

**1987 No. 1100**

**PENSIONS**

**The Contracting-out (Widowers' Guaranteed Minimum Pensions) Regulations 1987**

<i>Made</i> - - - -	<i>25th June 1987</i>
<i>Laid before Parliament</i>	<i>6th July 1987</i>
<i>Coming into force</i> -	<i>6th April 1988</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), section 36(7A) of the Social Security Pensions Act 1975(b), and sections 9(6) and 84(1) of the Social Security Act 1986(c), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, makes the following Regulations:-

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Contracting-out (Widowers' Guaranteed Minimum Pensions) Regulations 1987 and shall come into force on 6th April 1988.

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

**Amendments of the principal Regulations**

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

(2) After regulation 33A, there shall be inserted the following regulations:-

**"Circumstances in which widower's pension is to be payable**

**33B.** For the purposes of section 36(7A) (for a scheme to be contracted-out it must provide for an earner's widower's pension to be payable in prescribed circumstances and for a prescribed period) the prescribed circumstances are that-

- (a) the widower and the earner were both over pensionable age when the earner died; or
- (b) the widower is entitled to child benefit (which expression has in this

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(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. Subsection (7A) was inserted into section 36 by the Social Security Act 1986 (c.50), section 9(3).

(c) 1986 c.50. See definitions of "prescribed" and "regulations" in section 84(1).

(d) S.I. 1984/380; the relevant amending instrument is S.I. 1985/1930.

regulation the same meaning as in the Child Benefit Act 1975(a) in respect of a child who is, or residing with a child under 16 who is—

- (i) a son or daughter of the widower and the earner, or
- (ii) a child in respect of whom the earner, immediately before her death, was, or would have been if the child had not been absent from Great Britain, entitled to child benefit, or
- (iii) if the widower and the earner were residing together immediately before the earner's death, a child in respect of whom he then was, or would have been if the child had not been absent from Great Britain, entitled to child benefit;

or

- (c) the widower had attained the age of 45 either—
  - (i) when the earner died, or
  - (ii) during a period when the circumstances mentioned in paragraph (b) existed.

**Period for which widower's pension is to be payable**

**33C.—(1)** For the purposes of section 36(7A) the prescribed period is—

- (a) in a case where the circumstances described in paragraph (a) of regulation 33B exist, the remainder of the widower's life;
- (b) in a case where the circumstances described in paragraph (b), but not either paragraph (a) or paragraph (c), of regulation 33B exist, the period (subject to paragraph (2)) during which the circumstances described in paragraph (b) of regulation 33B continue to exist; and
- (c) in a case where the circumstances described in paragraph (c), but not paragraph (a), of regulation 33B exist, the remainder of the widower's life (subject to paragraph (2)).

(2) There is excluded from the periods prescribed under paragraph (1)(b) and (c) any period—

- (a) after the widower's remarriage under pensionable age;
- (b) during which he is under pensionable age and he and a woman to whom he is not married are living together as husband and wife;
- (c) after he has attained pensionable age if immediately before he attained that age he and a woman to whom he was not married were living together as husband and wife.

**Statutory references to persons entitled to guaranteed minimum pensions—application to widowers**

**33D.** The provisions of sections 44(1)(b) and (2)(b), 49(1) and 50(3) shall be construed as if the references to a person entitled to receive a guaranteed minimum pension included references to a person so entitled by virtue of being the widower of an earner only in the case where the earner and the widower were both over pensionable age when the earner died.”

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

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(a) 1975 c.61.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are all made under provisions of the Social Security Act 1986 ("the 1986 Act") or provisions inserted into the Social Security Pensions Act 1975 ("the 1975 Act") by the 1986 Act, and are made before the end of a period of 12 months from the commencement of those provisions. Consequently, by virtue of section 61(5) of that Act, the provisions of section 61(2) and (3) of the Social Security Pensions Act 1975 (as amended by section 86(1) of, and paragraph 94 of Schedule 10 to, the 1986 Act), which require reference to the Occupational Pensions Board of, and a report by the Board on, proposals to make regulations for certain purposes of both Acts, do not apply to them.

Section 9(3) of the 1986 Act amends section 36 of the 1975 Act so that, in certain circumstances, an occupational pension scheme has to provide widowers' as well as widows' pensions if it is to be contracted-out.

Regulation 2 of these Regulations inserts into the Occupational Pension Schemes (Contracting-out) Regulations 1984 3 new regulations, 33B to 33D. Regulation 33B sets out the circumstances in which a widower's pension is to be payable: they are related to the ages of the widower and the earner, and to his entitlement (if any) to child benefit. Regulation 33C specifies the period for which a widower's pension is to be payable. Regulation 33D provides that in certain provisions of the 1975 Act, concerning schemes which have ceased to be contracted-out, the references to a person entitled to receive a guaranteed minimum pension include the widower of an earner only in the case where the earner and the widower were both over pensionable age when the earner died.