



# Social Security Pensions Act 1975

## 1975 CHAPTER 60

### PART III

#### CONTRACTING-OUT

##### *Requirements for contracting-out*

#### **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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*Status: This is the original version (as it was originally enacted).*

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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.