

1981 No. 129**PENSIONS**
**The Contracting-out and Preservation (Further Provisions)
Regulations 1981**

<i>Made - - - -</i>	<i>4th February 1981</i>
<i>Laid before Parliament</i>	<i>12th February 1981</i>
<i>Coming into Operation</i>	<i>5th March 1981</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by paragraph 15 of Schedule 16 to the Social Security Act 1973(a), sections 31(7), 39(1), 40(3), 45(1) and 62(4) of, and paragraphs 1, 5 and 6 of Schedule 2 to the Social Security Pensions Act 1975(b), and of all other powers enabling him in that behalf, and after considering the report of the Occupational Pensions Board on the draft submitted to them, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Contracting-out and Preservation (Further Provisions) Regulations 1981 and shall come into operation on 5th March 1981.

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

2.—(1) Regulations 7, 8 and 10 of the Occupational Pension Schemes (Contracting-out) Regulations 1975(c), shall be amended in accordance with the following provisions of this regulation.

(2) In the said regulation 7 (service that does not qualify for requisite benefits)—

(a) for paragraph (2) there shall be substituted the following paragraph:—

“(2) Subject to the following provisions of this regulation, in cases to which this regulation applies the employment of an earner in employed earner’s employment shall be treated as contracted-out employment in relation to him, notwithstanding that his further service in the employment did not, does not, or will not qualify him for further benefits under the scheme, where the following conditions are satisfied, namely that:—

(a) the earner’s service in employed earner’s employment has qualified him for benefit up to a limit imposed by the scheme;

(b) the annual rate of the benefit by way of pension for which the earner’s said service has qualified him is not less than half the salary on which it is calculated; and

(a) 1973 c. 38.

(b) 1975 c. 60.

(c) S.I. 1975/2101, to which there are amendments not relevant to these regulations.

- (c) the total benefits payable under the scheme on termination of the employment to which the scheme applies include or comprise benefits which are in all respects (as to rate or amount or otherwise) the same as or more favourable than the guaranteed minimum pension to which the earner would be entitled having regard to the aggregate of the periods of service in that employment or in linked qualifying service during which the earner was in contracted-out employment and any periods of service in that employment which would be contracted-out employment by virtue of this regulation.”;
- (b) paragraph (3) is hereby revoked;
- (c) in paragraph (4) for “paragraph (3)” there shall be substituted “paragraph (2)(c)”.
- (3) In the said regulation 8 for the sum “£52” wherever it appears there shall be substituted the sum “£104”.
- (4) In the said regulation 10 there shall be inserted in paragraph (1)—
- (a) at the end of sub-paragraph (c) the words “except in a case where, within 6 months of the cancellation or surrender as aforesaid or such longer period as the Secretary of State may allow in a particular case, he becomes a member in contracted-out employment of another contracted-out scheme under the same employer to which his accrued rights to requisite benefits are transferred”, and
- (b) at the end of sub-paragraph (d) the words “except in a case where, within 6 months of the variation as aforesaid, or such longer period as the Secretary of State may allow in a particular case, he again comes within the description of earners in relation to which the said contracting-out certificate applies or he becomes a member in contracted-out employment of another contracted-out scheme under the same employer to which his accrued rights to requisite benefits are transferred”.

Amendment of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations 1976

3.—(1) Regulations 7 and 8 of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations 1976(a) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) of the said regulation 7 for the words “any order or orders that come” there shall be substituted the words “the last order that comes”.

(3) In paragraph (1) of the said regulation 8—

- (a) after the words “contracted-out scheme” there shall be inserted the words “or a scheme which has ceased to be contracted-out”; and
- (b) for the words “an accrued rights premium or a pensioner’s rights premium” there shall be substituted the words “a state scheme premium”.

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

4. In the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1976(b) for paragraph (2) of regulation 4 (date from which

(a) S.I. 1976/143, to which there are amendments not directly relevant to these regulations.
 (b) S.I. 1976/185, to which there are amendments not relevant to these regulations.

cancellation or variation of a contracting-out certificate is to have effect) there shall be substituted the following paragraph:—

“(2) The date from which the cancellation or variation is to have effect may not be earlier than the date of the cancellation or variation, as the case may be, except—

- (a) in a case where the Board consider that the resources of the scheme have not been maintained at a sufficient level for meeting all claims in respect of guaranteed minimum pensions so far as falling to be met out of those resources, in which case the date may be the latest date on which in the opinion of the Board those resources were maintained at such a sufficient level, or
- (b) in a case where the earners in employments to which the contracting-out certificate applies have ceased to qualify for the requisite benefits of the scheme, in which case the date may be a date not earlier than the date on which, in the opinion of the Board, the said cessation occurred.”.

Amendment of the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977

5. In the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977(a) regulation 6 shall be amended by inserting after paragraph (2) the following paragraph—

“(3) An occupational pension scheme (not being a public service scheme) which contains provision enabling a member to qualify for additional pension or other benefits under the scheme by voluntarily paying to it contributions in addition to those, if any, which he must pay in order to qualify for the usual pension or other benefits provided by the scheme shall, if the Occupational Pensions Board (whether or not subject to conditions) so approve, be exempt from the requirements of section 40(3) of the Pensions Act(b) (priorities on winding-up) to the following extent, namely that it shall not be required to accord priority on a winding-up to the liabilities specified in paragraphs (a) to (d) of the said section 40(3) over liabilities of the scheme in respect of any pension or other benefits arising from payment of such additional voluntary contributions.”.

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1973

6. In regulation 8 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1973(c) for the sum “£52” wherever it appears there shall be substituted the sum “£104”.

Patrick Jenkin,
Secretary of State for Social Services.

4th February 1981

(a) S.I. 1977/1188, to which there are amendments not relevant to these regulations.
 (b) 1975 c. 60; section 40(3) was amended by section 22(8) of the Social Security (Miscellaneous Provisions) Act 1977 (c. 5).
 (c) S.I. 1973/1469, to which there are amendments not relevant to these regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the instruments made under the Social Security Act 1973 and the Social Security Pensions Act 1975 specified below.

Regulation 2 further amends the Occupational Pension Schemes (Contracting-out) Regulations 1975 so as to ensure that where a member of an occupational pension scheme has reached a limit on benefit imposed by the scheme, his contracted-out employment can continue to be so contracted-out only if the rate of pension to which he is then entitled under the scheme is not less than half the salary on which it is calculated; it also raises the limit on the aggregate amount of benefit which includes a guaranteed minimum pension that may be commuted and extends the circumstances in which an earner's employment shall not be treated as having ceased to be contracted-out.

Regulation 3 further amends the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations 1976 so as to extend to cases where a scheme which has ceased to contract-out is being wound-up the provisions for treating an accrued rights premium or a pensioner's rights premium as paid, so as to extend the said provisions to apply also to contributions equivalent premiums and so as to make a minor consequential amendment.

Regulation 4 further amends the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1976 so as to enable the Occupational Pensions Board to cancel or vary a contracting-out certificate with retrospective effect where there have ceased to be any earners qualifying for requisite benefits in any contracted-out employment to which the contracting-out certificate applies.

Regulation 5 further amends the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977 so as to provide that where an occupational pension scheme makes provision for additional voluntary contributions then, where the Occupational Pensions Board so approve, the liabilities arising from those additional voluntary contributions may be exempted from the priority of liability requirements of section 40(3) of the Social Security Pensions Act 1975.

Regulation 6 further amends the Occupational Pension Schemes (Preservation of Benefit) Regulations 1973 to raise the limit on the amount of preserved benefit that may be commuted.

The Report of the Occupational Pensions Board, dated 15th December 1980, on the draft of these Regulations referred to them, together with a statement showing that the Regulations give effect to the Board's recommendations, is contained in Command Paper (Cmnd. 8161) published by Her Majesty's Stationery Office.

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