STATUTORY INSTRUMENTS

1977 No. 1615

PENSIONS

The Contracted-out Employment (Transitional Arrangements) Regulations 1977

Made - - -	*4th October* 1977
Laid before Parliament	*14th October* 1977
Coming into Operation	*4th November* 1977

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 63(1) and (2)(*g*) of the Social Security Pensions Act 1975(**a**) and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the preliminary 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 (Transitional Arrangements) Regulations 1977 and shall come into operation on 4th November 1977.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Social Security Pensions Act 1975;

"the Board" means the Occupational Pensions Board;

"the contracting-out conditions" means the conditions specified in section 32(2)(*a*) and (*b*) of the Act;

and other expressions have the same meanings as in the Act.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**b**) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Transitional arrangements

2.—(1) During the period beginning on 4th November 1977 and ending on 5th April 1979 the Board may in their discretion issue a contracting-out

(a) 1975 c. 60.

(b) 1889 c. 63.

certificate, notwithstanding that they have not satisfied themselves that the scheme in question satisfies the contracting-out conditions, on the basis of either—

(*a*) the information specified in paragraph (3) below, given by the employer of the earners in relation to whose employment it is desired that the scheme should be contracted-out, or, in a case where an election with a view to the issue of a contracting-out certificate has been made by a person other than that employer, given by that other person, or

(*b*) (i) an undertaking, given by any person having power to alter any of the rules of the scheme in question, to the effect specified in paragraph (4) below, and

(ii) an undertaking, given by the employer of the earners in relation to whose employments it is desired that the scheme should be contracted-out, to the effect specified in paragraph (5) below.

(2) In the case of a public service pension scheme, the Board may issue a certificate under paragraph (1)(*b*) above notwithstanding that the undertaking mentioned in paragraph (1)(*b*)(i) is to the effect therein mentioned subject to such modifications as the Board may in their discretion accept, and that the undertaking mentioned in paragraph (1)(*b*)(ii) is not given.

(3) The information mentioned in paragraph (1)(*a*) above is to the effect that, to the best of the belief of the person giving it, the documents submitted with the election are in a satisfactory form for the issue of a contracting-out certificate in relation to the employments in question.

(4) The undertaking mentioned in paragraph (1)(*b*)(i) above is to the general effect that the person giving it will—

(*a*) use his best endeavours to make, within such time as the Board may specify, such alterations to the rules of the scheme (having effect from the date from which the contracting-out certificate has effect) as may be necessary to make the scheme satisfy the contracting-out conditions in relation to the employments to which the contracting-out certificate relates; and

(*b*) within such time as the Board may specify lodge with the Board copies of the rules as so altered.

(5) The undertaking mentioned in paragraph (1)(*b*)(ii) above is to the effect that the employer will provide any additional funds necessary to enable the trustees of the scheme (or, in the case of a scheme which is not set up or established under a trust, its administrator) to meet any financial obligations in respect of state scheme premiums arising as a result of the Board's cancelling or varying the contracting-out certificate because alterations as mentioned in paragraph (4)(*a*) above have not been made within the time specified by the Board.

(6) In a case where the Board have issued a contracting-out certificate by virtue of paragraph (1) above and have subsequently cancelled or varied it, and any earner who has no accrued rights to guaranteed minimum pensions under the scheme has nevertheless been treated as if the certificate applied to his employment, then for the purposes of sections 44 to 46, 49 and 52 of, and paragraphs 6 and 9 of Schedule 2 to, the Act, and any regulations made thereunder, the scheme shall be deemed to have made the provision for entitlement to guaranteed minimum pensions that would have been necessary in order that the certificate might apply to the employment of that earner.

(7) Regulation 10(1) of the Occupational Pension Schemes (Certification of Employments) Regulations 1975(a) (elections for the surrender of contracting-out certificates) shall be amended by the insertion, after the words "the relevant scheme", of the words "or where the Board have issued the contracting-out certificate by virtue of regulation 2(1)(*b*) of the Contracted-out Employment (Transitional Arrangements) Regulations 1977 not more than one year before the election is made", and by the insertion, after the word "variation" in the last place where it occurs, of the words "or surrender".

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

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

4th October 1977.

EXPLANATORY NOTE

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

These Regulations provide that during the period from 4th November 1977 to 5th April 1979 the Occupational Pensions Board may in their discretion issue a contracting-out certificate under the Social Security Pensions Act 1975 without satisfying themselves that the scheme in question satisfies conditions for contracting-out set out in the Act, on the basis either of a statement by an appropriate person (usually the employer of the earners concerned) that to the best of his belief the scheme already satisfies those conditions, or of an undertaking by a competent person to alter the rules of the scheme within a specified time so as to make the scheme satisfy those conditions, and an undertaking by the employer to provide any necessary additional funds if the first undertaking is not fulfilled. There are also ancillary provisions for certain cases where a certificate is so issued and is subsequently cancelled, varied or surrendered, and special provisions for public service pension schemes.

The report of the Occupational Pensions Board on the preliminary draft of these regulations, dated 23rd September 1977 is contained in Command Paper (Cmnd. 6961) published by Her Majesty's Stationery Office.

(a) S.I. 1975/1927 (1975 III, p. 7163).

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