

# Countdown Bulletin

The newsletter about the abolition of contracting-out on a Defined Contribution basis

## Welcome to the sixth and final issue of HMRC's "Countdown Bulletin" - Abolition of Contracting-Out on a Defined Contribution basis.

In this edition we cover:

- Contracted-out Mixed Benefit (COMB) Schemes
- Returning incorrectly paid Age Related Rebates/Minimum Contributions and requesting repayment of an incorrect recovery
- Transitional Issues
- Payment of Age Related rebates/ Minimum Contributions
- Questions and Answers
- Useful Links

## Contracted-out Mixed Benefit (COMB) Schemes

In Countdown Bulletin 5 (see useful links below) HMRC advised that no notice of intention or consultation requirements would be required for existing contracted-out members of the COMP section of the COMB scheme who move into the COSR scheme on or after 6 April 2012. This will only apply if the affected members are still covered by the employment to which the contracting-out certificate relates.

The automatic closure scan that will take place in March 2013 (detailed in Countdown Bulletin 4, see useful links) will also include open periods of COMP sections of COMB schemes. Where the period that is being closed includes a pre '97 period and a GMP liability exists, a GMP calculation will be made and a CA1625 statement will be issued to the scheme.

Unfortunately, at the time of the scan HMRC will not know if any of these members has in fact continued in contracted-out employment from 6 April 2012 under the COSR scheme. If this is the case the GMP notification will be incorrect. HMRC will therefore need the scheme to return the incorrect GMP statements. HMRC will then update our records to remove the incorrect GMP information and show the contracted-out employment as being continuous.

## Returning incorrectly paid Age Related Rebates/ Minimum Contributions and requesting repayment of an incorrect recovery

Unfortunately, we are unable to provide the new "Payment made in error" or "Recovery made in error" forms, as detailed in Countdown Bulletin 3, at this time.

If you need to contact HMRC to return any incorrectly received payments or to ask for reimbursement of a recovery please supply the following information:

- Exporting scheme name and SCON/ASCN
- Customer's name, National Insurance number and scheme membership number
- Amount of money to be returned or reimbursed
- Tax year(s) the payment/recovery relates to
- Name and address of importing scheme and any reference numbers (if known)
- Confirm whether you have passed the payment on to the new scheme.

## Transitional Issues

### 6 April 2012

- Contracting-out certificates for DC schemes including the COMP part of a Mixed Benefit scheme are no longer valid. The certificates do not need to be surrendered by schemes
- APP/COMP schemes no longer submit termination/transfer notices for any terminations/transfers that take place on or after 6 April 2012
- Members of COMP schemes start to pay NICs at category 'A' rate or equivalent unless they have taken up membership of a COSR scheme

### March 2013

Scan will run to identify and terminate open periods of APP and COMP scheme membership, with a termination date of 5 April 2012 or earlier. There will be no acknowledgements issued to either the scheme or the individual.

### April & October 2013

- The final PP Non Payment runs will be run in April and October 2013
- The final PP reconciliation exercises will run in April and October 2013

### March & April 2015

The final PP Payment run will take place in March 2015 with an ad-hoc run in April 2015 to capture payables and receivables that have been raised after the March run and before 5 April 2015.

### 2015

- Any late rebate payments will be paid directly to members
- Any late rebate recoveries will be made from the last known scheme via a bill

## Payment of Age Related rebates/Minimum Contributions

In the countdown to the abolition of contracted out Defined Contribution (DC) schemes HMRC is undertaking an exercise to ensure that appropriate monies due are paid. As a result of this you may, from the March 2012 Payment Run (monies received in April), start to receive payments relating to earlier tax years for some of your scheme members.

There are a number of reasons why it has not been possible to make these payments before now – the principal one being that we receive a considerable number of NI returns from employers that contain errors and some of these can take a long time to resolve. This inevitably leads to details not being posted to the NI account of an individual at the appropriate time.

There is no need to contact us as any monies due will be paid automatically as part of the monthly PP payment run.

We are reviewing these, and other cases, with the abolition of contracted-out DC schemes in mind and working on the assumption that many of you will have arrangements in hand to perform similar activity within your own organisations.

If you have any queries concerning this matter please contact  
[sharon.richley@hmrc.gsi.gov.uk](mailto:sharon.richley@hmrc.gsi.gov.uk)

## Useful links

### Earlier editions of the Bulletin:

<http://www.hmrc.gov.uk/nic/countdown-bulletins.htm>

### HMRC/DWP

#### Employers factsheet

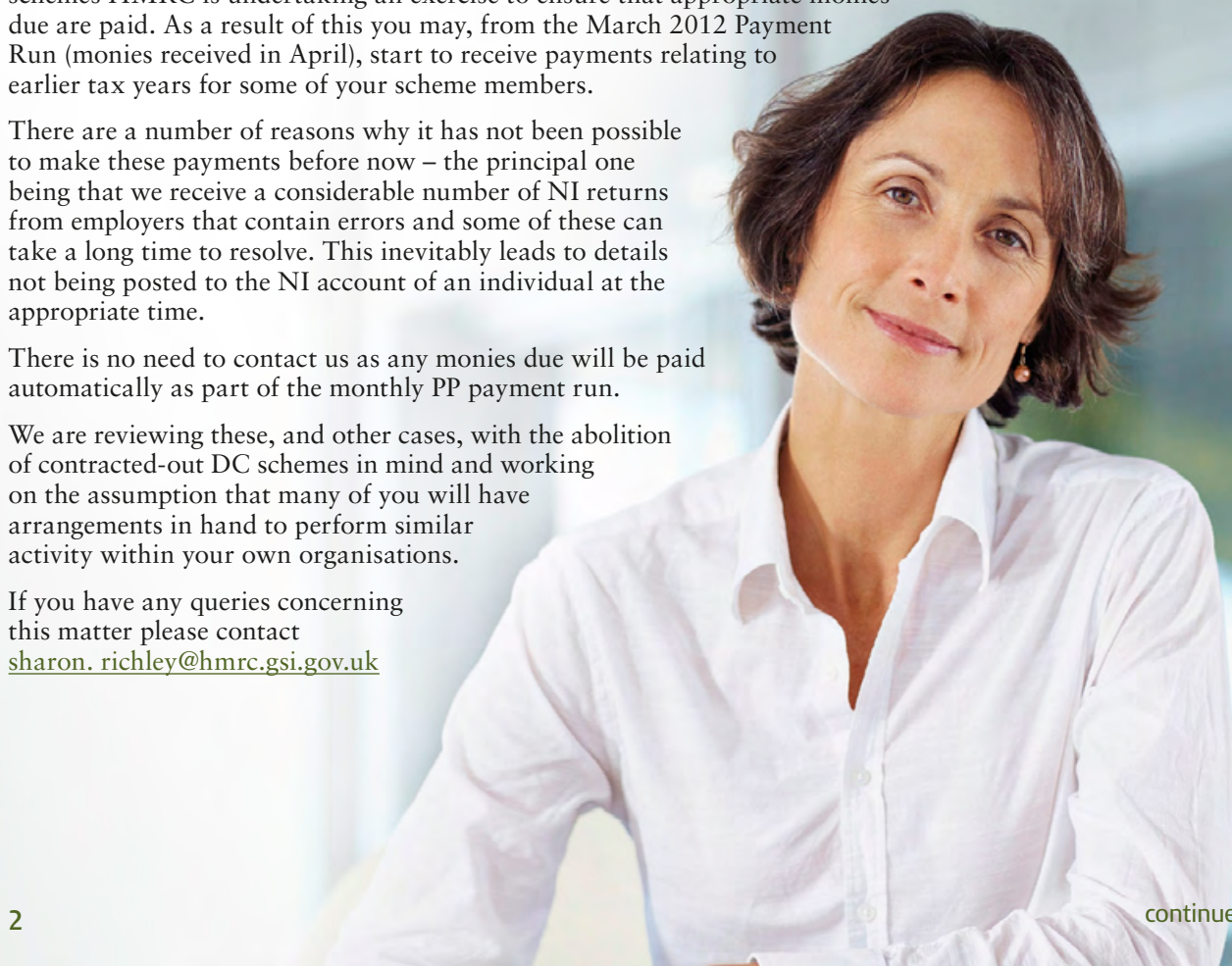
<http://www.dwp.gov.uk/docs/emp-contracting-out-factsheet.pdf>

#### HMRC/DWP Employees/ members factsheet

<http://www.direct.gov.uk/contractedoutpensions>

#### HMRC/DWP Trustee's factsheet

<http://www.dwp.gov.uk/docs/trustee-contracting-out-factsheet.pdf>





## Questions and Answers

### Payments/Recoveries

- Q1: Countdown Bulletin 3 states there will be an ad-hoc payment run in April 2015. Can HMRC confirm this will be the case as schemes have assumed the March tape was the last run? When will the ad-hoc be run?
- A: There will be an ad-hoc payment run to identify and pay/recover any amounts created from 15 March 2015 to 5 April 2015 which will be issued around 1 May 2015.
- Q2: As time goes on and payments by tape reduce or cease HMRC have stated recoveries will be by single or multi bills. Can HMRC advise on the following:
- a) How the bills will be sent?
  - b) How would schemes handle a multi bill? We would have some difficulty in dealing with these e.g. where some cases can be paid/resolved and some not...
  - c) How will schemes know there is no payment on the tape? Previous indications are there will be a header stating "no data"?
- A:
- a) Where payments/recoveries start to outweigh payments, HMRC will send a clerical bill (CA1618) either in single or multi form for any amounts that they have been unable to recover automatically.
  - b) For a multi bill, HMRC will accept a partial repayment if the scheme is still investigating some of the cases. We will work with the schemes to repay all outstanding amounts. Any recoveries that remain outstanding will be identified by the Outstanding Debt scan which is run annually.
  - c) There will be no new headings on the payment tapes. Schemes only receive a payment tape where there are payments and/or recoveries to be made. Where the recoveries are greater than the payments then you will receive a payment tape detailing the payments and recoveries but no payment will be made.
- Q3: Where an individual has transferred on and a payment is received by the exporting scheme the scheme can return the payment to HMRC. Rather than return the payment to HMRC, can schemes adopt a process where they would try and pass on the payment to the new scheme for any transfer which had taken place within the previous 6 months?
- A: Each scheme can decide what they want to do with these payments. They can either pass the payment on to the new scheme or return it to HMRC, with a covering letter supplying the information set out earlier in this bulletin ([see returning incorrectly paid Age Related Rebates/Minimum Contributions on page 1](#)).
- Q4: If schemes are due a reimbursement post 2015, for a recovery made pre 2015, can HMRC please confirm how scheme will receive this?
- A: A clerical payment will be made by cheque.
- Q5: If a payment is originally made to a member and, post 2015, it then needs to be recovered; will HMRC contact the scheme for this recovery?
- A: Where the original payment has been made to the individual HMRC will not request the return of the payment from the Pension Scheme.
- Q6: Previous information indicates that schemes will continue to receive recoveries post 2015. Is there ever going to be a date at which "a line is drawn in the sand" and no further adjustments will be made?
- A: No end date has been set. However, we will review this issue and keep you informed in the NISPI Business Update.
- Q7: In respect of outstanding debt, is it the case that HMRC intend to issue a bill for any outstanding amounts and is there an expected end date for this?
- A: There will be no change to the current outstanding debt process for the time being. HMRC will continue to identify the outstanding debt and work with the scheme to clear it.



Q8: An administrative de-minimis of £15 has been mentioned previously as the payment amount which HMRC would not pass on if it was below this level. Is this agreed now and was there any movement on a de-minimis for recoveries?

A: An administrative tolerance of £15 has been confirmed for payments made to individuals on or after 6 April 2015. Although HMRC cannot confirm the de-minimis amount for recoveries on or after 6 April 2015, HMRC will apply a de-minimis amount, once it has been agreed.

Q9: For a pre 6 April 2012 death case what is the expectation of HMRC when they send an additional payment(s) on or after 6 April 2012 for such a death? Must the schemes apply this to the Protected Rights (PR) related death benefits?

A: HMRC can confirm that if a member dies before 6 April 2012 any survivor's benefits settled after that date do have to be provided under the protected rights rules.

Confirmation of this can be found at <http://www.dwp.gov.uk/docs/abolition-contracting-out-dc-response.pdf>

Survivors of those members who died before the abolition date (i.e. before 6 April 2012) will be entitled to a survivor's pension under the 'old' rules. This is the case because of the effect of the general savings provisions in section 16 of the Interpretation Act 1978.

Q10: For a post 6 April 2012 death, HMRC will not record the death and we will settle as Non Protected Rights (NPR) but what is the HMRC position on sending us a further payment post 6 April 2012.

A: Although HMRC will not be recording dates of death from input forms from pension schemes, we will still receive dates of death from other sources. We will continue to issue late payments in these cases.

Q11: Draft regulations indicated 5 April 2012 would be the end date for completion of CA forms but final regulations state 5 March 2013. Can HMRC confirm that post 6 April 2012, schemes only complete CA forms for pre 6 April 2012 transactions or does HMRC expect us to continue with CA forms for pre and post 6 April 2012 cases up to 5 April 2013?

A: CA forms for DC cases should be submitted for pre 6 April 2012 occurrences only. HMRC will be able to process these up to March 2013 until the automatic closure is run. Countdown Bulletin 4 ([see useful links on page 2](#)) provides more details about the closure scan. In practice the forms should be sent within 5 weeks of the transfer, which is why the regulations were extended beyond 2012, but HMRC accepts that there may be delays cases e.g. deaths.

Q12: For GMP transfers to Defined Contributions (DC) schemes post 6 April 2012, the client signs away the Defined Benefits (DB) rights, however the regulations indicate that HMRC still wants the CA form for the GMP transfer? Could HMRC please confirm this?

A: CA forms will continue to be needed for DB schemes. HMRC are updating the CA1888 and CA1889 forms to cater for the new option of transferring from a COSR to a non contracted-out scheme. These amendments include a revised declaration to confirm that the member is aware of the implications of the transfer. HMRC will record such a transfer to a dummy ASCN and will not hold any details of the receiving scheme.

Q13: Where the relevant information ([see returning incorrectly paid Age Related Rebates/Minimum Contributions on page 1](#)) is sent by the exporting schemes to HMRC when returning any incorrectly received payments or to ask for reimbursement of a recovery, is it the case that HMRC will not record this information on their system? In theory, the exporting schemes may get another payment/recovery for the same case, even though they have confirmed the case has transferred?



- A: HMRC will not record the details provided by the exporting scheme in these cases. So if the information provided is for a payment for example, this will not stop any future payment(s) from being sent to the exporting scheme. Schemes can also supply this information for Open Market Option (OMO) on retirement or death as well as other situations.

## Processes and Regulations

- Q14: The following questions refer to instances where there is a “cross over” between contracting-out and other HMRC regulations e.g. protected tax free cash calculations at “A day”:
- a) in respect of nomination of beneficiary – how do we treat a Protected Rights (PR) nomination post 6 April 2012? Currently some schemes, where no spouse or partner exists, pay to the nomination or if none, to the estate. Some such nominations are treated as binding on the trustees. Does HMRC have a view on whether the members need to revisit their nomination?
  - b) Protected tax free cash sum calculations at “A day” excluded PR fund as prior to “A day”, no tax free cash could be taken from such funds. Schemes think this “A day” calculation remains but on abolition there will be no restriction on how that cash can be taken across the NPR and PR funds. Does HMRC agree?
- A: a) Unfortunately, HMRC can not give a view on this. Schemes may wish to seek their own legal advice.
- b) HMRC concurs with the view that the “A Day” calculation of protected cash sums remains unchanged. We also concur that there would no longer be a restriction on where that cash can come from within the scheme, so it can include protected rights.
- Q15: How will the abolition of contracting-out on a Defined Contribution basis affect the payment of Short Service Refunds for COMP schemes on or after 6 April 2012 when protected rights will no longer exist?
- A: HMRC’s Pension Schemes Services has confirmed that when protected rights fall away from 6 April 2012 a Short Service Refund Lump Sum (SSRLS) can be paid in the following circumstances:
- Post 5 April 2012 leaver with an element of former protected rights**  
As protected rights will not exist under legislation from 6 April 2012 then, subject to the necessary SSRLS conditions being met, a SSRLS should include the member’s former protected rights (so as to meet the requirement to fully extinguish the member’s entitlement under the scheme) in so far as they represent member contributions (see Q16 on when this is the case).
- Pre 6 April 2012**  
Leavers who took refunds but where protected rights were retained and remain in the scheme as sole residual funds.
- There is nothing in tax legislation preventing a 2nd lump sum, comprising protected rights in so far as they represent member contributions (see Q16 on when this is the case), being paid in these circumstances, subject to the remaining conditions set out at <http://home.inrev.gov.uk/rpsmmanual/rpsm09104720.htm> being met. A refund could, from 6 April 2012, be offered to such members if the schemes wanted to do so and the scheme rules permit.
- Q16: For COMP schemes, currently the payment of a Short Service Refund must extinguish the member’s entitlement to benefits (except protected rights) under the pension scheme. Therefore the protected rights would be left behind in the scheme.
- Post 5 April 2012, schemes are making the assumption that as the protected rights do not fall under the amount considered to be a member contribution, so will need to be retained under the scheme, albeit not as protected rights (as they would have fallen away).



A: The maximum amount that can be refunded is an amount equal to the aggregate of the member's contributions under the pension scheme, any excess is not a Short Service Refund Lump Sum (SSRLS) (Schedule 29 5 (2) FA 2004 refers). So, any part of the protected rights which does not count as a member contribution cannot be refunded under this part of the legislation. The minimum payments from the employer to the scheme relating to the employee contribution are member contributions as is any employer contribution that is recovered from the employee together with the HMRC rebate. Any employer contribution not recovered from the employee would not be a member contribution for our purposes. If the whole amount was refunded on leaving service, only this element would not form part of the SSRLS. Any payment in excess of the maximum SSRLS that can be paid as a lump sum which is an unauthorised payment for tax purposes. So long as any unauthorised payment is made before or at the same time as the SSRLS, the requirement that the member's rights under the scheme are extinguished will be satisfied.

Q17: Where a member of a registered pension scheme is in serious ill health (SIH) and is married or in a civil partnership at the point of taking a serious ill health lump sum, 50% of the benefits derived from any contracting-out rights must be retained by the scheme to provide for a survivor's pension.

Schemes are trying to establish the position where the member is still alive after 5 April 2012 having already received 50% of their protected rights fund as a serious ill health lump sum prior to 6 April 2012. Can HMRC help us?

A: With regard to the SIH position, HMRC confirm that there is no reason why a further lump sum cannot be paid provided the usual conditions required for a lump sum to qualify as a SIHLS are met. However, we should point out that it is a condition for a lump sum to be regarded as a SIHLS, that payment of the lump sum must extinguish all of a member's entitlement to benefits under an arrangement. We have taken the view that this includes dependants' benefits as, until the member dies, all benefits in the arrangement relate to the member. So at present any contracted-out rights that have to be retained to provide a survivor's pension have to be moved into a separate arrangement before a SIHLS can be paid. This was covered in Pensions Tax Simplification Newsletter No 11 paragraph 8, <http://webarchive.nationalarchives.gov.uk/20110109132006/http://hmrc.gov.uk/pensionschemes/newsletter11.htm> If there is no requirement to provide dependants' benefits from 6 April 2012 then this prior step will not be needed. And if this step has been taken before 6 April 2012 and the member is still alive there is no reason why a lump sum cannot be paid in respect of the arrangement holding the dependants' rights subject to the normal SIHLS requirements being met.

HMRC Policy colleagues have confirmed there are no objections to 2 lump sums being paid in respect of short service refunds and SIH lump sums.

## General

Q18: Schemes do not anticipate having to approach HMRC for help with data issues for reconciliations but what are HMRC expectations/plans in terms of continued correspondence/queries on cases during and after the adjustment period, especially for scheme wind-ups which usually take some time?

A: HMRC will continue to deal with and answer queries as normal. Action will also continue to resolve any outstanding payments or recoveries. However, as HMRC are no longer tracking protected rights after 6 April 2012, schemes do not need to notify us of any arrangements made after this date.

## Contact us

Email your queries about abolition to:  
[technical.nispi@hmrc.gsi.gov.uk](mailto:technical.nispi@hmrc.gsi.gov.uk)

Please continue to deal with your usual NISPI contact for your day to day enquiries.

If you have any feedback on the Countdown Bulletin or wish to add a name to the distribution list please email [lynn.ibbetson@hmrc.gsi.gov.uk](mailto:lynn.ibbetson@hmrc.gsi.gov.uk)