

Backdating membership of an occupational pension scheme



Part of the Department
for Work and Pensions

April 2006

What this might mean for you

- How to get pension information to help you decide whether to backdate your membership of an occupational pension scheme
- How to find out more about the choices open to you
- Where to get more help and information



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Background

Do I need to read this leaflet?

This leaflet is for you if you are, or were, a part-time worker and you have made a claim with an employment tribunal (industrial tribunal in Northern Ireland) for backdated access to an employer's occupational pension scheme from which you have not been able to join.

What does 'backdated membership' mean?

'Backdated membership' means that a person is granted access to membership of an occupational pension scheme for past periods of employment when they were excluded from being a member of that scheme.

If you are, or were, a part-time worker, you may now already be a member of your employer's (or previous employer's) scheme or schemes but have been waiting for an employment tribunal hearing to find out whether you are entitled to backdated access for a past period.

Backdated membership of your employer's occupational pension scheme

If you have a right to backdated membership of your employer's or previous employer's occupational pension scheme as a result of the outcome of a claim you had made with an employment tribunal, you need to consider your pension options. If you are still waiting for the outcome of an employment tribunal hearing, you should keep this leaflet and use it if or when you are granted the right to backdated membership of your employer's or previous employer's occupational pension scheme. We have designed this leaflet to help you make the best decision about your retirement income, whether you are still working or have already retired.

Finding out about your pension options

This leaflet outlines what you can do to find out about your options. It will also help you to understand the effect your choice may have on your State Pension. By collecting all the information, in the form of assessments and forecasts of your potential state and occupational pension income entitlements, you should then be able to make an informed decision about what action is best for you. The information will help you decide whether you will be better off backdating membership of your employer's occupational pension scheme.

The State Pension

There are two main parts to the State Pension – the basic State Pension and the additional State Pension.

● Basic State Pension

You can get the basic State Pension at State Pension age if you have enough qualifying years based on your National Insurance contributions during your working life and make a claim.

At the moment, State Pension age is 65 for men and 60 for women born on or before 5 April 1950. But between 2010 and 2020, women's State Pension age will gradually increase (Leaflet PM6 – 'Pensions for women – Your guide' will give you more details). From 2020, State Pension age for women born on or after 6 April 1955 will be 65.

A qualifying year is a tax year in which you have enough earnings on which you have paid, are treated as having paid or have been credited with enough National Insurance contributions.

A working life is the period over which you have to meet the contribution conditions for basic State Pension. It is normally 49 years for men and 44 years for women born on or before 5 October 1950. We count your working life from the start of the tax year in which you reach the age of 16 to the end of the tax year before the one in which you reach State Pension age.

If you are a married woman or widow and have chosen to pay a lower rate of National Insurance contributions, known as reduced-rate election, you will not have built up any State Pension on your own National Insurance contributions record during the period in which you made any reduced rate election. You normally need at least 10 qualifying years to get any basic State Pension at all.

● Additional State Pension

The additional State Pension (known as the State Earnings Related Pension Scheme (SERPS) between 1978 and 2002 before becoming the State Second Pension) is based on how much you earn while you are working. From April 2002, it can also be built up by certain carers and people with long-term illnesses or disabilities whose working lives have been interrupted or shortened. It is usually paid on top of the basic State Pension,

although it can be paid on its own if you are not entitled to a basic State Pension. You can build up an additional State Pension with as little as one year's full-rate Class 1 National Insurance contributions. Everyone who is entitled to be in the additional State Pension is automatically included in it unless they decide to leave by 'contracting out' into an occupational or personal pension scheme, including a stakeholder pension.

● What happens if I contract out of the additional State Pension?

If an occupational pension scheme is contracted-out of the additional State Pension, you and your employer pay a lower rate of National Insurance contributions. As a result, if you join a scheme and backdate your membership, you will have paid the wrong rate of contributions. Once your employer tells the National

Insurance Contributions Office that you have joined the scheme, they will work out the amount you should have paid and may send you a refund. **If you join a defined contribution pension scheme, your employer must pay the same amount as the refund into the scheme. Because of this, they are likely to make you pay your refund back to them.** You will then pay the new level of National Insurance contributions for as long as you stay a member of that scheme.

- **How will my State Pension be affected if I backdate my membership of an occupational pension scheme?**

Your basic State Pension cannot be affected by backdating your membership of an occupational pension scheme. However, any entitlement to the additional State Pension may be affected.

Your options will depend on whether or not your employer's occupational pension scheme is contracted out of the additional State Pension and whether you are of working age or of State Pension age. (Section 2 goes into more detail for people of working age and section 3 for people of, or over, State Pension age.)

If your employer's occupational pension scheme is a 'contracted-out' scheme (most occupational pension schemes are contracted out of the additional State Pension), you can choose to:

- backdate membership of your employer's occupational pension scheme and contract out of the additional State Pension for the period that you become a member of your employer's scheme; or

- do nothing and keep your existing State Pension package, including any additional State Pension you have already built up.

If your employer's occupational pension scheme is not a 'contracted-out' scheme, you can choose to:

- backdate membership of your employer's occupational pension scheme and keep your existing State Pension package, including any additional State Pension you have already built up; or
- do nothing and keep your existing State Pension package, including any additional State Pension you have already built up.

Finding out more – Where to go next

- If you are of working age (and more than four months away from State Pension age), please go to section 2.
- If you are already of, or over, State Pension age (or within four months of State Pension age), please go to section 3.

People of working age (or at least four months away from State Pension age)

The flow chart opposite shows the steps outlined in this section that will help you decide your future pension arrangements.

Step 1: Getting information about your employer's occupational pension scheme

If you have been allowed backdated membership of your employer's occupational pension scheme, you need to consider your pension options. If you want to consider backdating membership of your employer's occupational pension scheme, you should ask for the following information from your employer, or scheme administrator, trustees or manager.

- Whether the scheme is contracted out of the additional State Pension and, if so, whether the scheme benefits are generally more than those of the additional State Pension.
- Details of how your occupational pension will be worked out, terms and conditions, and an assessment of your potential income from the scheme if your employer or scheme administrator can provide this. (This could include details of any lump sum or benefits (or both) for your dependants if you die early and will be based on a number of assumptions about your future circumstances.)
- The cost of contributions to backdate membership of the scheme if needed (some occupational pension schemes are non-contributory).

People of working age (or at least four months away from State Pension age)

Step 1: Contact your employer and get details of their occupational pension scheme, including potential income and the cost of contributions for backdating membership.

Step 2: Make a decision. Think about your employer's occupational pension scheme and whether to take further action. Does your employer's scheme seem an affordable option? Will it make you better off?

Step 3: A State Pension forecast will help you think about the effect backdating membership of your employer's occupational pension scheme might have on your additional State Pension. Fill in the BR19PTW forecast application form and return it to The Pension Service Retirement Pension Forecasting Team (RPFT). – see contact details in section 4.

Step 4: When you receive a forecast of your current State Pension and a 'what if' forecast of the value of your State Pension if you contract out of the additional State Pension, you need to consider any effect on your National Insurance contributions and any personal pension you might have.

Step 5: Make a decision. You should now be in a position to decide which pension option is best for you, based on the information you have on both your occupational pension and State Pension schemes.

Step 6: Think about getting independent financial advice.

Step 7: You should now be in a position to make your choice.

**Step 2: Make a decision.
Thinking about your
employer's occupational
pension scheme and
whether you should take
further action**

When you have this information, you should also consider whether backdating membership of your employer's occupational pension scheme will make you better off and whether you can afford to backdate your membership of the scheme. If you decide to backdate your membership of the scheme, you need to consider the steps in the next part of this section. However, if you decide that you cannot afford to make the contributions needed to backdate membership of your employer's occupational pension scheme, you can choose not to take any further action and keep your existing State Pension arrangements.

**Step 3: Thinking about your
State Pension**

If you think backdating membership of your employer's occupational pension scheme will make you better off and you can afford to backdate your membership of the scheme, you should consider the effect this might have on your additional State Pension. Remember, if your employer's occupational pension scheme is not contracted out, backdating your membership will have no effect on your additional State Pension.

To get the information you may need to help you make a decision, we can provide you with two State Pension forecasts.

- The first will give you a forecast of your income from the basic State Pension and additional State Pension income based on your existing circumstances.
- The second will give you a forecast of your income from the basic State Pension and additional State Pension income based on what you would get if you decide to backdate membership of your employer's occupational pension scheme and contract out of the additional State Pension.

Before you ask for a State Pension forecast, please make sure you have:

- read all the information in this section; and
- collected the information from your employer or scheme administrator, trustees or manager about any backdated contributions you may have to make to join your employer's occupational pension scheme and your potential occupational pension income, as outlined above.

As long as you are not within four months of State Pension age, you can get your State Pension forecasts by filling in the form, 'State Pension Forecast for part-time workers' (BR19PTW). If you need help filling in the BR19PTW, contact The Pension Service – see the contact details in section 4.

Step 4: What else you need to consider when making a decision

- **National Insurance contributions (NICs)**

The employment tribunal may have decided that your right to join your employer's occupational pension scheme can be backdated as far back as the start of your employment with the employer in question or 8 April 1976 (whichever date is latest). If your employer's occupational pension scheme is contracted out, the backdating will have an effect on the rate of National Insurance contributions you should have paid during this period.

If you are in the additional State Pension, the rate of National Insurance contributions you pay is higher than if you are contracted out of it. So, you may be due a refund from HM Revenue and Customs as a result of contracting out of the additional State Pension by backdating your membership of your employer's occupational pension scheme. Your employer should be able to give you an estimate, based on weekly earnings, of the difference contracting out makes to your National Insurance contributions to help you work out what your likely refund will be.

You will only be entitled to a refund of National Insurance contributions from 6 April 1978, when SERPS was introduced.

This doesn't apply if you are a married woman or widow with a reduced rate election (see page 3).

- **Personal pensions**

Up to April 2001, in most circumstances, HM Revenue and Customs rules did not allow you to be a member of an occupational pension scheme and contribute to a personal pension at the same time.

You must tell the occupational pension scheme administrators if you contributed to a personal pension (including a stakeholder pension) during the period for which you plan to claim backdated membership of an occupational pension scheme. You will probably then want to discuss your options about your personal pension with both the individual personal and occupational scheme administrators to decide which of these is best for you.

You may also want to get more financial information. See section 4 for contact details. If you contact an independent financial adviser, you should always ask for details of their fees.

- **Backdating membership of your employer's occupational pension scheme to the start of employment or to 8 April 1976**

If your membership of your employer's contracted-out occupational pension scheme is backdated, you may be entitled to a refund of part of the National Insurance contributions you have paid for the period you will now be contracted out of the state scheme. (You will only be entitled to a refund of National Insurance contributions from 6 April 1978, when SERPS was introduced). You may choose to put this refund towards the cost of any contributions you need to pay to backdate membership of your employer's occupational pension scheme. However, these arrangements for using refunded National Insurance contributions to pay off contributions owed to an occupational pension scheme are a matter for individual

schemes to co-ordinate with their members. Speak to your occupational pension scheme administrator for more information on this.

Step 5: Make a decision. Reviewing your options and deciding what is best for you

When you receive information about your potential income from an occupational pension and income from the State Pension, you should be able to decide whether you will be better off:

- backdating membership of your employer's occupational pension scheme; or
- doing nothing and keeping any existing additional State Pension you have built up.

Remember, your right to get the basic State Pension is not affected by your decision.

Step 6: Getting independent financial advice

If you are still not sure, you may want to get more financial information. If you contact an independent financial adviser, you should always ask for details of their fees. If you need help in understanding your State Pension forecast, you can contact The Pension Service. Please see the list of useful contacts in section 4 of this leaflet for suitable organisations to get in touch with.

People of, or over, State Pension age (or within four months of State Pension age)

The flow chart opposite shows the steps outlined in this section that will help you decide your future pension arrangements.

Step 1: Getting information about your employer's occupational pension scheme

If you have a right to backdated membership of your employer's occupational pension scheme, you need to consider your pension options. If you want to consider backdating membership of your employer's occupational pension scheme, you should ask for the following information from your employer, or scheme administrator, trustees or manager:

- The cost of contributions to backdate membership of the scheme if needed (some occupational pension schemes are non-contributory).
- Whether the scheme is contracted out of the additional State Pension and, if so, whether the scheme benefits are generally more than those of the additional State Pension.
- Details of how your occupational pension will be worked out, terms and conditions, and an assessment of your potential income from the scheme if your employer or scheme administrator can provide this.

People of, or over, State Pension age (or within four months of State Pension age)

Step 1: Contact your employer (or former employer) and get details of their occupational pension scheme, including potential income and the cost of contributions for backdating membership.

Step 2: Make a decision. Think about your employer's occupational pension scheme and whether to take further action. Does your employer's scheme seem an affordable option? Will it make you better off?

Step 3: Think about the effect backdating membership of your employer's occupational pension scheme might have on your additional State Pension (if you receive it). Remember, your basic State Pension is not affected by your decision. You also need to consider any effect on your National Insurance contributions and any personal pension you might have.

Step 4: Make a decision. You should now be in a position to decide which pension option is best for you, based on the information you have on both your occupational pension and State Pension schemes.

Step 5: Think about getting independent financial advice.

Step 6: You should now be in a position to make your choice.

Step 2: Make a decision.

Thinking about your employer's occupational pension scheme and whether you should take further action

When you have this information, you should also consider whether backdating membership of your employer's occupational pension scheme will make you better off and whether you can afford to backdate your membership of the scheme. If you do think you can afford this option, you need to carefully consider the information in the rest of this section. However, if you decide that you cannot afford to make the contributions needed to backdate your membership of your employer's occupational pension scheme, you can choose not to take any further action and keep your existing State Pension arrangements.

Step 3: Thinking about your State Pension and other considerations

Your State Pension

You need to be aware that backdating membership of your employer's occupational pension scheme may reduce your additional State Pension. If you contract out of the additional State Pension by backdating your membership of your employer's contracted-out occupational pension scheme, you give up your right to any additional State Pension you have built up for the period you become a member. Remember, your right to get the basic State Pension is not affected by your decision.

If you have already reached State Pension age or are within four months of reaching it, you will already be aware, or soon will be, of how much your State Pension is because:

- you will have received, or will soon receive, an invitation to claim your State Pension, (we send out invitations within four months of you reaching State Pension age); or
- you already receive a State Pension.

Changes to your State Pension entitlement

If you decide to become a member of your employer's contracted-out occupational pension scheme for a backdated period, you will contract out of the additional State Pension for the period that you are a member. If you currently receive an additional State Pension, some, or all, of the additional State Pension you have already received will have been overpaid to you. Any refund of National Insurance contributions you are entitled to will be reduced by this overpayment. However, you will not be asked to repay any overpayment which may be left.

What else you need to consider when making a decision

● National Insurance contributions (NICs)

If you have been granted backdated membership of your employer's occupational pension scheme, they may backdate your membership as far back as the start of your employment with the employer in question, or 8 April 1976 (whichever date is latest). This will have an effect on the National Insurance contributions you have paid.

As a result of backdating your membership of a contracted-out occupational pension scheme, you may be entitled to a refund of part of the National Insurance contributions you have paid because you pay a lower rate of National Insurance contributions if you contract out of the additional State Pension.

You will only be entitled to a refund of National Insurance contributions from 6 April 1978, when SERPS was introduced.

● Personal pensions

Up to April 2001, in most circumstances, HM Revenue and Customs rules did not allow you to be a member of an occupational pension scheme and contribute to a personal pension at the same time.

You must tell the occupational pension scheme administrators if you contributed to a personal pension (including a stakeholder pension) during the period for which you plan to claim backdated membership of an occupational pension scheme. You will probably then want to discuss your options about your personal pension with both the individual personal and occupational scheme administrators to decide which of these is best for you.

You may want to get more financial information. See section 4 for contact details. If you contact an independent financial adviser, you should always ask for details of their fees.

Step 4: Make a decision. Reviewing your options and deciding on what is best for you

You should consider the possible effect that backdating membership of your employer's contracted-out occupational pension scheme may have on the rate of additional State Pension you receive. Remember, your right to get the basic State Pension is not affected by your decision.

We outline some of the advantages and disadvantages of contracting out of the additional State Pension by backdating your membership of your employer's occupational pension scheme opposite.

Advantages	Disadvantages
You will receive an occupational pension or may receive a higher level of occupational pension than you originally expected.	You may have to pay backdated contributions to your employer's occupational pension scheme.
If your employer's occupational pension scheme is contracted out, you may be entitled to a refund of some of the National Insurance contributions you paid for the period you backdate your membership of your employer's occupational pension scheme.	If your employer's occupational pension scheme is contracted out, you will probably receive a lower amount of additional State Pension.

Step 5: Getting independent financial advice

You should now be in a better position to decide whether you will be better off backdating your membership of your employer's occupational pension scheme. If you are

still not sure, you may want to get more financial information. See section 4 for contact details. If you contact an independent financial adviser, you should always ask for details of their fees.

Where to get help and information

Where we refer to numbers that begin with 0845, calls from BT landlines are charged at local rate. Charges from other networks may be different.

Your enquiry or the information you need	Who is available to help	Contact details
Your employer's pension scheme	The pensions administrator, pensions manager or trustee at work	You should be able to get contact details from your employer.
Occupational and personal pension scheme matters	The Pensions Advisory Service Do not contact The Pension Advisory Service if your enquiry is only about your state pension.	The Pensions Advisory Service 11 Belgrave Road, London SW1V 1RB Phone: 0845 6012 923 (open 9am to 5pm, Monday to Friday). Calls are charged at the local rate. Website: www.pensionsadvisoryservice.org.uk
How to get financial information	The Financial Services Authority (FSA) The FSA has a free booklet, the 'FSA guide to financial advice', which will help you ask the right questions, and lists organisations that can help you find a financial adviser. You can get a copy from the FSA consumer helpline or you can download a copy from the FSA website. Other useful guides: <ul style="list-style-type: none"> • FSA guide to saving for retirement – reviewing your plans • FSA fact sheet – retiring soon – what you need to do. 	FSA consumer helpline: 0845 606 1234 (open 8am to 6pm, Monday to Friday). Calls are charged at the local rate. Website: www.fsa.gov.uk/consumer
Free independent advice and information	Citizens' Advice (CAB)	Look in your local phone book for details of your local Citizens' Advice or visit www.nacab.org.uk (for England and Wales), www.niacab.org (if you are in Northern Ireland), or www.cas.org.uk (for Citizens' Advice Scotland). You can also phone 020 7833 2181 for Citizens' Advice address details in England, Wales and Scotland (or 028 9023 1120 in Northern Ireland).
If you are of working age – to find out whether or not you are contracted out of the additional State Pension, and other general advice on contracting out	Contracted-out pensions helpline The helpline can only help with enquiries about contracted-out employer's occupational pension schemes.	Phone: 0845 915 0150 (open 8am to 5pm, Monday to Friday). Calls are charged at the local rate.
If already retired – to find out if you are receiving an additional State Pension	Your local Jobcentre Plus office	You can find their phone number in your local phone book.
Asking for a State Pension forecast or filling in the BR19 PTW forecast application form (for back-dating membership of an occupational pension scheme).	The Pension Service Retirement Pension Forecasting Team (RPFT)	The Pension Service (RPFT) Tyneview Park, Whitley Road, Newcastle upon Tyne, NE98 1BA Phone: 0845 3000 168 Textphone: 0845 3000 169 or Typetalk: 18001 0845 3000 168 (open office hours Monday to Friday 8am to 8pm and Saturday 9am to 1pm). Calls are charged at local rate. Contact details are also on the notes for the BR19 PTW forecast application form.

Where to get help and information

Where we refer to numbers that begin with 0845, calls from BT landlines are charged at local rate. Charges from other networks may be different.

Your enquiry or the information you need	Who is available to help	Contact details
Enquiries relating to National Insurance contributions	Multiple Erroneous Refunds Teams	HMRC National Insurance Contributions Office Multiple Erroneous Teams, Refunds Group, Room BP1001, Benton Park View, Longbenton, Newcastle Upon Tyne, NE99 1ZZ Phone: 0191 225 3939 (open office hours Monday to Thursday 8.30am to 5pm and Friday 8.30am to 4.30pm).

Other leaflets you may find useful

- PM1** A guide to your pension options
- PM2** State pensions – Your guide
- PM3** Occupational pensions – Your guide
- PM4** Personal pensions – Your guide
- PM5** Pensions for the self employed – Your guide
- PM6** Pensions for women – Your guide
- PM7** Contracted-out pensions – Your guide
- PM8** Stakeholder pensions – Your guide
- PM9** State pensions for parents and carers – Your guide

To order copies of any of the leaflets in this series, you can call us on 0845 7 31 32 33.

Calls are charged at local rates and the line is open Monday to Friday 8am to 8pm. The line is also open on Saturday and Sunday from 9am to 5pm.

If you have speech or hearing difficulties and use a textphone contact 0845 604 0210.

Or, you can write to us at:

Pension Guide
Freepost RLXH-JUEU-GZCH
Northampton
NN3 6DF.

(You don't need a stamp.)

You can also see these leaflets on our website at
www.pensionguide.gov.uk

All leaflets are also available in Welsh, in large-print formats, on audio tape and in Braille.

For more copies of this leaflet, or for a Welsh version, you can phone 0845 7 31 32 33.

You can also access this leaflet on the internet at www.pensions.gov.uk

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