



Social Security Pensions Act 1975

1975 CHAPTER 60

PART III

CONTRACTING-OUT

Supplementary

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.