

## 1978 No. 1827

## PENSIONS

**The Contracted-out Employment (Miscellaneous Provisions)  
(No. 2) Regulations 1978**

<i>Made</i> - - - -	<i>12th December 1978</i>
<i>Laid before Parliament</i>	<i>19th December 1978</i>
<i>Coming into Operation</i>	<i>9th January 1979</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 66(7) of the Social Security Act 1973(a) section 31(5) of, and paragraphs 1 and 9 of Schedule 2 to, the Social Security Pensions Act 1975(b) and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the draft submitted to them, hereby makes the following regulations:—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Contracted-out Employment (Miscellaneous Provisions) (No. 2) Regulations 1978 and shall come into operation on 9th January 1979.

(2) Each provision of these regulations which amends other regulations shall, except in so far as the context otherwise requires, be construed as one with the regulations which it amends.

(3) These regulations shall be construed and shall operate as they would fall to be construed and to operate by virtue of section 23(1) of the Interpretation Act 1978(c) if they were made after the commencement of that Act.

*Amendment of the Occupational Pension Schemes (Certification of Employments) Regulations 1975*

2.—(1) The Occupational Pension Schemes (Certification of Employments) Regulations 1975(d), shall be amended in accordance with the provisions of this regulation.

(2) In regulation 2(1) for “Every election” there shall be substituted “Subject to the provisions of regulation 10A below, every election”.

(3) In regulation 10(1) for “Every election” there shall be substituted “Subject to the provisions of regulation 10A below, every election”.

(4) After regulation 10 there shall be inserted the following regulation:—

(a) 1973 c. 38; section 66(7) was amended by the Social Security Pensions Act 1975 (c. 60) section 65(1) and Schedule 4, paragraph 26.

(b) 1975 c. 60.

(c) 1978 c. 30.

(d) S.I. 1975/1927, to which there are amendments not relevant to these Regulations.

*“Special provision with regard to elections for the issue, variation or surrender of certificates where the employment remains contracted-out 10A.—(1) Subject to the provisions of this regulation, where in the case of an election with a view to the issue, variation or, as the case may be, surrender of a contracting-out certificate the Board are satisfied that—*

- (a) an earner in respect of whose employment the election is proposed to be made will continue to qualify for requisite benefits under the scheme of which he is a member when the election takes effect;*
- (b) the rights to requisite benefits of that earner under that scheme will be unaffected; and*
- (c) the employment of that earner will continue to be contracted-out employment by reference to that same scheme,*

*then that election may be made without compliance with regulations 2(1)(a) and (b), 4, 5 and paragraphs (1)(a) and (b) and (2) to (5) of regulation 10 of these regulations.*

*(2) Where, in accordance with paragraph (1) above, an election is made without compliance with the said provisions, the Board may require that a notice of explanation of the reasons why those provisions have not been complied with shall be given by the employer in the manner mentioned in regulation 3(3) above to—*

- (a) the earners to whose employment the election relates; and*
- (b) the persons and bodies referred to in regulation 3(1)(b) to (d) above.”.*

*Amendment of the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1976*

**3.—(1)** The Occupational Pensions Board (Determinations and Review Procedure) Regulations 1976(a) shall be amended in accordance with the provisions of this regulation.

**(2)** In regulation 2(1) before the words “allow 14 days” there shall be inserted “(except in a case where regulation 10A of the Certification Regulations applies)”.

**(3)** In regulation 3(1):—

- (a) after the words “paragraph (1) of regulation 10” there shall be inserted “or under paragraph (1) of regulation 10A”,*
- (b) for “of that regulation” there shall be substituted “of the said regulation 10”.*

*Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1975*

**4.—(1)** The Occupational Pension Schemes (Contracting-out) Regulations 1975(b) shall be amended in accordance with the provisions of this regulation.

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**(a)** S.I. 1976/185.

**(b)** S.I. 1975/2101, to which there are amendments not relevant to these Regulations.

(2) In regulation 10(5)(b) for “responsibility” there shall be substituted “all the responsibilities of the old employer”.

(3) After paragraph (5) of regulation 10 there shall be inserted the following paragraph:—

“(5A) In a case where an earner’s service in contracted-out employment is to be treated as continuing by virtue of paragraph (5) above the contracting-out certificate issued to the old employer shall be treated as issued to the new employer and the Board may vary that certificate in such respects as may be necessary in the circumstances.”.

Signed by authority of the Secretary of State for Social Services.

*Stanley Orme,*  
Minister for Social Security,  
Department of Health and Social Security.

12th December 1978.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations further amend the Occupational Pension Schemes (Certification of Employments) Regulations 1975 so as to provide that where an election with a view to the issue, variation or surrender of a contracting-out certificate meets the conditions prescribed the requirements for the giving of notices and consultation may be dispensed with.

The Regulations also further amend the Occupational Pension Schemes (Contracting-out) Regulations 1975 so as to provide that where an earner's contracted-out employment is to be treated as continuing by virtue of regulation 10(5) of those regulations (continuity of contracted-out employment in cases where a business is taken over by a new employer), the contracting-out certificate is to be treated as issued to the new employer.

The Regulations also contain amendments of a minor or consequential nature.

The report of the Occupational Pensions Board on the draft of these regulations, dated 23rd November 1978, is contained in Command Paper (Cmnd. 7424) published by Her Majesty's Stationery Office.

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