



Social Security Pensions Act 1975

1975 CHAPTER 60

PART III

CONTRACTING-OUT

Preliminary

26 Contracting-out of full contributions and benefits

- (1) This Part of this Act shall have effect for the purpose of reducing—
- (a) the rates at which contributions are payable under Part I of the principal Act by or in respect of an earner in employed earner's employment; and
 - (b) the rate of any Category A or Category B retirement pension, widowed mother's allowance or widow's pension payable by virtue of contributions at such reduced rates,

where an occupational pension scheme provides for the earner and his widow to be entitled to the requisite benefits and the earner's employment is contracted-out by reference to the scheme.

- (2) In this Part of this Act " the requisite benefits " means the pensions which are provided by an occupational pension scheme in accordance with the requirements of sections 33 and 36 below; and " guaranteed minimum pension " means any such pension to the extent to which its weekly rate is equal to the earner's or widow's guaranteed minimum as determined for the purposes of those sections respectively.

Contracted-out rates of contributions and benefits

27 Contracted-out rates of Class 1 contributions

- (1) Where the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, the amount of a Class 1 contribution shall be the aggregate of—

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- (a) the normal percentage of so much of the earnings paid in that week in respect of the employment as does not exceed the current lower earnings limit; and
 - (b) the contracted-out percentage of so much of those earnings as exceeds that limit but does not exceed the current upper earnings limit.
- (2) In subsection (1) above—
- " the normal percentage " means the percentage that would apply for the calculation of the amount of the contribution if the employment were not contracted-out employment;
 - " the contracted-out percentage " means—
 - (a) in the case of a primary Class 1 contribution, a percentage less by 2.5 than the normal percentage ;
 - (b) in the case of a secondary Class 1 contribution, a percentage less by 4.5 than the normal percentage.
- (3) In the case of earners paid otherwise than weekly the references in subsection (1) above to the current lower or upper earnings limit shall be construed as references to the prescribed equivalents.
- (4) Where earnings are paid to or for the benefit of an earner in respect of an employment after he has ceased to be employed in it, that employment shall be treated for the purposes of subsection (1) above as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.
- (5) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 3 above.
- (6) For the purposes of section 1(5) of the principal Act (Treasury supplement to contributions calculated by reference to contributions paid in a tax year) contributions paid in accordance with this section in any tax year shall be treated as having amounted to such sum as would have been their amount if they had been paid at the rates applicable apart from this section; and that sum shall be estimated by the Secretary of State in accordance with any directions given by the Treasury.

28 Review and alteration of contracted-out rates of Class 1 contributions

- (1) The Secretary of State may from time to time, and shall when required by subsection (3) below, lay before each House of Parliament—
- (a) a report by the Government Actuary on the contracted-out percentages for the time being applying under section 27 above and any changes in the factors affecting the cost to occupational pension schemes of providing guaranteed minimum pensions ; and
 - (b) a report by the Secretary of State stating whether he considers that, in view of the Government Actuary's report, there should be an alteration in either or both of those percentages and, if so, what alteration is in his opinion required.
- (2) The changes referred to in paragraph (a) of subsection (1) above are, in the case of the first report under that paragraph, changes since the passing of this Act and, in the case of a subsequent report, changes since the preparation of the last report.
- (3) The Secretary of State shall lay such reports as aforesaid as soon as may be after the third anniversary of the coming into force of this section and thereafter at intervals of not more than five years.

- (4) If in a report under subsection (1)(b) above the Secretary of State states that he considers that there should be an alteration in either or both of the contracted-out percentages, he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.
- (5) An order under subsection (4) above shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.
- (6) No alteration of the contracted-out percentages shall introduce any distinction on grounds of age or sex.

29 Contracted-out rates of benefit

- (1) Where for any period a person is entitled both—
 - (a) to a Category A or Category B retirement pension, a widowed mother's allowance or a widow's pension ; and
 - (b) to one or more guaranteed minimum pensions,the weekly rate of the benefit mentioned in paragraph (a) above shall for that period be reduced by an amount equal to its additional component or, if less, an amount equal to the weekly rate or aggregate weekly rates of the pension or pensions mentioned in paragraph (b) above.
- (2) For the purposes of this section a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 39 below or if that pension had not been forfeited under any such provisions.
- (3) References in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 35(6) below.

Arrangements for contracting-out

30 Contracted-out employment

- (1) Subject to the provisions of this Act, the employment of an earner in employed earner's employment is contracted-out employment in relation to him during any period in which he is under pensionable age and—
 - (a) his service in the employment is for the time being service which qualifies him for the requisite benefits of an occupational pension scheme ; and
 - (b) the scheme is a contracted-out scheme in relation to that employment; and
 - (c) there is in force a certificate, issued by the Occupational Pensions Board and known as a "contracting-out certificate", that the employment is contracted-out employment by reference to the scheme.
- (2) Where it is a condition of a scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions, then in determining whether his service qualifies him as mentioned in subsection (1)(a) above at a time when he has not completed that period of service, the assumption is to be made that he will complete it; but in such a case for the employment to be contracted-out by reference to the scheme—

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- (a) the minimum period must not be more than five years ;
 - (b) any service during that period must count towards guaranteed minimum pensions ; and
 - (c) any service in the period must, when the period is completed, count towards all the requisite benefits of the scheme.
- (3) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.
- (4) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is to be so treated.
- (5) In section 4 of the Contracts of Employment Act 1972 (which requires an employer to give his employees written statements of their terms of employment and requires any such statement to include a note specifying certain additional matters) after subsection (2)(c) there shall be inserted the words “and—
- (d) stating whether a contracting-out certificate is in force for the employment in respect of which the statement is given,”;
- but nothing in this subsection shall be taken as authorising or requiring any tribunal acting under that Act to determine any question whether an employment is, has been or will be contracted-out employment.

31 Contracting-out certificates

- (1) Regulations shall provide for the issue by the Occupational Pensions Board to employers of contracting-out certificates specifying—
- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
 - (b) the occupational pension schemes by reference to which those employments are to be so treated.
- (2) Regulations shall also provide for the cancellation, variation or surrender of any contracting-out certificate, or the issue of an amended certificate, on any change of circumstances affecting the treatment of an employment as contracted-out employment.
- (3) Subject to the provisions of this Part of this Act, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise; and subject to subsection (4) below an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.
- (4) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment; and if the Occupational Pensions Board consider that an employer is contravening this subsection in relation to any scheme they may refuse to give effect to any election made by him in relation to that scheme or cancel any contracting-out certificate held by him in respect of that scheme.
- (5) Regulations may make provision—

- (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
 - (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
 - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
 - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees ;
 - (iii) to the trustees and managers of the scheme and such other persons as may be prescribed ;
 - (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii) above;
 - (d) for empowering the Occupational Pensions Board to refuse to give effect to an election made by an employer unless they are satisfied that he has complied with the requirements of the regulations;
 - (e) for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in paragraph (b)(ii) above or whether the requirements of the regulations as to consultation have been complied with.
- (6) Regulations may enable the Occupational Pensions Board to cancel or vary a contracting-out certificate where they have reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate and the employer does not show that it ought to be so treated.
- (7) Except in prescribed circumstances, no contracting-out certificate and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
- (8) In this section " independent trade union " has the same meaning as in the Trade Union and Labour Relations Act 1974 and " industrial tribunal" means a tribunal established under section 12 of the Industrial Training Act 1964.

32 Contracted-out schemes

- (1) An occupational pension scheme is a contracted-out scheme in relation to an earner's employment if it is for the time being specified in a contracting-out certificate as a scheme by reference to which that employment is contracted-out employment; and references to the contracting-out of a scheme are references to its inclusion in a certificate as aforesaid.
- (2) Subject to the provisions of this section, an occupational pension scheme can be contracted-out in relation to an earner's employment only if—
- (a) it complies in all respects with sections 33 to 41 below in respect of the requisite benefits for the earner and his widow and of the other matters there mentioned or, in, such cases or classes of case as may be prescribed, with those sections as modified by regulations ; and
 - (b) the rules of the scheme applying to the requisite benefits are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of contracted-out schemes and with such other requirements

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as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of contracting-out, either generally or in relation to a particular scheme.

- (3) Where by any provision of this Part of this Act the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued contracting-out of the scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out certificate.
- (4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the Occupational Pensions Board notwithstanding that the relevant scheme is one that they would otherwise treat as proper to be contracted-out in relation to all earners in that employment if the Board consider that there are circumstances relating to the scheme or its management which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme.
- (5) Where in relation to an earner's employment there are in force two or more occupational pension schemes none of which can by itself be a contracted-out scheme, the Board may if they think fit treat them for contracting-out purposes as a single scheme.
- (6) It is hereby declared that nothing in this Part of this Act precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes.

Requirements for contracting-out

33 Requisite benefit for earner

- (1) Subject to the provisions of this Part of this Act, for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide for him to be entitled to a pension under the scheme if he attains pensionable age and contain—
 - (a) rules for determining the annual rate of the pension that comply with the requirements of section 34 below ; and
 - (b) a rule to the effect that if the earner has a guaranteed minimum under section 35 below the weekly rate of the pension will be not less than his guaranteed minimum under that section.
- (2) Subject to subsections (3) and (4) below, the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.
- (3) The scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age but so that his consent is required—
 - (a) for any postponement by virtue of employment to which the scheme does not relate; and
 - (b) for any postponement after the expiration of five years from the date on which he attains pensionable age.

- (4) The scheme may provide for any part of the pension in excess of the earner's guaranteed minimum to commence from a date not more than three months after that on which he attains pensionable age or to be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining that age.
- (5) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.
- (6) The benefits referred to in subsection (5) above are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—
 - (a) was for him non-participating employment under that legislation; and
 - (b) was not on its termination the subject of any payment in lieu of contributions;but subsection (5) excludes so much only of those benefits as (and no more than) had to be provided in order that the employment should for that period be treated as non-participating.
- (7) In this section " the former legislation " means Part III of the National Insurance Act 1965 and the previous corresponding enactments.

34 Annual rate of earner's pension

- (1) The requirements mentioned in section 33(1)(a) above are as follows.
- (2) Subject to the provisions of this section, the rules of the scheme must provide for the annual rate of the earner's pension to be not less than 1 ¹/₄ cent, of either—
 - (a) his average annual salary in the whole period of his service in contracted-out employment by reference to the scheme; or
 - (b) his final salary,multiplied by the number of his years of such service or by such number of those years as will produce an annual rate equal to not less than half the salary on which it is calculated.
- (3) Where it is a condition of the scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions, the scheme's rules need not provide as in subsection (2) above for an earner whose service is terminated before completion of that minimum period.
- (4) The earner's pension need not be in accordance with subsection (2) above in case of his service in the relevant employment being terminated before he attains the scheme's normal pension age and when—
 - (a) he has completed in that employment less than five years' qualifying service for the purposes of Schedule 16 to the Social Security Act 1973 (preservation); or
 - (b) he is under the age of 26 on termination of that employment.
- (5) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's average annual salary—
 - (a) the method of computing average annual salary must be approved by the Occupational Pensions Board ; and

- (b) the scheme must provide that earnings for any period falling within any tax year shall, for the purposes of the calculation, be treated as increased by the same percentage as that prescribed for the increase of earnings factors for that year.
- (6) In subsection (5)(b) above, " prescribed " means prescribed by any order or orders coming into force under section 21 above before the earner attains whatever is the scheme's normal pension age or (if earlier) his service in the relevant employment is terminated.
- (7) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's final salary—
- (a) the method of ascertaining final salary ; and
 - (b) the scheme's provisions for calculating the rate of pension by reference to it, must be approved by the Board.
- (8) In deciding whether or not to give their approval under subsection (7)(b) above the Board shall have regard to any aspects of the scheme which appear to them to be relevant, but in particular to the interval (if any) between the end of the period by reference to which final salary is to be determined and the scheme's normal pension age and to what provision (if any) is made for revaluing the salary during any such interval.
- (9) Subject to the foregoing provisions, the scheme may provide—
- (a) for excluding earnings of any kind from the salary by reference to which the annual rate of the earner's pension is to be calculated ; and
 - (b) for excluding any amount of earnings of the kind that are to constitute that salary except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit;
- and if the salary is to include the amount of earnings up to one and a half times the lower earnings limit the scheme may provide for reducing the rate of pension to what it would have been if that amount had been excluded.
- (10) In subsection (9) above references to the lower and upper earnings limits, in relation to any earnings, are references to those limits as in force when the earnings are paid.
- (11) The scheme may, with the approval of the Occupational Pensions Board, provide for a lower percentage than that specified in subsection (2) above; but the Board shall not approve any such provision unless they are satisfied that it will not result in the benefits of the scheme, taken as a whole, being less favourable to the earner than would otherwise have been the case; and in deciding whether or not to give their approval the Board shall have regard to—
- (a) whether any lump sum payments are provided in addition to the pension ;
 - (b) the extent, if any, to which earnings of any kind or amount are excluded from the salary by reference to which the pension is to be calculated; and
 - (c) any other features of the scheme that appear to the Board to be relevant.

35 Earner's guaranteed minimum

- (1) An earner has a guaranteed minimum in relation to the pension provided by a scheme in accordance with section 33 above if, in any tax week in a relevant year, earnings have been paid to or for the benefit of the earner in respect of contracted-out

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employment by reference to the scheme, being earnings in excess of the current lower earnings limit or the prescribed equivalent if he is paid otherwise than weekly.

- (2) Where an earner has a guaranteed minimum as aforesaid, that minimum shall, subject to subsection (6) below, be the weekly equivalent of an amount equal to the appropriate percentage of the total of his earnings factors for the relevant years so far as derived from contributions paid in respect of such earnings as are mentioned in subsection (1) above.
- (3) In subsection (2) above " the appropriate percentage" means—
- (a) if the earner is not more than 20 years under pensionable age when this section comes into force, 1 ¼ per cent.;
 - (b) in any other case

$$\frac{25}{N}$$

per cent, where N is the number of years in the earner's working life (assuming that he will attain pensionable age) which fall after the coming into force of this section;

and " derived " means derived in accordance with rules to be embodied in regulations.

- (4) For the purposes of subsection (2) above the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52 and rounding the result to the nearest whole penny, taking ½ p as nearest to the next whole penny above.
- (5) For the purposes of subsection (2) above the earner's earnings factor for any relevant year (so far as derived as mentioned in that subsection) shall, subject to subsection (7) below, be taken to be that factor as increased by any order or orders that have come into force under section 21 above before the end of the final relevant year.
- (6) Where in accordance with section 33(3) above the commencement of an earner's guaranteed minimum pension is postponed for any period and there are at least eight complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by 1/8th per cent.—
- (a) of the amount of that minimum apart from this subsection ; or
 - (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum.

In this subsection " week " means any period of seven consecutive days.

- (7) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains the scheme's normal pension age shall be determined for the purposes of subsection (2) above without reference to any order that comes into force under section 21 above after the relevant year in which his service is terminated ; but in that event the scheme shall provide for the weekly equivalent mentioned in that subsection to be increased by at least—
- (a) 5 per cent, compound for each relevant year after that year; or
 - (b) the amount by which an earnings factor for that year equal to that weekly equivalent would be increased by any order or orders that come into force under the said section 21 before the end of the final relevant year,

whichever makes the lesser increase (so however that this subsection is not to be taken as preventing the scheme from providing increases above those alternative minima).

- (8) Subsection (7) above applies only so as to permit the same such provision to be made for all members of the scheme.
- (9) In this section " relevant year " means any tax year in the earner's working life (not being earlier than the first tax year for which lower and upper earnings limits are specified under section 1 above) and " final relevant year " means the last tax year which is a relevant year in relation to the earner.

36 Requisite benefit for widow

- (1) Subject to the provisions of this Part of this Act, for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide, in the event of his dying (whether before or after attaining pensionable age) and leaving a widow, for her to be entitled to a pension under the scheme.
- (2) Subject to subsections (4) and (5) below, the scheme must contain rules whereby the annual rate of the pension will be not less than the requisite minimum under this section, which is $\frac{5}{8}$ ths per cent, of either—
- (a) the earner's average annual salary in the whole period of his service in contracted-out employment by reference to the scheme ; or
 - (b) his final salary (or last salary before death),
- multiplied by the number of his years of such service; and section 37 below applies as to the relationship which the widow's pension must bear to the earner's salary.
- (3) To comply with this section the scheme must also contain a rule to the effect that if the earner had a guaranteed minimum under section 35 above the weekly rate of the widow's pension will be not less than her guaranteed minimum, which shall be half that of the earner.
- (4) Where it is a condition of the scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions the scheme need not contain the rules specified in subsection (2) above for the case of the earner's service being terminated (by death or otherwise) before completion of that minimum period.
- (5) The widow's pension need not be in accordance with subsection (2) above in case of the earner dying after termination of his service in the relevant employment and either—
- (a) his having completed in that employment less than five years' qualifying service for the purposes of Schedule 16 to the Social Security Act 1973 (preservation); or
 - (b) his being under the age of twenty-six on termination of that employment.
- (6) Subject to the following provisions of .this section, the scheme must provide for the widow's pension to be payable for any period for which a Category B retirement pension, widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions or for which a Category B retirement pension would be so payable but for section 27(6) of the principal Act.
- (7) The scheme may, with the approval of the Occupational Pensions Board, contain provisions not complying with this section in relation to any part of the pension in excess of the widow's guaranteed minimum where the marriage of the widow to the

earner takes place after the termination of his service in contracted-out employment by reference to the scheme and not more than six months before his death.

- (8) The widow's guaranteed minimum pension must be payable to her; but the scheme may, with the approval of the Occupational Pensions Board, contain provisions whereby, at the discretion of the trustees or managers, any other part of the pension required by this section is not paid to her, but instead comparable benefits are provided for one or more dependants of the deceased earner.
- (9) The scheme may, with the approval of the Occupational Pensions Board, provide for reducing any part of the pension in excess of the widow's guaranteed minimum where the person to whom it is payable (whether the widow or by virtue of subsection (8) above another dependant of the deceased) was more than ten years younger than he was.

37 Earner's salary as factor of widow's pension

- (1) The following additional provisions apply as to a scheme's compliance with section 36 above.
- (2) If the scheme provides for the annual rate of the widow's pension to be calculated by reference to the earner's average annual salary—
 - (a) the method of computing average annual salary must be approved by the Occupational Pensions Board ; and
 - (b) the scheme must provide that earnings for any period falling within any tax year shall, for the purposes of the calculation, be treated as increased by the same percentage as that prescribed for the increase of earnings factors for that year.
- (3) In subsection (2)(b) above, " prescribed " means prescribed by any order or orders coming into force under section 21 above before whichever is the earliest of the following events, namely—
 - (a) termination of the earner's service in the relevant employment;
 - (b) his attaining the scheme's normal pension age ;
 - (c) his death.
- (4) Where the scheme provides for the annual rate of the widow's pension to be calculated by reference to the earner's final salary (or last salary before death)—
 - (a) the method of ascertaining final or last salary ; and
 - (b) the scheme's provisions for calculating the rate of pension by reference to it, must be approved by the Board.
- (5) In deciding whether or not to give their approval under subsection (4)(b) above the Board shall have regard to any aspects of the scheme which appear to them to be relevant, but in particular—
 - (a) to the interval (if any) between the end of the period by reference to which final or last salary is to be determined and the scheme's normal pension age or, as the case may be, the date of the earner's death ; and
 - (b) to what provision (if any) is made for revaluing the salary during any such interval.
- (6) Subject to the foregoing provisions, the scheme may provide—

- (a) for excluding earnings of any kind from the salary by reference to which the annual rate of the widow's pension is to be calculated ; and
- (b) for excluding any amount of earnings of the kind that are to constitute that salary except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit;

and if the salary is to include the amount of earnings up to one and a half times the lower earnings limit the scheme may provide for reducing the rate of pension to what it would have been if that amount had been excluded.

- (7) In subsection (6) above references to the lower and upper earnings limits, in relation to any earnings, are references to those limits as in force when the earnings are paid.

38 Transfer of accrued rights

- (1) Where an earner's service in contracted-out employment by reference to a scheme is terminated before he attains pensionable age the scheme may provide for his accrued rights to the requisite benefits under the scheme to be transferred to another scheme but, except where regulations otherwise provide, only with his consent and to another contracted-out scheme.

- (2) Where under the rules of a scheme transfer credits have been allowed in respect of an earner's accrued rights to guaranteed minimum pensions under another scheme, the reference in section 35(1) above to contracted-out employment by reference to the scheme shall include a reference to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.

- (3) In this Part of this Act—

" accrued rights ", in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for him and his widow in accordance with sections 33 and 36 above, and references to an earner's accrued rights to guaranteed minimum pensions shall be construed accordingly;

" transfer credits " means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme.

- (4) For the purposes of this Part of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—

- (a) under the rules of a scheme applying to him in the earlier period of service there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service ; and
- (b) in consequence of that transfer, there are (or were) allowed to him transfer credits under the rules of that other scheme,

except that, for any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.

39 Commutation, surrender and forfeiture

- (1) Where the annual rate of a pension required to be provided by a scheme in accordance with section 33 or 36 above would not exceed the prescribed amount and the circumstances are such as may be prescribed, the scheme may provide for the payment of a lump sum instead of that pension.
- (2) A scheme may, with the approval of the Occupational Pensions Board, provide for the payment to the earner of a lump sum instead of any part of the pension required to be provided for him under section 33 which exceeds the guaranteed minimum ; but—
 - (a) the manner in which the amount of the lump sum is arrived at under the scheme must be satisfactory to the Board; and
 - (b) the Board shall not give their approval under this subsection unless they are satisfied that it will not result in the benefits of the scheme, taken as a whole, being less favourable to the earner than would otherwise have been the case.
- (3) Without prejudice to subsection (1) above, a scheme may, in relation to a case where the earner dies before attaining pensionable age, provide for the payment of a lump sum instead of any part of the pension required to be provided for his widow in accordance with section 36 above which exceeds her guaranteed minimum, being a lump sum equal to not less than eleven times what would have been the annual rate of that part; and subsection (8) of that section shall have effect in relation to any such lump sum as it has effect in relation to any part of a pension in excess of the widow's guaranteed minimum.
- (4) Neither section 33 nor section 36 above shall preclude a scheme from providing—
 - (a) for any part of a pension in excess of the earner's or widow's guaranteed minimum, as the case may be, to be forfeited or surrendered or to be subject to any charge, lien or set-off; or
 - (b) for the earner's or widow's guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

40 Financing and assurance of benefits

- (1) For an occupational pension scheme to be contracted out the resources of the scheme must be derived in whole or in part from—
 - (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
 - (i) under an actual or contingent legal obligation ; or
 - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
 - (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.
- (2) For an occupational pension scheme, other (than a public service pension scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the scheme complies with—
 - (a) regulations prescribing the means by which guaranteed minimum pensions under contracted-out schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means); and

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- (b) the conditions which are required by the regulations to be satisfied in relation to any means adopted;
- and generally as to the arrangements in force or to be in force from time to time for securing those pensions.
- (3) For an occupational pension scheme to be contracted-out it must contain a rule whereby any liabilities of the scheme in respect of—
- (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
 - (b) any such benefits as are excluded by section 33(5) above from earners' guaranteed minimum pensions ;
 - (c) pensions and other benefits (whether or not within paragraph (a) or (b) above) in respect of which entitlement to payment has already arisen; and
 - (d) state scheme premiums,
- are accorded priority on a winding up over other liabilities under the scheme in respect of benefits attributable to any period of service after the rule has taken effect.
- This does not apply to public service pension schemes, nor to schemes falling within any category or description prescribed as being exempt from the requirements of this subsection.
- (4) For an occupational pension scheme to be contracted-out it must, if it provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, so provide that there shall be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

41 Sufficiency of resources

- (1) For an occupational pension scheme, other than a public service scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the resources of the scheme are sufficient—
- (a) for meeting from time to time all claims in respect of guaranteed minimum pensions so far as falling to be met out of those resources, having regard to the expected extent of the scheme's resources and its other liabilities at any time when claims may be expected to arise; and
 - (b) for paying state scheme premiums in respect of all persons at any time entitled to, or having accrued rights to, guaranteed minimum pensions under the scheme; and
 - (c) for meeting in full, in the event of an immediate winding up, the liabilities accorded priority in accordance with section 40(3) above and the expenses of administration so far as those expenses are payable out of the resources of the scheme.
- (2) Where contracting-out or continued contracting-out depends on the Board being satisfied as mentioned in subsection (1) above, the scheme may be contracted-out or continue to be contracted-out, as the case may be, in relation to any employment subject to such conditions as the Board think fit to impose for securing—
- (a) that the Board are kept informed as to any matters affecting the security of the minimum pensions guaranteed under the scheme;
 - (b) that the resources of the scheme are brought to and maintained at a level satisfactory to the Board ;

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and non-compliance with any condition imposed by the Board under this subsection shall be grounds on which the Board may cancel a contracting-out certificate issued in respect of any employment within the application of the scheme.

- (3) Conditions imposed by the Board for the purpose mentioned in subsection (2)(b) above may require steps to be taken, at the instance of the Board, to increase the scheme's resources at any time after contracting-out, including a time when the scheme has ceased to be contracted-out.
- (4) With a view to enforcing a condition imposed for that purpose, the Board may by order require an employer to make such payments as the Board think necessary to bring the resources of the scheme to a satisfactory level; and in the case of an employer failing to make any payment required by such an order—
 - (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly; and
 - (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order,
- (5) In considering a scheme by reference to the considerations of subsection (1) above, the Board shall have regard to any investments held for the purposes of the scheme; and the Board may by reference to those considerations make it a condition of contracting-out or continued contracting-out that—
 - (a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description ;
 - (b) there shall be realised, before the expiration of a specified period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed;

and non-compliance with any such condition shall be a ground on which the Board may withhold or cancel a contracting-out certificate in respect of any employment within the application of the scheme.

State scheme premiums

42 Premium on termination of contracted-out employment

- (1) This section has effect as to the cases in which an earner's employer may pay a state scheme premium where—
 - (a) the earner's service in contracted-out employment by reference to an occupational pension scheme is terminated before he attains the scheme's normal pension age or (if earlier) the end of the tax year preceding that in which he attains pensionable age; and
 - (b) he has served for less than five years in contracted-out employment by reference to the scheme ;and a premium under this section may be referred to as a " contributions equivalent premium ".
- (2) If—
 - (a) the earner's service is terminated in any way except by his death or by the scheme's ceasing to be contracted-out ; and

- (b) his period of service is not one in respect of which the scheme conforms to the appropriate extent with the preservation requirements of Part II of the Social Security Act 1973,

his employer may elect to pay a contributions equivalent premium with a view to extinguishing the earner's accrued rights to guaranteed minimum pensions under the scheme.

- (3) If the earner's service is terminated by his death and he dies leaving a widow, his employer may elect to pay a contributions equivalent premium with a view to extinguishing any such accrued rights in respect of the widow.

43 Premium under section 42: additional provisions

- (1) The amount of a contributions equivalent premium shall be the equivalent, as certified by the Secretary of State, of the amount by which the Class 1 contributions payable in respect of the earner's employment in contracted-out employment by reference to the scheme have fallen short of what would have been payable if the employment had not been contracted-out; and in certifying any amount under this section the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (2) Where under the rules of the scheme transfer credits have been allowed in respect of the earner's accrued rights under another scheme, the references in section 42(1), and in subsection (1) above, to contracted-out employment by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.
- (3) For the purposes of section 42(2), a scheme conforms to the appropriate extent with the preservation requirements of Part II of the Social Security Act 1973 if—
- (a) it entitles the earner to short service benefit within the meaning of those requirements ; or
 - (b) it makes any provision which under those requirements is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).
- (4) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making elections under section 42(2) or (3), discriminate between different earners on any grounds other than their respective lengths of relevant service; and if the Occupational Pensions Board consider that an employer is contravening this subsection, they may cancel any contracting-out certificate held by him in respect of the scheme in question.
- (5) In subsection (4) above " relevant service " means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.
- (6) An election by an employer under section 42(2) or (3) must be made within the prescribed period in the prescribed manner; and where an employer elects to pay a premium in respect of an earner, he shall pay it to the Secretary of State within the prescribed period.
- (7) Payment of a premium under section 42(2) shall operate to extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme; and payment of

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a premium under section 42(3) shall operate to extinguish any right to guaranteed minimum pension in respect of the widow.

- (8) Subject to regulations made under paragraph 1 of Schedule 2 to this Act, an employment which is terminated by the death of the employer shall be treated for the purposes of section 42 as terminated immediately before the death.

44 Premium on termination of contracted-out scheme

- (1) In the case of an occupational pension scheme which is contracted-out, the Occupational Pensions Board may, for the event of its ceasing to be contracted-out, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—

- (a) of earners' accrued rights to guaranteed minimum pensions under the scheme ;
- (b) of the liability for the payment of guaranteed minimum pensions thereunder in respect of persons who have then become entitled to receive them.

- (2) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) then—

- (a) in respect of each earner whose accrued rights to guaranteed minimum pensions under the scheme are not subject to approved arrangements ; and
- (b) in respect of each person who has then become entitled to receive a guaranteed minimum pension under the scheme and whose guaranteed minimum pension rights are not so subject,

a state scheme premium shall be payable by the prescribed person.

- (3) A premium under subsection (2)(a) above may be referred to as an " accrued rights premium " ; and a premium under subsection (2)(b) may be referred to as a " pensioner's rights premium " ; and in each case the premium shall be paid within the prescribed period to the Secretary of State.

- (4) For the purposes of subsection (2) above, an earner's accrued rights or, as the case may be, a person's guaranteed minimum pension rights are subject to approved arrangements if (either before or after the scheme ceased to be contracted-out) the Occupational Pensions Board have approved arrangements under subsection (1) above which operate as respects him and the rights in question, and have not since withdrawn their approval.

- (5) The amount—

- (a) of an accrued rights premium shall be the cost (as certified by the Secretary of State) of providing guaranteed minimum pensions for the earner and his widow in accordance with his accrued rights under the scheme; and
- (b) of a pensioner's rights premium shall be the cost (as so certified) of providing or continuing to provide any guaranteed minimum pension thereunder, whether for the earner (or former earner) or for his widow.

- (6) The costs referred to in subsection (5)(a) and (b) above shall, unless the person liable for the premium otherwise elects in the prescribed manner, be calculated on the basis that (disregarding any orders made under section 21 of this Act) the relevant earnings factors have been increased by 12 per cent, per annum in each of the five complete tax years before that in which the scheme ceases to be contracted-out.

- (7) In calculating those costs, the Secretary of State shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be contracted-out) is applicable in accordance with the regulations prescribing the tables.
- (8) In certifying any amount under subsection (5) above, the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (9) Payment of an accrued rights premium shall extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme \pounds and payment of a pensioner's rights premium shall extinguish any right to receive guaranteed minimum pensions thereunder, whether for the earner (or former earner) or for his widow.

45 Premium where guaranteed minimum pension excluded from full revaluation

- (1) Where an earner's service in contracted-out employment by reference to an occupational pension, scheme is terminated before he attains the scheme's normal pension age and the weekly rate of the guaranteed minimum pensions to which he has accrued rights under the scheme will fall to be determined in accordance with provisions included in the scheme by virtue of section 35(7) above, then, unless either—
 - (a) a state scheme premium is payable in respect of him under section 42 or 44 above, or
 - (b) those provisions conform with such additional requirements as may be prescribed,
 the earner's employer shall in respect of the earner pay a state scheme premium (which may be referred to as a "limited revaluation premium ").
- (2) Such a premium shall be paid to the Secretary of State within the prescribed period; and its amount shall be the difference, as certified by the Secretary of State, between the cost of providing the guaranteed minimum pensions in accordance with the provisions included in the scheme by virtue of the said section 35(7) and what would have been the cost of providing them if no such provision had been included.
- (3) Where a state scheme premium is payable in respect of an earner under this section, and the case is one in which his service in contracted-out employment is terminated in consequence of the relevant scheme ceasing to be contracted-out, the costs referred to in subsection (2) above shall, unless the employer otherwise elects in the prescribed manner, be calculated on the basis that (disregarding any orders made under section 21 of this Act) the relevant earnings factors have been increased by 12 per cent, per annum in each of the five complete tax years before that in which the scheme ceases to be contracted-out.
- (4) In calculating the costs referred to in subsection (2) above the Secretary of State shall apply whichever of the prescribed actuarial tables (as in force at the time when the earner's service in contracted-out employment is terminated) is applicable in accordance with the regulations prescribing the tables ; and—
 - (a) the tables shall be so framed as to embody the assumption that the increase of weekly equivalent required by section 35(7) is 5 per cent, compound for each relevant year after that in which the earner's service is terminated; and
 - (b) that assumption shall prevail over any different provision made by the scheme.
- (5) In certifying any amount under subsection (2) above the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.

- (6) References in this section to the termination of an earner's employment do not include references to its termination by his death; and, subject to regulations made under paragraph 1 of Schedule 2 to this Act, an employment which is terminated by the death of the employer shall be treated for the purposes of this section as terminated immediately before the death.

46 Provisions as to actuarial tables

- (1) Regulations prescribing actuarial tables for the purposes of sections 44(7) and 45(4) above—
- (a) shall be made only after consultation with the Government Actuary; and
 - (b) shall not be made unless a draft of them has been laid before Parliament and approved by a resolution of each House.
- (2) The prescribed actuarial tables shall comprise a standard table—
- (a) embodying whatever appears to the Secretary of State to be the best practicable estimate of the average cost, expressed in actuarial terms and relative to a given period, of making such provision for pensions as is mentioned in section 44(5)(a) or (b), or section 45(2), as the case may be ; but
 - (b) assuming an average yield on investments which is not less than the average increase in the general level of earnings obtaining in Great Britain,
- and also alternative tables to be applied, as directed by the regulations, according to whatever is from time to time the yield on such investments or classes of investments as the Secretary of State thinks fit to prescribe.
- (3) With any reports laid before Parliament under section 28 of this Act, the Secretary of State shall lay—
- (a) a report by the Government Actuary on any changes in the factors affecting the actuarial tables prescribed for the purposes of section 44(7) and 45(4); and
 - (b) a report by the Secretary of State stating whether he considers that, in view of the Government Actuary's report, there should be any alterations in the tables and if so, what alterations are in his opinion required.
- (4) The changes referred to in subsection (3)(a) above are, in the case of the first report under that paragraph, changes since the passing of this Act and, in the case of a subsequent report, changes since the preparation of the last report.
- (5) If in a report under subsection (3)(b) above the Secretary of State states that he considers that there should be alterations in the actuarial tables, he shall prepare and lay before each House of Parliament with the report the draft of regulations prescribing tables to be in force with those alterations from the beginning of such tax year as may be specified in the regulations not earlier than the second tax year after that in which the regulations are made.
- (6) If the draft regulations are approved by resolution of each House the Secretary of State shall make the regulations in the form of the draft.

47 Deduction of premium from refund of contributions

- (1) Where an earner's service in contracted-out employment is terminated and—

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- (a) he (or by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him for the purposes of the relevant scheme towards the provision of benefits under the scheme; and
- (b) a state scheme premium falls to be paid by any person in respect of him under this Part of this Act,

then, subject to the provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover the certified amount (and on paying any part of it to recover a proportionate part of the certified amount) from the person liable for the refund.

- (2) For the purposes of this section the certified amount in relation to a premium paid in respect of any person who is or was an earner or whose husband was an earner shall be such amount as may be certified by the Secretary of State as the amount by which the primary Class 1 contributions payable in respect of the earner's employment in—
 - (a) contracted-out employment by reference to the relevant scheme; and
 - (b) employment in any period of linked qualifying service which was contracted-out employment by reference to another scheme,
 have fallen short of what would have been payable if the employment or employments had not been contracted-out; and in certifying any amount under this subsection the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.
- (4) Where the period taken into account in arriving at the certified amount does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.
- (5) The amount which may be recovered under this section in respect of any premium shall be increased by such amount as may be prescribed where the refund—
 - (a) is made in respect of more than one period of service, and one or more of those periods are periods of previous linked qualifying service ; and
 - (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme.
- (6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (7) The amount of the refund shall be reduced by any amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, and any provision so made shall have effect notwithstanding anything in any enactment relating to the making of the refund.
- (8) Where an earner's service in contracted-out employment is terminated and—
 - (a) he (or by virtue of a connection with him any other person) is entitled to a refund of any payments made by or in respect of him under the relevant scheme in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme ; and

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- (b) a state scheme premium falls to be paid in respect of him and the period taken into account in arriving at the certified amount includes the period of the previous contracted-out employment,
then in respect of that premium the person liable for it shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under the foregoing provisions of this section where a state scheme premium and a refund fall to be made on the termination of service in the employment in respect of which the refund is made; and subsection (7) above shall apply accordingly.
- (9) Notwithstanding any contract to the contrary, a person shall not be entitled to recover any part of a state scheme premium from any earner in respect of whom it is payable or, except in accordance with this section, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.
- (10) The foregoing provisions of this section shall apply in relation to such a refund as is referred to in subsection (1)(a) above which becomes payable after the termination of an earner's service in contracted-out employment as they apply to such a refund becoming payable on the termination of an earner's service in such employment; and where he (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, those provisions shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(a) above.
- (11) For the purposes of subsection (10) above, a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—
- (a) is made or to be made otherwise than out of the resources of the scheme ; or
 - (b) is made or to be made out of those resources but by way of distribution on a winding-up; or
 - (c) falls within such other description of payments as may be prescribed for the purposes of subsection (10) above.
- (12) In this section, " the relevant scheme " in relation to any employment means the contracted-out scheme by reference to which that employment is or was contracted-out employment in relation to the earner concerned.

Supplementary

48 Guaranteed minimum pensions to be inalienable

- (1) Where a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme and the person's entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme—
- (a) every assignment of or charge on that pension ; and
 - (b) every agreement to assign or charge that pension,
- shall be void.
- (2) Subsection (1) above has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.

- (3) On the bankruptcy of a person who is entitled or prospectively entitled as mentioned in subsection (1) above, any guaranteed minimum pension the assignment of which is or would be made void by that subsection shall not pass to any trustee or other person acting on behalf of his creditors.
- (4) In the application of this section to Scotland-r
 - (a) references to assignment shall be construed as references to assignation and "assign" shall be construed accordingly; and
 - (b) the reference to a person's bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958.

49 Supervision of schemes which have ceased to be contracted-out

- (1) The provisions of this section shall apply in respect of any occupational pension scheme, other than a public service scheme, where—
 - (a) the scheme has ceased to be a contracted-out scheme otherwise than by being wound up; and
 - (b) premiums have not been paid under section 44 above in respect of each person entitled to receive, or having accrued rights to, guaranteed minimum pensions under the scheme;
 and those provisions shall continue to apply so long as there is any such person.
- (2) The Occupational Pensions Board shall be under a duty to satisfy themselves from time to time as to—
 - (a) the matters in respect of which they are required to be satisfied for contracting-out purposes under sections 40(2) and 41(1) above ; and
 - (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of the said section 41(1));
 and where the scheme was contracted-out subject to such conditions as are referred to in section 41(2) and (5) above those conditions shall continue to be binding notwithstanding that there is no contracting-out certificate in force.
- (3) For the purposes of subsection (2)(a) above the Board may (either by way of enforcement of such conditions as are referred to in section 41(2) or otherwise) by order require employers to make such payments to increase the resources of the scheme or for any other purpose as the Board think expedient for securing the guaranteed minimum pensions under the scheme; and in the case of an employer failing to make any payment required by such an order—
 - (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly ; and
 - (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order.
- (4) In so far as the Board are not satisfied as mentioned in subsection (2)(b) above, they may by order modify the scheme's rules or by order direct the scheme's trustees or managers to take such steps as the order may specify, in either case with a view to ensuring that the guaranteed minimum pensions under the scheme are adequately secured to its beneficiaries, both present and future.

- (5) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections 33 to 41 above, the Board may take such steps as they think expedient with a view to remedying or preventing the breach; and for this purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person as an actual or prospective beneficiary under the scheme, or as one of its trustees or managers, or as being otherwise concerned with the scheme or its benefits, and may assume the conduct of proceedings for enforcement brought by any such person.
- (6) Where the Board are satisfied that the guaranteed minimum pensions under the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—
- (a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or
 - (b) direct the trustees or managers to take such steps for the winding-up of the scheme as the order may specify;
- and, on a winding-up in pursuance of an order of theirs under this subsection, the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under subsection (5) above in relation to other rules.
- (7) In relation to a scheme of any prescribed category, the references in subsection (3) above to employers shall include such persons as may be prescribed as among those to whom an order of the Board under that subsection may be directed in the case of a scheme of that category after it has ceased to be contracted-out.

50 Alteration of rules of contracted-out schemes

- (1) Where in respect of any employment a contracting out certificate has been issued, no alteration of the rules of the relevant contracted-out scheme shall be made so as to affect any of the matters dealt with in this Part of this Act without the consent of the Occupational Pensions Board; and subject to subsection (2) below any such alteration made without that consent shall be void.
- (2) A consent given by the Board for the purposes of this section shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (3) This section shall continue in force in relation to a scheme after it has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, a guaranteed minimum pension under the scheme.

51 Information as to guaranteed minimum pensions

The Secretary of State may from time to time furnish the trustees or managers of an occupational pension scheme and such other persons as may be prescribed with information as to the amount of the guaranteed minimum pension to which it appears to him that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

52 Contracting-out regulations

Schedule 2 to this Act shall have effect for enabling regulations to be made in relation to the operation and administration of this Part of this Act.