

1987 No. 1104

PENSIONS

The Occupational Pension Schemes (Contracting-out)
Amendment Regulations 1987

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| <i>Made - - - -</i> | <i>25th June 1987</i> |
| <i>Laid before Parliament</i> | <i>6th July 1987</i> |
| <i>Coming into force</i> | <i>27th July 1987</i> |

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 168(1) of, and Schedule 20 to, the Social Security Act 1975 (a) and sections 31(5) and 52 of, and paragraph 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 proposals submitted to them(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Contracting-out) Amendment Regulations 1987 and shall come into force on 27th July 1987.

(2) In these Regulations, “the principal Regulations” means the Occupational Pension Schemes (Contracting-out) Regulations 1984(d).

Amendments to the principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 3 (notices by employers of intended elections for the issue of contracting-out certificates), for paragraph (4) there shall be substituted the following paragraph—

- “(4) A notice may specify a date of expiry—
- (a) which is—
 - (i) earlier than the date 3 months after, but
 - (ii) not earlier than the date one month after, that on which the notice is given; and
 - (b) which is assented to in writing by all independent trade unions (if any) recognised to any extent for the purpose of collective bargaining in relation to the earners concerned.”.

(a) 1975 c.14. See definitions of “prescribe” and “regulations” in Schedule 20. Section 168(1) applies, by virtue of section 66(2) of the Social Security Pensions Act 1975 (c.60), to the exercise of certain powers conferred by that Act.

(b) 1975 c.60.

(c) See section 61(2) and (3) of the Social Security Pensions Act 1975; section 61(2) is amended in ways not relevant to these Regulations.

(d) S.I. 1984/380, to which there are amendments not relevant to these Regulations.

- (3) In regulation 6 (information to be included in an election)–
- (a) for paragraph (2)(b) there shall be substituted the following sub-paragraph–
 - “(b) a statement by the employer that he has, in accordance with regulation 3(1), given the earners mentioned in regulation 3(1)(a) notice of the intention to make the election;”; and
 - (b) in paragraph (2)(c) there shall be added at the end the words “and its date of expiry”.
- (4) In regulation 10 (making of elections by employers for the variation or surrender of contracting-out certificates), for paragraph (3)(c) there shall be substituted the following sub-paragraph–
- “(c) specify the date of expiry of the notice, which shall be–
 - (i) at least 3 months after the date on which the notice is given, or
 - (ii) a shorter period, being at least one month after that date, if that shorter period is assented to in writing by all independent trade unions (if any) recognised to any extent for the purpose of collective bargaining in relation to the earners concerned;”.
- (5) In regulation 41 (conditions in connection with alteration of rules of contracted-out schemes)–
- (a) in paragraph (4)(c), for the words “approved by the Board and assented to” there shall be substituted “it is a date not earlier than one month from the date of the giving of the notice and it is assented to in writing”; and
 - (b) paragraph (4)(d)(i) shall be omitted.

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

25th June 1987

Nicholas Scott
Minister of State,
Department of Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Occupational Pension Schemes (Contracting-out) Regulations 1984 ("the principal Regulations").

When an employer is giving to earners and others notice that he intends to elect for the issue of a contracting-out certificate, the notice must usually specify a date of expiry at least 3 months after it is given. Regulation 3(4) of the principal Regulations provides an exception, and regulation 2(2) of these Regulations, by substituting a new paragraph (4), amends the exception. An earlier date is permissible if it is at least one month after the notice is given, and if it is assented to in writing by all independent trade unions (if any) recognised to any extent for the purpose of collective bargaining in relation to the earners concerned. It is no longer necessary to obtain the permission of the Occupational Pensions Board.

Regulation 2(3) amends regulation 6 of the principal Regulations so that an election must be accompanied by a statement that the employer has given notices of intention to make the election, but need no longer be accompanied by a copy of the notice.

Regulation 2(4) makes to regulation 10 of the principal Regulations, which deals with notices of intention to make elections for the variation or surrender of contracting-out certificates, a similar amendment to that made by regulation 2(2) to regulation 3 of the principal Regulations.

Where the consent of the Occupational Pensions Board to an alteration of the rules of a contracted-out scheme is required, the Board may, under regulation 41 of the principal Regulations, require notice of the intended alteration to be given to earners and others specifying a date by which representations about matters in the notice may be made to specified persons. Usually the date must not be earlier than 3 months from the date of the giving of the notice. Regulation 2(5) makes to regulation 41 of the principal Regulations a similar amendment to that made by regulation 2(2) to regulation 3 of the principal Regulations and also removes a requirement that the notice must contain a statement that representations may be made to the Occupational Pensions Board.

The report of the Occupational Pensions Board on the draft of these Regulations, dated 3rd June 1987, is contained in Command Paper (Cmnd 163) published by Her Majesty's Stationery Office.