STATUTORY INSTRUMENTS

1982 No. 1033

PENSIONS

SOCIAL SECURITY

The Contracting-out (Recovery of Class 1 Contributions) Regulations 1982

Made - - - -	22*nd July* 1982
Laid before Parliament	2*nd August* 1982
Coming into Operation	23*rd August* 1982

The Secretary of State for Social Services, with the concurrence of the Inland Revenue in so far as their concurrence is required, in exercise of powers conferred upon him by paragraph 5(1) of Schedule 1 to the Social Security Act 1975(**a**) and section 51A(10) of the Social Security Pensions Act 1975(**b**), and of all other powers enabling him in that behalf, hereby makes the following regulations which by virtue of section 61(2) of the last mentioned Act, as amended by paragraph 21 of Schedule 4 to the Social Security and Housing Benefits Act 1982, are not subject to the requirement for prior reference to the Occupational Pensions Board.

This instrument satisfies the requirements of paragraph 38 of Schedule 4 to the Social Security and Housing Benefits Act 1982, and the Secretary of State has not referred proposals to make any of the regulations contained in it to the Industrial Injuries Advisory Council or the Social Security Advisory Committee.

Citation and commencement

1. These regulations may be cited as the Contracting-out (Recovery of Class 1 Contributions) Regulations 1982 and shall come into operation on 23rd August 1982.

Prevention of recovery by employers of Class 1 contributions

2.—(1) This regulation shall apply in any case where the Occupational Pensions Board have cancelled a contracting-out certificate under section 51A(5) of the Social Security Pensions Act 1975.

(**a**) 1975 c. 14.
(**b**) 1975 c. 60; section 51A was inserted by section 40 of the Social Security and Housing Benefits Act 1982 (c. 24).

(2) An employer shall not be entitled to recover (whether by deduction from emoluments or otherwise) any arrears which he is required to pay to the Secretary of State in respect of an earner's liability under section 4(3) of the Social Security Act 1975 in so far as those arrears comprise the difference between the amount of the primary Class 1 contributions payable at the normal rate in respect of the emoluments from the earner's employment and the amount of the primary Class 1 contributions that were paid while the employment was regarded as contracted-out prior to the cancellation of the further contracting-out certificate.

(3) This regulation shall apply notwithstanding the terms of any contract to the contrary.

Consequential amendment of the Social Security (Contributions) Regulations 1979

3. In Regulation 13(2A)(*b*)(iii) contained in Schedule 1 to the Social Security (Contributions) Regulations 1979(**a**) (recovery of contributions as a result of the cancellation, variation or surrender of a contracting-out certificate) there shall be inserted the following after the words "the payment of emoluments is made":—

"except where, in respect of such cancellation, the provisions of regulation 2 of the Contracting-out (Recovery of Class 1 Contributions) Regulations 1982(**b**) (prevention of recovery by employers of Class 1 contributions following the cancellation of a further contracting-out certificate under section 51A(5) of the Social Security Pensions Act 1975) apply".

Norman Fowler,
20th July 1982. Secretary of State for Social Services.

The Commissioners of Inland Revenue hereby concur.

By Order of the Commissioners of Inland Revenue.

J. D. Taylor Thomson,
22nd July 1982. Secretary.

(**a**) S.I. 1979/591, to which there are amendments not relevant to these regulations.
(**b**) S.I. 1982/1033.

EXPLANATORY NOTE

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

These regulations apply where the Occupational Pensions Board have cancelled a further contracting-out certificate under section 51A(5) of the Social Security Pensions Act 1975 in respect of an occupational pension scheme in circumstances where, if the Board had been aware of all the facts when that further certificate was issued, they would not have issued it. Regulation 2 prevents an employer from recovering from his employees their share of any arrears of contributions payable under the Social Security Act 1975 arising from such cancellation. These arrears represent the difference between the contracted-out and non-contracted-out rates of contributions, the former being at a lower rate than the latter.

Regulation 3 provides a consequential amendment to the Social Security (Contributions) Regulations 1979.

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