STATUTORY INSTRUMENTS

1983 No. 722

PENSIONS

The Contracting-out (Modification) Regulations 1983

Made - - - -	12*th May* 1983
Laid before Parliament	13*th May* 1983
Coming into Operation	17*th June* 1983

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 32(2)(*a*) of the Social Security Pensions Act 1975(**a**) and of all other powers enabling him in that behalf, and after considering the report of the Occupational Pensions Board on the proposals submitted to them(**b**), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Contracting-out (Modification) Regulations 1983 and shall come into operation on 17th June 1983.

(2) In these regulations, unless the context otherwise requires, "the Pensions Act" means the Social Security Pensions Act 1975 and references to sections are to sections of that Act.

Modification of sections 33 to 39, other than section 35, of the Pensions Act

2.—(1) This regulation applies to any case in which, with the earner's consent except where regulation 6(4) of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1973(**c**) (discretion for Occupational Pensions Board to dispense with consent requirement) applies, an occupational pension scheme provides an alternative to short service benefit (as defined for the purposes of Schedule 16 to the Social Security Act 1973(**d**) (preservation requirements)) which is permitted under any of sub-paragraphs (*a*) to (*f*), other than sub-paragraphs (*c*) and (*d*), of regulation 6(1) of those Regulations (prescribed alternatives other than lump sums for, or linked to, service before 6 April 1975).

(2) In any case to which this regulation applies, sections 33 to 39(**e**) (contracting-out requirements for earner's and widow's pensions), other than section 35 (earner's guaranteed minimum), shall have effect with the modification that, subject to any conditions which may be imposed by the Occupational

(**a**) 1975 c. 60.
(**b**) *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.
(**c**) S.I. 1973/1469; the relevant amending instrument is S.I. 1978/1089.
(**d**) 1973 c. 38.
(**e**) Sections 34 and 37 were amended by the Social Security Act 1979 (c. 18), section 21(4) and Schedule 3, paragraphs 17 and 19; section 38 was amended by the Social Security Act 1980 (c. 30), section 3(5).

Pensions Board in their discretion in any particular case or class of cases, to be contracted-out in relation to an earner's employment—

(*a*) the scheme need not comply with—

(i) sections 33(1)(*a*) and 34 (annual rate of earner's pension to be not less than 1¼ per cent. of salary), or

(ii) sections 36(2) and 37 (annual rate of widow's pension to be not less than ⅝ths per cent. of earner's salary);

(*b*) if the scheme does provide an earner's or widow's pension which exceeds the guaranteed minimum referred to in, as the case may be, section 33(1)(*b*) or 36(3), it need not, in respect of the excess, comply with any other provision of sections 33 to 39, other than section 35 (and the provisions modified by sub-paragraph (*a*) above), which applies to any part of a pension in excess of the guaranteed minimum.

Norman Fowler,
Secretary of State for Social Services.

12th May 1983.

EXPLANATORY NOTE

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

These Regulations modify certain provisions of Part III of the Social Security Pensions Act 1975 ("the Pensions Act") relating to earner's and widow's pensions with which an occupational pension scheme must comply if it is to be contracted-out in relation to an earner's employment. The provisions modified, so as not to require scheme compliance, are sections 33(1)(*a*), 34, 36(2) and 37 (which relate to the rate of the earner's and widow's pensions other than the guaranteed minimum) and, in respect of any excess of the pensions over the guaranteed minimum, the remaining provisions of sections 33 to 39 other than section 35. The Regulations apply where, generally only with the earner's consent, the scheme provides any alternative to short service benefit, other than a lump sum for or linked to service before 6th April 1975, which is prescribed for the purposes of the preservation provisions of the Social Security Act 1973.

The Regulations as the first to be made under section 32(2)(*a*) of the Pensions Act are, by virtue of section 32(7) (added by the Social Security and Housing Benefits Act 1982 (c. 24)), to be treated as in operation previously for the purpose of occupational pension schemes which did not satisfy section 32(2)(*a*) (compliance with provisions relating to requisite benefits) but would have done so if the regulations had been in operation.

The report, dated 14th October 1982, of the Occupational Pensions Board on the proposals for these Regulations is contained in a Command paper (Cmnd. 8886) published by Her Majesty's Stationery Office.

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