STATUTORY INSTRUMENTS

1984 No. 107

PENSIONS

The Occupational Pension Schemes (Contracting-out) (Miscellaneous Provisions) Regulations 1984

Made - - - -	*3rd February* 1984
Laid before Parliament	*13th February* 1984
Coming into Operation	*5th March* 1984

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**), sections 40(2), 43(4), 51 and 52 of, and paragraphs 6(3)*(d)* and 9 of Schedule 2 to, the Social Security Pensions Act 1975 (**b**) and sections 22(9) and 24(1) of the Social Security (Miscellaneous Provisions) Act 1977 (**c**), and of all other powers enabling him in that behalf, after considering the report of the Occupational Pensions Board on the draft submitted to them (**d**), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Occupational Pension Schemes (Contracting-out) (Miscellaneous Provisions) Regulations 1984, shall come into operation on 5th March 1984.

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

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

"the 1975 Regulations" means the Occupational Pension Schemes (Contracting-out) Regulations 1975 (**e**);

"the 1976 Regulations" means the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations 1976 (**f**);

"the 1977 Regulations" means the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977 (**g**);

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

Refund of state scheme premiums

2. The Secretary of State shall refund a state scheme premium if he is satisfied that it ought to be refunded—

(a) where it was paid under section 42(2), 44(2) or 45(1) of the Act and the person in respect of whom it was paid has died, without leaving a

(**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, to the exercise of certain powers conferred by that Act.
(**b**) 1975 c.60.
(**c**) 1977 c.5.
(**d**) *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.
(**e**) S.I. 1975/2101; the relevant amending instrument is S.I. 1977/1188.
(**f**) S.I. 1976/143; the relevant amending instrument is S.I. 1977/1188.
(**g**) S.I. 1977/1188, to which there are amendments not relevant to these regulations.

widow, on or before the later of the days first mentioned in sub-paragraphs *(a)* and *(b)* respectively of regulation 5(1) of the 1976 Regulations; or

(b) where it was paid under section 42(3) of the Act and there are no accrued rights to guaranteed minimum pensions under the scheme in question in respect of the widow in question.

Elections to pay contributions equivalent premiums

3. Regulation 4(1) of the 1976 Regulations (exceptions to the employer's obligation under section 43(4) of the Act not to discriminate between different earners when making or abstaining from making elections to pay contributions equivalent premiums) shall be amended by the addition, after sub-paragraph *(e)*, of the following sub-paragraph, namely—

"*(f)* cases where an earner's accrued rights to guaranteed minimum pensions are secured by means of a policy of insurance or annuity contract which satisfies the conditions specified in regulation 2 of the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977:".

Responsible paying authority

4.—(1) The 1975 Regulations shall be amended by the substitution, for sub-paragraph *(b)* of the definition of "responsible paying authority" in regulation 1(2), of the following sub-paragraph:—

"*(b)* in relation to a scheme where the benefits, or so much of the benefits as represents guaranteed minimum pensions, are secured by means of a policy of insurance or annuity contract in accordance with regulation 4 below, and at least one of the following conditions is fulfilled, namely—

(i) the policy of insurance or annuity contract satisfies the conditions specified in regulation 2 of the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977,

(ii) the policy of insurance is taken out or the annuity contract entered into in accordance with arrangements approved by the Board under section 44 of the Act, and

(iii) the scheme is not set up or established under an irrevocable trust,

the insurance company or friendly society with which the policy of insurance is taken out or the contract entered into;".

(2) The 1976 Regulations shall be amended by the substitution, for sub-paragraph *(b)* of the definition of "responsible paying authority" in regulation 1(2), of the following sub-paragraph:—

"*(b)* in relation to a scheme where the benefits, or so much of the benefits as represents guaranteed minimum pensions, are secured by means of a policy of insurance or annuity contract in accordance with regulation 4 of the Contracting-out regulations, and at least one of the following conditions is fulfilled, namely—

(i) the policy of insurance or annuity contract satisfies the conditions specified in regulation 2 of the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977,

(ii) the policy of insurance is taken out or the annuity contract entered into in accordance with arrangements approved by the Board under section 44 of the Act, and

(iii) the scheme is not set up or established under an irrevocable trust,

the insurance company or friendly society with which the policy of insurance is taken out or the contract entered into;".

Amendments of references to legislation relating to insurance companies

5.—(1) The 1975 Regulations shall be amended by the substitution, for head (i) of regulation 4(2)*(b)*, of the following head:—

"(i) an insurance company to which Part II of the Insurance Companies Act 1982 (**a**) applies and which is authorised by or under section 3 of that Act to carry on ordinary long-term insurance business as defined in that Act, or".

(2) The 1977 Regulations shall be amended by the substitution, for paragraph *(a)* of regulation 2, of the following paragraph:—

"(a) that the policy is taken out, or the contract entered into, with an insurance company to which Part II of the Insurance Companies Act 1982 applies and which is authorised by or under section 3 of that Act to carry on ordinary long-term insurance business as defined in that Act; and".

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

Rhodes Boyson,
Minister of State,
Department of Health and Social Security.

3rd February 1984.

(**a**) 1982 c.50.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Regulation 2 of these regulations provides for the refunding, by the Secretary of State, of state scheme premiums, in certain cases, where either the person in respect of whom the premium was paid has died shortly afterwards without leaving a widow, or where the premium was a contributions equivalent premium paid in respect of a widow and there are no accrued rights to guaranteed minimum pensions under the scheme in question in respect of her.

Regulation 3 adds another case to those already existing in which an employer may discriminate between different earners when making or abstaining from making elections to pay contributions equivalent premiums.

Regulation 4 amends the definition of "responsible paying authority" in the Occupational Pension Schemes (Contracting-out) Regulations 1975 ("the 1975 Regulations") and the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations 1976.

Regulation 5 makes amendments to the 1975 Regulations and to the Contracted-out Employment (Miscellaneous Provisions) Regulations 1977 which bring up to date references to legislation relating to insurance companies.

The report of the Occupational Pensions Board on the preliminary draft of these regulations, dated 12th December 1983, is contained in a Command Paper (Cmnd. 9151) published by Her Majesty's Stationery Office.

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