, see paragraph 2.15, an employer cannot make an election (nor should the election form be dated) before the date on which the notice of intention expires, see paragraph 2.19, but must make it within three months of that date. Any election falling outside this three month period must be accompanied by an explanation of the reason for the delay. HMRC Pension Schemes Services, on behalf of the Commissioners for HMRC will consider backdating the certificate beyond the three months only in exceptional circumstances and may require the employer to issue fresh notices.

Notice to employees

C-out Regs:
Reg 3

- 2.10 Before making an election the employer must give either
- a notice of intention to contract out, see paragraph 2.19 or
 - a notice of explanation, see paragraphs 2.22 to 2.24
- 2.11 The notice must be given to all employees in employments which are to be covered by the certificate. This requirement extends to any employees in those employments who cannot be contracted out because, for example
- they have chosen not to be members of the scheme
 - they are to be excluded from the coverage of the certificate
- 2.12 Notice to employees must be given by
- sending or delivering it to each of them, or
 - exhibiting it conspicuously at the place of work and drawing each employee's attention to it.
- 2.13 The second condition would be satisfied if, for example, the notice was posted on a main notice board and reference was made to it in slips issued with individual pay notifications, or by a prominent statement in a staff magazine sent to each employee concerned.
- 2.14 A notice of intention or explanation must also be given to
- any independent trade union(s) recognised in relation to the earners concerned
 - the trustees of the scheme
 - the scheme administrator
 - the insurance company or Friendly Society (if the scheme benefits are to be secured through an insurance policy).
- 2.15 A **notice of intention** must be issued in all cases unless the conditions explained in paragraph 2.22 are satisfied in which case a notice of explanation may be issued in its place. Where the issue of a notice of intention is appropriate the employer must carry out consultations with independent trade unions, see paragraph 2.20.
- 2.16 The notices, as described in paragraph 2.15 with modifications where necessary, also apply to elections to vary, see paragraph 2.34, and to surrender, see paragraph 5.1, a contracting-out certificate.
- 2.17 An employer may amend his/her election at any time before the issue of a contracting-out certificate if the amendment does not alter the categories or descriptions of the earners to which the election relates, or the date from which it is intended that the certificate is to have effect. This might include, for example:
- amendment to any details given on the election which are subject to notice and consultation, provided that the correct information was shown on the notice.
 - any minor amendment to details not subject to consultation and notice requirements.

- 2.18 If however, an amendment would alter the categories or descriptions of earners, or incorrect information was shown on the original notice, the employer must issue fresh notices to all concerned, with the notice period running from when the new notice was issued.

Notice of intention

C-out Regs:
Reg 3

- 2.19 In cases where a notice of intention (specimen at Appendix 1) is applicable, see paragraph 2.15, the notice period must run for at least one month from the date on which it is issued unless any independent trade union involved does not agree to this period. If the independent trade union does not agree to a notice period of less than three months, the notice must run for three months from the date on which it is given.

Consultation with independent trade unions

C-out Regs:
Reg 4

- 2.20 An employer who has given a notice of intention to contract-out must consult with all independent trade unions recognised in relation to the earners concerned.
- 2.21 The employer, or the independent trade union concerned may, in the event of a dispute, refer either or both of the following questions to an Industrial Tribunal
- whether an organisation is an independent trade union recognised in relation to the employees concerned
 - whether the employer has complied with the consultation requirements

Notice of explanation

C-out Regs:
Reg 10

- 2.22 An election for the issue, variation or surrender of a contracting-out certificate may be made without compliance with the notice of intention and consultation requirements, see paragraphs 2.19 to 2.21, if
- the employees in the employments covered by the election will continue to qualify for protected rights from the same scheme
 - the rights of those employees to protected rights from the scheme will be unaffected, and
 - the employment of those employees will remain contracted-out by reference to the same scheme.
- 2.23 If the conditions in paragraph 2.22 are satisfied a notice of explanation may be used. A notice of explanation (specimen at Appendix 2) cannot be used however, where the election involves any change of contracted-out status for the employees involved.
- 2.24 A notice of explanation (specimen at Appendix 2) must be given in the same way, and to the same persons, as a notice of intention, see paragraphs 2.11 to 2.14. Where more than one election is necessary to make the change, a single notice of explanation will suffice.

Example of when a notice of explanation can be given

- 2.25 Changes may occur with a group of companies which make it necessary to alter the contracting-out certificates, for example the revival of a dormant company or the formation of a new company. If, as a result, employees who have been contracted-out under the group's scheme are to remain so but in the employment of a company not already covered by a certificate, the necessary election may be made and notices of explanation given.
- 2.26 This may be an election by the holding company to vary its certificate to add the new or revived company or an election by the company for a contracting-out certificate in its own right. In either case, the new or revived company will have to adhere formally to the scheme for the relevant period.
- 2.27 If as a result of the change, any other company involved loses all its contracted-out employees and no longer needs to be covered by a contracting-out certificate, an election may be made for that company to be deleted from the schedule (or for its certificate to be surrendered) using the same procedures.
- 2.28 This would apply also to a company which is to transfer all its contracted-out employees to other companies already named on the schedule to a holding company certificate relating to the same scheme.

Documents to be submitted when electing to contract-out

- 2.29 An employer must submit an election from APSS 101 containing the following information:
- the scheme details the effective date of contracting-out
 - the employer's name and address and the employments to be covered by the contracting out certificate
 - the person responsible for the day to day management of the scheme e.g. the Scheme Administrator or practitioner
 - the name and address of the trustees (if any) of the scheme
 - any exclusion from the employments contracted-out by reference to the scheme which may be made on grounds of employment
 - confirmation that the notice and consultation requirements have been complied with

- 2.30 The election form must be signed by the employer or the trustees or the person responsible for the day to day management of the scheme.

Employer's Contracting-out Number (ECON) and Scheme contracted-out Number (SCON)

- 2.31 On receipt of an election package which contains all of the prescribed information and documentation, and where all of the conditions for contracting-out are satisfied, a contracting-out certificate will be issued. The certificate will show an ECON, either that already used by the employer if the employer already has one, or a new one, and a SCON.
- 2.32 These numbers are used by HMRC National Insurance Contributions Office to record and track NICs and pension liability should be quoted on all correspondence concerning contracting-out.

C-out Regs:
Reg 9

Variation of the contracting-out certificate

- 2.33 Variations fall into two distinct categories, minor and major. Minor variations are specified in paragraph 2.35. They do not alter the categories or description of the employees covered by the contracting-out certificate, so full election action, (as detailed in paragraphs 2.8 to 2.30), is not required. Major variations are specified at paragraph 2.37.
- 2.34 Major variations require full election action and either
- the issue of a notice of intention (specimens at Appendix 3 and 4) and consultation with independent trade union(s), (as detailed in paragraphs 2.20 to 2.21), or
 - the issue of a notice of explanation, (specimen at Appendix 2) (as detailed in paragraphs 2.22 to 2.24).

Minor variations

- 2.35 Minor variations are a change to the
- a. name of an employer, or
 - b. employer's address, or
 - c. scheme name
- 2.36 Where one or more of the changes specified in paragraph 2.35 occurs, the change(s) should be notified on form APSS 155. Alternatively, the change(s) may be notified in writing by providing all of the relevant details. Such changes should be notified to us within three months of the effective date of change. Any notification received outside the three month period may be accepted at the discretion of the Commissioners for HMRC.

Major variations

- 2.37 Major variations are
- a. a change to the effective date of contracting-out, or
 - b. the addition of a subsidiary (or subsidiaries) to the schedule of a holding company certificate, or
 - c. the deletion of a subsidiary (or subsidiaries) from the schedule to a holding company certificate, or
 - d. changes to the categories of employment covered by the contracting-out certificate

- 2.38 These changes must be notified to PSS on form APSS 155.
- 2.39 In the case of paragraph 2.37 (a) where an earlier date is required, the employer must ensure that the scheme's provisions allow for contracting-out to commence from the earlier date, and that the contracting-out conditions have been satisfied from that date.
- 2.40 Where paragraph 2.37 (b) refers, both the subsidiary and holding company must be a corporate body.
- 2.41 Where paragraph 2.37 (d) refers an employer can elect that certain employments be excluded from the coverage of a contracting-out certificate, however each category must be clearly identifiable, for example, an employer might choose to contract-out clerical staff but not sales staff.
- 2.42 Any other changes to the contracting-out certificate should be notified to the HMRC Pension Schemes Services in writing.
- 2.43 Elections to vary contracting-out certificates as described in paragraph 2.35 and 2.37 should be made within three months of the effective date of change. Any elections received outside the three month period may be accepted at the discretion of the Commissioners for HMRC.
- 2.44 Once all of the information is received and the relevant contracting-out conditions are satisfied, a revised contracting-out certificate/schedule will be sent to the employer and, unless the employer has indicated otherwise, a copy will be sent to the administrator of the scheme. The existing certificate/schedule should be retained for future reference and marked 'replaced by certificate/schedule issued on (date)'.

3 Continuity of contracted-out employment

- 3.1 When the whole of a business and its employees are transferred to a new employer, it will not be necessary to surrender the existing contracting-out certificate and make an election for a new one if
- the employees' service continues to qualify them for protected rights from the same scheme, and
 - the new employer accepts the previous employer's responsibilities in relation to the scheme (including any contributions due to it at the time of the take-over) in respect of the employees concerned.
- 3.2 This easement is known as the continuity provision and cannot apply where the new employer requires a holding company contracting-out certificate.
- 3.3 Where the old employer's contracting-out certificate is a holding company certificate, the continuity provision can only apply after action has been taken to delete all subsidiaries from the coverage of it.
- 3.4 If the new employer considers that the conditions in paragraph 3.1 are satisfied it should notify HMRC Pension Schemes Services of the change as soon as practicable. The employer must provide a statement confirming both conditions are met and detail any changes to the contracting-out certificate, see first item of paragraph 4.2.

4 Change of principal employer

- 4.1 The principal employer in a scheme may be any employer whether or not they are the holding company in the scheme or are contracted-out by reference to the scheme.
- 4.2 There are a number of circumstances in which a change of principal employer in a scheme may occur. In all cases where a change of principal employer occurs form APSS 155 must be submitted. Documentation required will fall within one of the following three categories:
- if the whole of the business and employees of the existing principal employer are taken over by the new principal employer the continuity provision, see paragraphs 3.1 to 3.4 may apply, or
 - if the contracting-out certificate(s) is/are unaffected by the change, e.g. the principal employer and a participating employer swap roles but each retain their contracting-out certificate, in this instance form APSS 155 should be appropriately completed to contain a statement confirming that the certificate is unchanged, or
 - if the contracting-out certificate(s) is/are affected by the change, e.g. a new employer is contracting-out by reference to the scheme and replacing the existing principal employer, a full election to surrender, see paragraph 5.4 must be made by the existing principal employer and a full election for the issue of a certificate, see paragraph 2.8 to 2.30, must be made by the 'new' principal employer.

5 Elections to surrender a certificate

Notices

- 5.1 Before making an election to surrender a contracting-out certificate an employer must give a notice of intention and undertake consultations with independent trade unions as described in paragraphs 2.19 to 2.21.
- 5.2 As with other elections, the period of notice must run for at least one month from the date on which it was given unless any independent trade union involved does not agree to this period.
- 5.3 In the event of any independent trade union not agreeing to a period of less than three months, then the notice must run for three months from the date on which it is given. A notice of explanation (see Appendix 2) may be given if the conditions in paragraph 2.22 are satisfied.
- 5.4 If an employer notifies HMRC that they intend to surrender the contracting-out certificate and fails to do so within four months from the date of the notification, HMRC will consider whether that employment should no longer be contracted-out and cancel or vary the contracting-out certificate accordingly.

Surrender documentation

- 5.5 In order to surrender a contracting-out certificate, form APSS 155 must be submitted to HMRC Pension Schemes Services who will confirm that the certificate has been surrendered, and inform the employer and scheme administrator in writing. The certificate should be retained for future reference and marked 'surrendered with effect from(date)'.

Scheme continues for other employers

- 5.6 Where a participating employer surrenders their contracting-out certificate but the scheme continues to be contracted-out for other employers the employer which has surrendered the contracting-out certificate should follow the termination procedures detailed in manual CA14A Termination of Contracted-out Employment - Manual for Money Purchase Pension Schemes and Money Purchase Parts of Mixed Benefit Schemes.

Scheme ceases to be contracted-out

- 5.7 If, following the surrender, the scheme ceases to be contracted-out, the procedures outlined in manual CA15 *Cessation of Contracted-out Pension Schemes Manual*, should be followed.

6 Holding companies and subsidiaries

Introduction

- 6.1 Special provisions apply to holding companies and subsidiaries where:
- a scheme relates to employments under different employers, and
 - each of the employers in the scheme is either:
 - one of a group of companies consisting of a holding company and one or more subsidiaries, or
 - one of a group of employers who are associated by a common interest.
- 6.2 Employers are associated by a common interest where they share either management, shareholders, employees or business operations in common.
- 6.3 An employer may consider itself as a holding company for contracting-out purposes where it is a body corporate which is either:
- a holding company within the meaning of section 736 of the companies Act 1985, or
 - an employer who is the principal employer for the purposes of the scheme in accordance with the scheme rules or the employer who has the power to act on behalf of all employers in the scheme in relation to the scheme rules.
- 6.4 The holding company itself does not need to be contracted-out by reference to the scheme in order to hold a contracting-out certificate. If the holding company is not contracted-out then this should be made clear when describing contracted-out employments on election documentation.
- 6.5 A subsidiary means a body corporate which is an employer in the scheme and is either
- a subsidiary within the meaning of section 736 of the Companies Act 1985, or
 - an employer subject to the rules of the scheme
- 6.6 Where these provisions apply the holding company may elect for a single contracting-out certificate and include the subsidiaries, or associated employers on a schedule to the certificate.

Elections from holding companies

- 6.7 In completing the election form APSS 101, the employer will identify whether a holding company contracting-out certificate is required. The employer will have to confirm that the subsidiaries or associated employers to be included fall within the definitions at paragraph 6.5.
- 6.8 Only a corporate body can have a holding company contracting-out certificate or appear on the schedule to such a certificate, as partnerships and non-corporate bodies do not meet the definition of 'company' in the Companies Act 1985.
- 6.9 Partnerships and non-corporate bodies should apply for individual contracting-out certificates.

Sale of a company named on a schedule to a holding company contracting-out certificate

- 6.10 Where a subsidiary named on a schedule to a holding company contracting-out certificate is sold, it may remain in the scheme for a period of temporary participation until alternative arrangements are made. At the end of the participation period, an election to vary, form APSS 155 for the holding company, will be required to delete the subsidiary employer from the coverage of its contracting-out certificate.

Sale of part of a company

- 6.11 Where only part of the business of an employer has been sold, and the employees of that part of the business are to remain in the scheme until alternative arrangements are made, the original company can elect to vary its contracting-out certificate to add the acquiring employer to a schedule. At the end of the period of temporary participation, an election to vary, form APSS 155 from the holding company will be required to delete the acquiring employer from the coverage of its contracting-out certificate.

Note: You may wish to refer to Chapter 3 of the CA14, Termination of Contracted-out Employment Manual for Salary Related Pension Schemes and Salary Related Parts of Mixed Benefit Schemes, which gives information about termination of individual scheme member's contracted-out employment.

The periodic return system

- 6.12 This procedure was originally set up to allow holding companies to provide HMRC PSS with details of changes on an annual basis rather than separately every time a change happened. However, the demand for this service is very low in relation to how many returns we issue every year. In view of this, the periodic return system will be cancelled. HMRC PSS will issue the CA7312 until 1st August 2007 for completion. After this date, you will need to complete an APSS 155 for each change (see paragraph 2.34 onwards).
- 6.13 The following changes may be notified on the periodic return form CA7312 until 1st August 2007:
- The addition or declaration of employers from the schedule in issue to the holding company
 - A change of scheme name
 - A change of name of the principal employer and/or the participating employer(s)
 - The appointment of a new principal employer. Additional information and documentation is also required as detailed in paragraphs 4.1 to 4.2.
- 6.14 Employer Compliance Officers are aware that as a result of the periodic return system there maybe periods during which a contracting-out certificate does not reflect the true contracting-out position in the scheme.

7 Special procedures for certain types of schemes

Public service schemes

- 7.1 A 'public service scheme' is an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme
- all the particulars of which are set out in a legislative instrument made under an enactment, Royal warrant or charter, or
 - which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or Government Department, and
 - includes any occupational pension scheme established, with the concurrence of the Treasury, by or with the approval of any Minister of the Crown and any occupational pension scheme prescribed by regulations made by the Secretary of State and the Treasury jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of the Pension Schemes Act (PSA) 1993.
- 7.2 All Money Purchase public service schemes are set up on a funded basis and are, therefore, treated like any other money purchase scheme as far as the contracting-out requirements are concerned.

Overseas schemes

- 7.3 An Overseas scheme is a scheme which is established under irrevocable trust, or by such other means HMRC Pensions Schemes Services on behalf of the Commissioners for HMRC, may approve and is administered wholly or primarily outside the United Kingdom (UK).
- 7.4 In order to contract out an Overseas scheme must meet all of the requirements set out in paragraphs 2.8 to 2.30 except that in the case of Employer Related Investment (ERI) restrictions, Overseas schemes are not governed by the Occupational Pension Schemes (Investment) Regulations 1996. Instead, the level of ERI in the scheme will be monitored by the HMRC Pension Schemes Services. Confirmation is required that the scheme does not need to invest more than 5% of the current market value of its resources in a person who is an employer, or connected with an employer in relation to the scheme if such investments are required to meet the scheme's liabilities for protected rights.
- 7.5 Additionally, an Overseas scheme must also ensure that it meets the following requirements:
- there are employees based in the UK for whom National Insurance contributions (NICs) are payable
 - the scheme has an administrator who is resident in the UK or another state which is a member state or a non-member EEA state, appointed in accordance with section 270 of the Finance Act 2004 (meaning of administrator). A non-member EEA state means a state other than the UK, which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992.
 - the trustees or managers of the scheme have appointed an auditor who satisfies the requirements of regulations made under section 47(5) of the Pensions Act (PA) 1995
 - the scheme provides for indexation of pensions in accordance with section 51 to 54 of the Pensions Act 1995 for members of the scheme who are resident in Great Britain (GB)

- the scheme provides for revaluation of accrued rights in accordance with section 83 to 86 of the PSA 1993 for members of the scheme who are resident in GB

7.6 Employers wishing to contract out by reference to an overseas scheme must make an election on form APSS 101. The form must show the full names and addresses of the employer, auditor and scheme administrator and may be signed by someone authorised to sign on behalf of any of these parties. If the form is signed by someone on behalf of all or each of the parties it must be with their specific knowledge and approval.

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(4)

Two schemes treated as one

7.7 Some employers have two schemes, neither of which can be contracted-out in its own right because, for example, one provides death-in-service benefits and the other provides pension benefits. Where such schemes together can provide a package of benefits which, if combined, meet the contracting-out requirements HMRC Pension Schemes Services, on behalf of the Commissioners for HMRC, may treat the schemes as one for contracting-out purposes.

7.8 The employer must follow the standard election, notice and consultation procedures outlined in paragraphs 2.8 to 2.30 and make it clear on all documentation that there are two schemes involved.

Industry-wide money purchase schemes

7.9 Industry-wide money purchase schemes are centrally administered schemes in which only employers in a specified industry are eligible to participate.

7.10 Such schemes may contract out on a simplified basis. The advantages in this are:

- the scheme administrator acts as agent for each employer participating in the scheme.
- Consultation with independent trade unions may be carried out centrally providing the unions agree
- notice of intention may be issued by the scheme administrator but must make it clear that it is being issued on behalf of the employer
- A single election to contract out may be made by the scheme administrator on behalf of any number of participating employers. Details of each employer must be shown on a supplementary page to accompany the election form, APSS 102. The schedule must show the effective date of contracting out required for each employer. Any subsequent elections from participating employers must be submitted by the scheme administrator with a covering letter. Any such elections received without such a letter will be referred to the scheme administrator.

7.11 The employers participating in the scheme will be issued with a common Employer's Contracting-out Number (ECON) unless a participating employer already has an ECON. We do not need to be notified when individual members move between employments covered by the same ECON.

7.12 To take advantage of this simplified procedure, the rules of the scheme must specify that each participating employer must make minimum payments to the scheme administrator and also supply accurate earnings and membership information as required by the scheme administrator.

7.13 A separate contracting-out certificate will be issued to the scheme administrator in respect of each employer. It will be up to the scheme administrator to decide whether the certificate will be held centrally or given to each participating employer.

- 7.14 The provisions for holding company elections do not apply to industry-wide schemes using the simplified procedure. Each participating employer, whether a holding company or subsidiary, must be listed on the schedule accompanying the election and have his or her own contracting out certificate.
- 7.15 If any participating employer ceases to meet any of the contracting-out requirements, the scheme administrator must notify PSS. They will then consider cancellation of the contracting-out certificate. If the certificate is cancelled the administrator is responsible for notifying terminations of contracted-out employment to the HMRC National Insurance Contributions Office.

Centralised money purchase schemes for non-associated employers

- 7.16 Centralised money purchase schemes for the trade associations or other organisations (for example insurance companies) may contract-out on a single scheme basis. In this situation the following should be noted:
- the scheme will have no principal employer. The scheme administrator must accept responsibility for each participating employer's compliance with the contracting-out requirements.
 - each participating employer must legally adhere to the scheme
 - individual ECONs will be issued to each participating employer in the normal manner
 - the scheme administrator will be required to make an election to contract-out, vary or surrender on behalf of those employers covered by the scheme, ensuring that full notice and consultation procedures have been undertaken.

8 Cancellation or variation by HMRC Pension Schemes Services

General

- 8.1 HMRC Pension Schemes Services has the power, on behalf of the Commissioners for HMRC to decide that an employment should no longer be contracted-out and cancel or vary the contracting-out certificate accordingly.

Cancellation

- 8.2 Under normal circumstances a contracting-out certificate will be cancelled where it comes to light that a scheme's financial or administrative arrangements are inadequate to meet the contracting-out requirements.
- 8.3 The certificate must be cancelled if, for instance, there is evidence that the employer consistently failed to make minimum payments within the time limits. Cancellation will also be appropriate where an employer is unable to elect to surrender his/her certificate because there are no longer any employees to whom notices can be given.
- 8.4 If an employer notifies HMRC that they intend to surrender the contracting-out certificate and subsequently fail to do so within four months from the date of the notification, HMRC will consider whether that employment should no longer be contracted-out and cancel or vary the contracting-out certificate accordingly.
- 8.5 HMRC Pension Schemes Services on behalf of the Commissioners for HMRC may backdate the cancellation where it determines it is appropriate to do so.

Variation to delete a subsidiary

- 8.6 HMRC Pension Schemes Services on behalf of the Commissioners for HMRC may also vary a contracting-out certificate where, for example, a subsidiary employer no longer needs to be included in the coverage of a holding company certificate, but the normal election procedures cannot be undertaken because there are no longer any employees to whom notice can be given.

9 Re-Assurance for Contracted-out Money Purchase (COMP) Schemes

- 9.1 Since 6 April 1997 it has no longer been necessary for occupational pension schemes to complete a triennial re-assurance statement confirming that the scheme meets the contracting-out requirements. However, there may be occasions when PSS need to seek confirmation that the relevant requirements are satisfied.

10 Employer Related Investment (ERI)

- 10.1 All occupational pension schemes, other than Overseas schemes and public service schemes must comply with the restrictions imposed under section 40 of the Pensions Act 1995, related to Employer Related Investment.
- 10.2 As a condition of contracting-out, the scheme must ensure that it
- is not exempt from the restrictions imposed under Section 40 of the Pensions Act 1995 (restrictions on employer-related investments) (not applicable to overseas schemes or public service schemes)
 - is complying with the Occupational Pension Scheme (Investment) Regulations 1996.

Overseas schemes

- 10.3 An overseas scheme must not invest more than 5% of the current market value of its resources in a person who is an employer, or connected with an employer, in relation to the scheme if such investments are required to meet the scheme's liabilities for contracting-out.

11 Separate scheme account

- 11.1 The trustees of occupational pension schemes must, if applicable, open a separate scheme account in accordance with section 49(1) of the Pensions Act 1995 or Regulation 11(1) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996.

12 Insolvency - receiver/liquidator appointed

Receivership

- 12.1 When PSS are informed that a receiver is appointed they will need to establish whether the scheme will continue and whether it will continue to contract-out.
- 12.2 PSS will contact the scheme administrator to find out if the scheme is to continue to contract out. The employer must continue to make minimum payments if the scheme is to remain contracted out. If the scheme is to be discontinued, an election must be made to surrender the contracting-out certificate.

Liquidation

- 12.3 When PSS are informed that the employer is in liquidation, they will contact the liquidator to obtain further information. They will need to establish the date from which the scheme ceased to contract-out. An election must be made to surrender the contracting-out certificate where possible. If this is not possible, PSS will need to be advised by the liquidator of the date from which the contracting-out certificate should be cancelled.
- 12.4 The date from which the contracting-out certificate should be cancelled will be either the date of insolvency or the last date the final minimum payment covered. Where unpaid contributions have been claimed under section 124 of the Pension Schemes Act 1993, the date of cancellation will be the date the unpaid contributions covered to.

13 Pension Sharing on Divorce

Background

- 13.1 Pension scheme rights can be an important part of the assets which need to be considered when a marriage ends. From 1 December 2000 legislation came into force which allows divorcing couples the option to share their pension assets as part of the overall divorce settlement. Apart from the basic State Retirement Pension and survivors pensions, which will not be shareable, it will be possible to share most types of occupational and personal pensions including that available through the additional state pension commonly known as the State Earnings Related Pension Scheme (SERPS), or State Second Pension.
- 13.2 Pension sharing is available alongside existing methods of dealing with pension rights on divorce: offsetting and earmarking. The new measures help to provide courts with a comprehensive range of options for dealing with pensions at the time of the divorce. Pension sharing will
- provide greater flexibility and choice for divorcing couples and the courts
 - allow pension rights to be treated in a way which provides for the fairest overall settlement of assets in each divorce case, and
 - increase the opportunity for divorcing couples to achieve complete financial independence through a 'clean break' settlement.
- 13.3 Pension sharing on divorce was introduced as part of the Welfare Reform and Pension Act 1999. Pension sharing is available in all divorce and nullity proceedings which began on or after 1 December 2000. After this date it will be possible for a court to issue a pension share order or agreement to the pension scheme or provider as part of the divorce settlement.
- 13.4 Once a couple decide to go ahead with divorce proceedings a court can order that pension sharing is to apply. The court (or for divorces obtained in Scotland, the party who will benefit from the pension sharing) will issue copies of the pension sharing order or agreement to the pension scheme or provider.

Safeguarded Rights

- 13.5 Rights of a scheme member derived from the membership of contracted-out occupational pension scheme which are transferred to the former wife/husband/civil partner on divorce are known as 'safeguarded rights' and therefore will be distinguished from the contracted-out rights built up by a member of a contracted-out occupational pension scheme.
- 13.6 Scheme rules can specify whether all of the accrued rights that are subject to a pension share become safeguarded rights, therefore safeguarded rights might include safeguarded rights from a previous divorce.
- 13.7 The requirements for safeguarded right broadly reflect those for contracted-out rights. In particular the government wish to ensure that safeguarded rights (which are wholly or in part financed by rebates of National Insurance contributions) are securely protected and used for the purpose for which they are intended - to provide an income in retirement.
- 13.8 Safeguarded rights will not be tracked or monitored by the department. It is important, therefore, that schemes maintain accurate records when a former wife/husband/civil partners rights are preserved in the scheme transferred or bought out through an insurance policy. Schemes should also keep details of the pension share order, as they will need to record the percentage of the share on the member's pension account.

- 13.9 The “safeguarded” rights will be ring fenced and will be subject to broadly the same conditions that apply to post – 1997 protected rights. But note that schemes will not be required to provide survivors benefits from safeguarded rights nor will HMRC National Insurance Contributions Office track or monitor them.
- 13.10 A pension or annuity in respect of safeguarded rights is required to start being paid between the ages of 60 and 65, unless early payment is appropriate for example because of ill health, or the former wife/husband/civil partner has agreed to payment on a date later than their 65th birthday up to age 75.

Calculation Services

- 13.11 Occupational pension schemes will be required to provide a valuation of accrued pension rights to enable the courts to decide on the fairest overall settlement of assets.
- 13.12 To assist schemes with this process, the calculation services currently available can be used to request Contracted-out Deduction (COD) calculation at any time during the Pension Sharing on Divorce procedures.
- 13.13 As with the existing individual COD Calculation Service, calculations for pension sharing cases will be provided free of charge.

Pension Sharing on Divorce Notification

- 13.14 Where pension rights have been shared, the courts (or in Scotland, the party who will benefit from the pension sharing) will formally notify the scheme which will in turn be required to notify Services to Pensions Industry. Schemes will have four months in which to implement the pension sharing order.
- 13.15 A new form CA2202 *Pension Sharing on Divorce Notification* has been introduced for scheme administrators to fill in to notify Services to Pensions Industry of the pension share. This should be submitted to Services to Pensions Industry following the implementation of the pension sharing order, but not later than six months following the date of termination of contracted-out employment.
- 13.16 In respect of couples obtaining a divorce in Scotland, a monetary value or percentage rate will be awarded to the former wife/husband/civil partner, however, the scheme will be required to notify Services to Pensions Industry of the share as a percentage.
- 13.17 On receipt of the notification Services to Pensions Industry will update the National Insurance records of both the Member and the former wife/husband/civil partner to show that a “Pension Share” has occurred.
- 13.18 Details from form CA2202 will be held on a stand-alone computer system which in turn, may be interrogated to answer any specific enquiries about the pension share itself. Information from the database can be provided on request.

Contracted-out Deduction

- 13.19 When a member’s pension rights are shared with a former wife/husband/civil partner, a full COD will always be deducted from the member’s Additional Pension under SERPS. The COD will not be reduced to take account of any contracted-out rights that are subject to a pension sharing order/agreement.

Specimen Document

Appendix 1 – Specimen Notice of intention to elect to contract-out (Money Purchase Scheme)

Notice of intention to elect to contract-out (money purchase scheme)

1. This notice is given to employees of _____
_____ (name of employer) in the
employment(s) shown at 3 below.
2. *I/We _____
(name of employer) give notice that, in accordance with Part III of the Pension Schemes
Act 1993, *I/We intend to apply to HMRC Pension Schemes Services for a contracting-
out certificate to be effective from ____/____/____ (date).
3. The employees to be covered by the certificate are those for when minimum payments
are Made to the trustees of _____
_____ (name of scheme) in:
 - (a) * (i) all employments to which the scheme relates
 - * (ii) (any other description of employments)
 - (b) (i) Members who are unable to complete (5 or less) years' pensionable service
Before the scheme's normal pension age have been excluded
 - (ii) Members who have opted in writing not to become or to remain as a
contracted-out member of the scheme have been excluded.
4. The benefits provided by, and any employee contributions payable to, the scheme are:

5. *The changes to be made to the scheme benefits and contributions as a consequence of
contracting-out are as follows:

*No changes will be made to scheme benefits or contributions as a consequence of
contracting-out.

* Delete as appropriate

Specimen Document

6. The effect of the election on National Insurance contributions and state scheme benefits should be explained, adapting whichever of the following paragraphs is appropriate.

(a) *If the employees' previous employment was not contracted-out:*

As a result of your being contracted-out you will pay National Insurance contributions at a lower rate, currently _____% less than the full rate on earnings between £_____ and £_____ a week. This is because the pension scheme will retain responsibility for providing a pension additional to basic State Pension for the period you are contracted-out.

The amount of pension you will receive from your scheme will depend on the amount of contributions paid into the scheme by you and your employer together with the investment income derived from those contributions and any age related payments. Your combined pensions will therefore depend upon the investment performance on your scheme's assets and may be higher or lower than they would have been had you never been contracted-out.

(b) *If the employees previous employment was contracted-out:*

As you will still be contracted-out, there will be no change in the rate of your National Insurance Contributions.

7. For further information about current rates of National Insurance contributions and pensions contact _____ (appropriate officer or the company) or your nearest Department for Work and Pensions office.

8. Between ____/____/____ (date of issue) and ____/____/____ (date of expiry of notice) representations about this election may be made by or on behalf of those affected by this notice to:

9. Representations about this election may also be made by on behalf of those affected by this notice direct to the Commissioners for HM Revenue and Customs at HM Revenue & Customs, Pension Schemes Services, Yorke House, Castle Meadow Road, Nottingham, NG2 1BG.
10. The Commissioners for HM Revenue and Customs may defer their determination to enable the election to be further considered in the light of representations made.
11. The Commissioners for HM Revenue and Customs may refuse to give effect to the election if they are not satisfied that the employer has undertaken consultations about the matters covered by the notice with all the independent trade unions recognised in relation to the earners concerned.

Signature

Position

Date

Specimen Document

Notes on completing Specimen Notice of intention to elect to contract-out (money purchase scheme)

Introduction

The specimen notice is only provided as an example. Any notice given should be tailored to the exact circumstances of the case involved. The numbering below corresponds with that shown on the specimen notice.

Guidance

Section Number	What to do
1	The name of the employer should be completed (this can include holding companies)
2	Name of the employer should be completed along with the date from which the contracting-out certificate is to have effect (i.e. the intended date of contracting-out)
3	Name of the scheme should be completed
4	Reference may be made to an existing booklet which has been issued to employees, who should be told where copies can be obtained. Where the election is in respect of a new scheme, this should also be made clear and item "5" omitted.
5	Only needs to be completed in the case of an existing scheme
6	At "%", enter the current percentage by which lower rate National Insurance contributions are less than full rate contributions. At the first and second "£" signs enter the current amounts of the Employees Earnings Threshold and Upper Earnings Limit respectively
7	Enter the name of the relevant officer of the company or administrator who can provide the latest National Insurance and pensions information
8	Enter the date of issue of the notice, the date of expiry and to who representations can be made other than HMRC Pension Schemes Services
9-11	Nothing to complete

The form must be signed and dated by an officer of the employer whose position should also be noted on the notice in the space provided.

Specimen Document

Appendix 2 – Specimen Notice of explanation

The following is an example of how a notice of explanation given under Regulation 10 of the Occupational Pension Scheme (Contracting-out) Regulations 1996 might look. Any notice given under this regulation should be tailored to the exact circumstances of the case involved.

Notice of explanation

The operations of

(name of company or identification of the part of the company) have been transferred to

(new company) which has been set up in the group.

From ____/____/____ (date) you will be employed by

(new company).

This notice is to tell you that you will remain a member of the

(name of scheme), that your benefit rights will continue unchanged and you will continue to be contracted-out, but from ____/____/____ (date) this will be under the name of your new company.

Because the circumstances of the change involve no alternation to your benefits, the election is being made under Regulation 10 of the Occupational Pension Schemes (Contracting-out) Regulations 1996.

This notice may apply to more than one company if desired.

Specimen Document

Appendix 3 – Specimen Notice of intention to elect to add a subsidiary to a holding company contracting-out certificate (Money Purchase Scheme)

Notice of intention to elect to vary to add a subsidiary to a holding company contracting-out certificate (Money Purchase Scheme)

1. This notice is given to employees of _____
_____ (name of subsidiary to be added) in
employment covered by the _____
_____ (name of scheme).

It affects those who qualify (or will qualify) for protected rights under the scheme.

2. We _____
(name of holding company) give notice that, in accordance with Part III of the Pension Schemes Act 1993, we intend to apply to HMRC Pension Schemes Services to elect that the contracting-out certificate issued to us be varied from ____/____/____ (effective date required) so that it shall also apply to employment with _____
_____ (name of subsidiary to be added).

3. The benefits provided by, and any employee contributions payable to, the scheme are:

4. *The changes to be made to the scheme benefits and contributions as a consequence of contracting-out are as follows:

*No changes will be made to scheme benefits or contributions as a consequence of contracting-out.

5. *The effect of the election on National Insurance contributions and state scheme benefits should be explained, adapting whichever of the following paragraphs is appropriate.*

(a)* *If the employees' previous employment was not contracted-out.*

As a result of your being contracted-out you will pay National Insurance contributions at a lower rate, currently _____% less than the full rate on earnings between £_____ and £_____ a week. This is because the pension scheme will retain responsibility for providing a pension additional to basic State Pension for the period you are contracted-out.

The amount of pension you will receive from your scheme will depend on the amount of contributions paid into the scheme by you and your employer together

Specimen Document

with the investment income derived from those contributions and any age related payments. Your combined pensions will therefore depend upon the investment performance on your scheme's assets and may be higher or lower than they would have been had you never been contracted-out.

(b)* *If the employees previous employment was contracted-out.*

As you will still be contracted-out, there will be no change in the rate of your National Insurance Contributions.

6. For further information about current rates of National Insurance contributions and pensions contact _____ (appropriate officer or the company) or your nearest Department for Work and Pensions office.

7. Between ____/____/____ (date of issue) and ____/____/____ (date of expiry of notice) representations about this election may be made by or on behalf of those affected by this notice to:

8. Representations about this election may also be made by on behalf of those affected by this notice direct to the Commissioners for HM Revenue and Customs at HM Revenue & Customs, Pension Schemes Services, Yorke House, Castle Meadow Road, Nottingham, NG2 1BG.

9. The Commissioners for HM Revenue and Customs may defer their determination to enable the election to be further considered in the light of representations made.

10. The Commissioners for HM Revenue and Customs may refuse to give effect to the election if they are not satisfied that the employer has undertaken consultations about the matters covered by the notice with all the independent trade unions recognised in relation to the earners concerned.

Signature

Position

Date

* Delete as appropriate

Specimen Document

Notes on completing Specimen Notice of intention to elect to add a subsidiary to the coverage of a holding company contracting-out certificate (money purchase scheme)

Introduction

The specimen notice is only provided as an example. Any notice given should be tailored to the exact circumstances of the case involved. The numbering below corresponds with that shown on the specimen notice.

Guidance

Section Number	What to do
1	The name of the subsidiary to be added and scheme name should be entered
2	Name of the holding company and subsidiary to be added and the effective date of addition should be entered
3	Reference may be made to an existing booklet which has been issued to employees, who should be told where copies can be obtained
4	One or other should be deleted and, if applicable, a description of the effect of the election on members' benefits and contributions should be entered
5	At "%", enter the current percentage by which lower rate National Insurance contributions are less than full rate contributions. At the first and second "£" signs enter the current amounts of the Employees Earnings Threshold and Upper Earnings Limit respectively
6	Enter the name of the relevant officer of the company or administrator who can provide the latest National Insurance information
7	Enter the date of issue of the notice, the date of expiry and to who representations can be made other than HMRC Pension Schemes Services
8-10	Nothing to complete

The form must be signed and dated by an officer of the company whose position should also be noted on the notice in the space provided.

The notice may apply to more than one company if desired.

Specimen Document

Appendix 4 – Specimen Notice of intention to elect to delete a subsidiary from the coverage of a holding company contracting-out certificate (Money Purchase Scheme)

Notice of intention to elect to delete a subsidiary from the coverage of a holding company contracting-out certificate (Money Purchase Scheme)

1. This notice is given to employees of _____
_____ (name of subsidiary to be deleted) in
the employment(s) covered by the _____
_____ (name of scheme).

It affects those who qualify for protected rights under the scheme.

2. We _____
(name of holding company) give notice that, in accordance with Part III of the Pension Schemes Act 1993, we intend to apply to HMRC Pension Schemes Services to elect that the contracting-out certificate issued to us be varied from ____/____/____ (effective date required) so that it shall cease to apply to employment with _____
_____ (name of subsidiary to be deleted).

- 3 *The changes to be made to the scheme benefits and contributions as a consequence of ceasing to be contracting-out are as follows:

*No changes will be made to scheme benefits or contributions as a consequence of ceasing to be contracted-out.

4. It is proposed that Protected Rights relating to the contracted-out service now terminated are to be provided in the following way:

5. The effect of the election on National Insurance contributions and pensions will be:

(a)* *If employees' are no longer to be contracted-out:*

Because your employment will no longer be covered by a contracting-out certificate, you will become liable to pay National Insurance contributions at a higher rate, currently _____% more than the rate you have been paying on earnings between £_____ and £_____ a week. This is because the state scheme will become responsible for providing you with an additional pension based on your earnings between the above limits after your employment ceases to be contracted-out.

The amount of pension you will receive from your scheme will depend on the amount of contributions paid into the scheme by you and your employer together with the investment income derived from those contributions and any age related payments. Your combined pensions will therefore depend upon the investment

Specimen Document

performance on your scheme's assets and may be higher or lower than they would have been had you never been contracted-out.

- (b)* *If the employees will still be contracted-out but under a different money purchase scheme:*

As you will still be contracted-out under another money purchase scheme (*give details if possible*), there will be no change in the rate of your National Insurance Contributions or in the way that you state scheme benefits are calculated.

- (c)* *If employees will still be contracted-out but on a salary-related basis:*

As you will still be contracted-out on a salary related basis (*give details if possible*), there will be no change in the rate of your National Insurance Contributions. The amount of pension which you will receive from your new scheme will be based on a comparison with the statutory standard for contracted-out salary related benefits laid down in section 12B of the Pension Schemes Act 1993.

6. For further information about current rates of National Insurance contributions and pensions contact _____ (appropriate officer or the company) or your nearest Department for Work and Pensions office.

7. Between ____/____/____ (date of issue) and ____/____/____ (date of expiry of notice) representations about this election may be made by or on behalf of those affected by this notice to:

8. Representations about this election may also be made by on behalf of those affected by this notice direct to the Commissioners for HM Revenue and Customs at HM Revenue & Customs, Pension Schemes Services, Yorke House, Castle Meadow Road, Nottingham, NG2 1BG.

9. The Commissioners for HM Revenue and Customs may defer their determination to enable the election to be further considered in the light of representations made.

10. The Commissioners for HM Revenue and Customs may refuse to give effect to the election if they are not satisfied that the employer has undertaken consultations about the matters covered by the notice with all the independent trade unions recognised in relation to the earners concerned.

Signature

Position

Date

* Delete as appropriate

Specimen Document

Notes on completing Specimen Notice of intention to elect to delete a subsidiary from the coverage of a holding company contracting-out certificate (money purchase scheme)

Introduction

The specimen notice is only provided as an example. Any notice given should be tailored to the exact circumstances of the case involved. The numbering below corresponds with that shown on the specimen notice.

Guidance

Section Number	What to do
1	The name of the subsidiary to be deleted and scheme name should be entered
2	Name of the holding company and subsidiary to be deleted and the effective date of deletion should be entered
3	One or other should be deleted and, if applicable, a description of the effect of the election on members' benefits and contributions should be entered
4	Reference may be made to an existing booklet which has been issued to employees, who should be told where copies can be obtained
5	At "%", enter the current percentage by which lower rate National Insurance contributions are less than full rate contributions. At the first and second "£" signs enter the current amounts of the Employees Earnings Threshold and Upper Earnings Limit respectively
6	Enter the name of the relevant officer of the company or administrator who can provide the latest National Insurance and pensions information
7	Enter the date of issue of the notice, the date of expiry and to who representations can be made other than HMRC Pension Schemes Services
8-10	Nothing to complete

The form must be signed and dated by an officer of the company whose position should also be noted on the notice in the space provided.

The notice may apply to more than one company if desired.

Specimen Document

Appendix 5 – Specimen Notice of intention to elect to surrender a contracting-out certificate (Money Purchase Scheme)

Notice of intention to elect to surrender a contracting-out certificate (Money Purchase Scheme)

1. This notice is given to employees of _____
_____ (name of employer) in the employment covered by the _____
(name of scheme). It affects those who qualify (or will qualify) for protected rights under the scheme.

2. *I/We _____
(name of employer) give notice that, in accordance with Part III of the Pension Schemes Act 1993, *I/we intend to apply to HMRC Pension Schemes Services to elect to surrender my/our contracting-out certificate.

I/We intend the surrender to take effect from ____/____/____.

3. *The changes to be made to the scheme benefits and contributions as a consequence of ceasing to be contracting-out are as follows:

*No changes will be made to scheme benefits or contributions as a consequence of ceasing to be contracted-out.

*With effect from ____/____/____, the scheme is to be discontinued.

4. It is proposed that Protected Rights relating to the contracted-out service now terminated are to be provided in the following way:

5. The effect of the election on National Insurance contributions and pensions will be:

(a)* *If employees' are no longer to be contracted-out:*

Because your employment will no longer be covered by a contracting-out certificate, you will become liable to pay National Insurance contributions at a higher rate, currently _____% more than the rate you have been paying on earnings between £_____ and £_____ a week. This is because the state scheme will become responsible for providing you with an additional pension based on your earnings between the above limits after your employment ceases to be contracted-out.

(b)* *If the employees will still be contracted-out but under a different money purchase scheme:*

As you will still be contracted-out under another money purchase scheme (*give details if possible*), there will be no change in the rate of your National Insurance Contributions or in the way that you state scheme benefits are calculated.

Specimen Document

(c)* *If employees will still be contracted-out but on a salary-related basis:*

As you will still be contracted-out on a salary related basis (*give details if possible*), there will be no change in the rate of your National Insurance Contributions. The amount of pension which you will receive from your new scheme will be based on a comparison with the statutory standard for contracted-out salary related benefits laid down in section 12B of the Pension Schemes Act 1993.

6. For further information about current rates of National Insurance contributions and pensions contact _____ (appropriate officer or the company) or your _____ nearest Department for Work and Pensions office.

7. Between ____/____/____ (date of issue) and ____/____/____ (date of expiry of notice) representations about this election may be made by or on behalf of those affected by this notice to:

8. Representations about this election may also be made by on behalf of those affected by this notice direct to the Commissioners for HM Revenue and Customs at HM Revenue & Customs, Pension Schemes Services, Yorke House, Castle Meadow Road, Nottingham, NG2 1BG.

9. The Commissioners for HM Revenue and Customs may defer their determination to enable the election to be further considered in the light of representations made.

10. The Commissioners for HM Revenue and Customs may refuse to give effect to the election if they are not satisfied that the employer has undertaken consultations about the matters covered by the notice with all the independent trade unions recognised in relation to the earners concerned.

Signature

Position

Date

* Delete as appropriate

Specimen Document

Notes on completing Specimen Notice of intention to elect to surrender a contracting-out certificate (money purchase scheme)

Introduction

The specimen notice is only provided as an example. Any notice given should be tailored to the exact circumstances of the case involved. The numbering below corresponds with that shown on the specimen notice.

Guidance

Section Number	What to do
1	The employer's name and scheme name should be entered
2	Name of the employer and the effective date of surrender should be entered
3	One or other should be deleted and, if applicable, a description of the effect of the election on members' benefits and contributions should be entered
4	Reference may be made to an existing booklet which has been issued to employees, who should be told where copies can be obtained
5	At "%", enter the current percentage by which lower rate National Insurance contributions are less than full rate contributions. At the first and second "£" signs enter the current amounts of the Employees Earnings Threshold and Upper Earnings Limit respectively
6	Enter the name of the relevant officer of the company or administrator who can provide the latest National Insurance and pensions information
7	Enter the date of issue of the notice, the date of expiry and to who representations can be made other than HMRC Pension Schemes Services
8-10	Nothing to complete

The form must be signed and dated by an officer of the company whose position should also be noted on the notice in the space provided.

Appendix 6

List of forms

Forms

CA2202	Pension Sharing on Divorce Notification
CA7312	Periodic Return. Issued by HMRC PSS on request from the employer or scheme administrator.
APSS101	Election for the issue of a Contracting-out certificate (money purchase scheme)
APSS155	Election to vary contracting-out certificate for a salary related, money purchase or mixed benefit scheme. Change of scheme and/or employer's name and address. Change of principal employer, holding company. Election to surrender a Contracting-out certificate (money purchase scheme)
APSS102	Election for the issue of a Contracting-out certificate (money purchase industry wide scheme)

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