

STATUTORY INSTRUMENTS

1996 No. 1172

Occupational Pension Schemes (Contracting-out) Regulations 1996

PART II

CERTIFICATION OF EMPLOYMENTS

Modifications etc. (not altering text)

- C1 Pt. II modified (S.) (1.4.2015) by [The National Health Service Pension Scheme \(Consequential Provisions\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/145\)](#), regs. 1(2), **4** (with reg. 3)
- C2 Pt. II modified (S.) (1.4.2015) by [The Firefightersâ€™ Pension Scheme \(Consequential Provisions\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/117\)](#), regs. 1(2), **4** (with reg. 3)
- C3 Pt. II modified (1.4.2015) by [The Public Service \(Civil Servants and Others\) Pensions \(Consequential and Amendment\) Regulations 2015 \(S.I. 2015/372\)](#), regs. 1(2), **4**
- C4 Pt. II modified (1.4.2015) by [The Firefightersâ€™ Pension Scheme \(England\) \(Consequential Provisions\) Regulations 2015 \(S.I. 2015/319\)](#), regs. 1(2), **4**
- C5 Pt. II modified (1.4.2015) by [The Armed Forces Pension \(Consequential Provisions\) Regulations 2015 \(S.I. 2015/390\)](#), regs. 1(2), **4**
- C6 Pt. II modified (S.) (1.4.2015) by [The Police Pensions \(Consequential Provisions\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/118\)](#), regs. 1(2), **4** (with reg. 3)
- C7 Pt. II applied (with modifications) (1.4.2015 coming into force in accordance with) by [The National Health Service Pension Scheme \(Consequential Provisions\) Regulations 2015 \(S.I. 2015/432\)](#), regs. 1(2), **4(1)** (with reg. 3)
- C8 Pt. II modified (1.4.2015) by [The Judicial Pensions Regulations 2015 \(S.I. 2015/182\)](#), reg. 1(4), **Sch. 3 para. 2** (with regs. 148, 160, Sch. 3 paras. 1)
- C9 Pt. II modified (S.) (1.4.2015) by [The Teachersâ€™ Pension Scheme \(Consequential Provisions\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/146\)](#), regs. 1(2), **4** (with reg. 3)
- C10 Pt. II modified (1.4.2015) by [The Teachersâ€™ Pension Scheme \(Consequential Provisions\) Regulations 2015 \(S.I. 2015/436\)](#), regs. 1(2), **4** (with reg. 3)

Making of elections for the issue of contracting-out certificates

2.—(1) Subject to the provisions of regulation 10, an election with a view to the issue of a contracting-out certificate—

(a) may only be made—

- (i) after notices to make such an election have been given by the employer in accordance with regulation 3; and
- (ii) within the period after the expiry of those notices which is specified in regulation 5; and

(b) shall be made in writing to the Secretary of State and shall include the particulars specified in regulation 6.

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[^{F1}(2) In making or abstaining from making an election as to the inclusion of an employment in a contracting-out certificate, an employer may discriminate between different earners (otherwise than on the ground of the nature of their employment) in any case where such discrimination would be lawful apart from section 11(3) of the 1993 Act.]

Textual Amendments	
F1	Reg. 2(2) substituted (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786) , reg. 1, Sch. 1 para. 4(3)
Modifications etc. (not altering text)	
C11	Reg. 2(1)(a) excluded (W.) (1.4.2015) by The Firefighters' Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (No. 848) , regs. 1(2), 4(2) (with reg. 3)
C12	Reg. 2(1)(a) excluded (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370) , regs. 1(2), 4(2)

Notices by employers of intended election.

3.—(1) A notice of intention to make an election with a view to the issue of a contracting-out certificate shall be given by the employer, in the manner specified in paragraph (3), to—

- (a) the earners in respect of whose employment the election is proposed to be made, and those (if any) in that employment in relation to whom the employer is not electing that the employment shall be treated as contracted-out;
- (b) the trustees and administrator of the scheme to which the election is to relate;
- (c) where there is a policy of insurance or annuity contract as a means of securing ^{F2} ... guaranteed minimum pensions or any benefits arising in respect of section 9(2B) rights to be payable under the scheme, the insurance company or Friendly Society concerned; and
- (d) all independent trade unions recognised in relation to the earners concerned.

(2) Notices given under this regulation shall be in writing and shall—

- (a) specify the scheme and the employments concerned and, if the election is not intended to be in relation to all earners in those employments, the categories or descriptions of the earners to be so affected;
- (b) specify the date [^{F3}(being a date before the second abolition date)] from which it is intended that the contracting-out certificate shall have effect;

^{F4}(c)

- (d) specify the date of expiry of the notice in accordance with paragraphs (4) and (5);
- (e) specify the name and business address of the person to whom representations may be made with respect to the matters included in the notice;
- (f) contain a statement that—
 - (i) such representations may also be made to the Secretary of State,
 - (ii) the Secretary of State may defer his determination to enable the election to be further considered in the light of representations made by or on behalf of the persons to whom the notice is given,
 - (iii) the Secretary of State has power to refuse to give effect to the election if he is not satisfied that the employer has undertaken consultations about the matters covered by the notice with all independent trade unions recognised in relation to the earners concerned; and

- (g) explain (whether or not by reference to another document)—
 - (i) ^{F5} ... how benefits would accrue to a member under the scheme if the employment were contracted-out [^{F6}and] ,
 - (ii) how, if the employment were contracted-out, the additional pensions of State retirement pensions and widows' and widowers' benefits payable to or in respect of the earners in that employment under the Contributions and Benefits Act, and the rates at which contributions payable by those earners under Part I of that Act, would be affected,

^{F7}(iii)

(3) A notice under this regulation shall be given—

- (a) to any earner concerned by—
 - [^{F8}(i) sending it to the earner in accordance with regulations 26 to 28 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (giving information and documents),
 - (ia) delivering it to the earner, or]
 - (ii) exhibiting it conspicuously at the place of work or employment so that it may be read conveniently by him and by drawing his attention to it in writing;
- [^{F9}(b) to any other person, by—
 - (i) sending it to that person in accordance with regulations 26 to 28 (giving information and documents) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, or
 - (ii) delivering it to that person.]

[^{F10}(4) Unless paragraph (5) applies, a notice under this regulation must specify a date of expiry which is not earlier than the date three months after the date on which the notice is given.

- (5) Where—
 - (a) there is no independent trade union recognised in relation to the earners concerned, or
 - (b) before the notice has been given every such trade union has consented in writing to the notice specifying an earlier date than that which is required under paragraph (4),

the notice may specify an earlier date (but not earlier than the date one month after that on which the notice is given).]

Textual Amendments

- F2** Words in reg. 3(1)(c) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) Order 2011 \(S.I. 2011/1246\)](#) , arts. 1(2)(a) , **8(3)**
- F3** Words in reg. 3(2)(b) inserted (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#) , regs. 1(2)(b), **28(3)**
- F4** Reg. 3(2)(c) omitted (6.4.2002) by virtue of [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#) , regs. 1 , **2(2)(a)**
- F5** Words in reg. 3(2)(g)(i) omitted (6.4.2012) by virtue of [The Pensions Act 2007 \(Abolition of Contracting-out for Defined Contribution Pension Schemes\) \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/1245\)](#) , regs. 1(2) , **4(3)**
- F6** Word in reg. 3(2)(g)(i) inserted (6.4.2002) by [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#) , regs. 1 , **2(2)(b)(i)**
- F7** Reg. 3(2)(g)(iii) omitted (6.4.2002) by virtue of [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#) , regs. 1 , **2(2)(b)(ii)**

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- F8** Reg. 3(3)(a)(i)(ia) substituted for reg. 3(3)(a)(i) (6.4.2014) by The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) , reg. 1(1) , **Sch. 9 para. 2(a)**
- F9** Reg. 3(3)(b) substituted (6.4.2014) by The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) , reg. 1(1) , **Sch. 9 para. 2(b)**
- F10** Reg. 3(4)(5) substituted (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786) , reg. 1 , **Sch. 1 para. 4(4)**

Modifications etc. (not altering text)

- C13** Regs. 3-5 excluded (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **4(2)**
- C14** Regs. 3-5 excluded (W.) (1.4.2015) by The Firefightersâ€™ Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (No. 848), regs. 1(2), **4(2)** (with reg. 3)

Consultation with trade unions.

4.—(1) An employer who has given a notice under regulation 3 shall undertake consultations, if he has not already done so, about the matters covered by the notice with all independent trade unions recognised in relation to the earners concerned.

(2) Any question whether an organisation is an independent trade union recognised in relation to earners may be referred by the employer of those earners, or by the organisation, to an industrial tribunal.

(3) Any question whether an employer has complied with the requirements as to consultations specified in paragraph (1) may be referred by the employer, or by an independent trade union recognised in relation to the earners concerned, to an industrial tribunal.

Modifications etc. (not altering text)

- C13** Regs. 3-5 excluded (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **4(2)**
- C14** Regs. 3-5 excluded (W.) (1.4.2015) by The Firefightersâ€™ Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (No. 848), regs. 1(2), **4(2)** (with reg. 3)

Time for making an election.

5. An election may be made only after the date of expiry of the notice given under regulation 3 and within 3 months of that date (or such longer period as the Secretary of State may in his discretion allow), but nothing in this regulation shall prevent an election from being made after the giving of further notices which comply with the requirements of that regulation.

Modifications etc. (not altering text)

- C13** Regs. 3-5 excluded (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **4(2)**
- C14** Regs. 3-5 excluded (W.) (1.4.2015) by The Firefightersâ€™ Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (No. 848), regs. 1(2), **4(2)** (with reg. 3)

Information to be included in an election.

- 6.—(1) An election shall include the following particulars—
- (a) the name and address of the employer;

- (b) the name by which the scheme to which the election relates is known;
 - (c) a description of the employments to which the contracting-out certificate is intended to relate and, if the certificate is not intended to be in relation to all earners in those employments, the categories or descriptions of the earners intended to be included in the certificate;
 - (d) the date from which it is desired that the certificate shall have effect [^{F11}(being a date before the second abolition date)];
 - (e) the names and addresses of the trustees and administrator of the scheme to which the election relates; and
 - (f) the persons to whom notices were given under regulation 3(1) (b), (c) and (d).
- (2) The employer shall also confirm in writing—
- (a) that he has, in accordance with regulation 3(1), given the earners mentioned in regulation 3(1)(a) notice of the intention to make the election; and
 - (b) how that notice was given and its date of expiry;
 - (c) that the scheme is not one which is excluded from contracting-out under these Regulations;
 - (d) unless the scheme is one to which regulation 27 applies (modification applying to public service pension schemes), that the restrictions imposed under section 40 of the 1995 Act (restrictions on employer-related investments) apply to the scheme and the scheme complies with those restrictions;
- ^{F12}(e)
- ^{F12}(f)
- ^{F13}(g) in the case of a scheme to which Part 3 of the 2004 Act (scheme funding) applies, that the requirements of sections 224, 225, 226 (if applicable) and 227 of that Act and any regulations under those provisions are complied with.]
- ^{M1}(3) In the case of a scheme which is electing to contract out under section 9(2) of the 1993 Act (salary-related contracted-out scheme) the employer shall also provide—
- ^{F14}(a) unless the scheme is a public service pension scheme to which Part 3 of the 2004 Act does not apply, or a scheme in respect of which any Minister of the Crown has given a guarantee, or made any other arrangements for the purpose of securing that the assets of the scheme are sufficient to meet its liabilities, written confirmation or evidence that the actuary is satisfied that the resources of the scheme are sufficient to meet the requirement prescribed in regulation 18 (as it had effect immediately before the second abolition date) (requirement as to resources of the scheme); and]
 - (b) a certificate signed by the actuary that the scheme satisfies the statutory standard in relation to any earner’s service after the principal appointed day in accordance with section 12A of the 1993 Act ^{M2} .
- ^{F15}(4)

Textual Amendments

- F11** Words in reg. 6(1)(d) inserted (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#), regs. 1(2)(b), **28(4)(a)**
- F12** Reg. 6(2)(e)(f) omitted (6.4.2002) by virtue of [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#) , regs. 1 , **2(3)**
- F13** Reg. 6(2)(g) substituted (30.12.2005) by [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#) , regs. 1 , 20(1) , **Sch. 3 paras. 1(3)** (with Sch. 4 para. 17)

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- F14** Reg. 6(3)(a) substituted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(4)(b)**
- F15** Reg. 6(4) omitted (6.4.2012) by virtue of The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245) , regs. 1(2) , **4(4)**

Modifications etc. (not altering text)

- C15** Reg. 6(1) modified (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **4(3)(a)**
- C16** Reg. 6(1) modified (W.) (1.4.2015) by The Firefightersâ€™ Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (No. 848), regs. 1(2), **4(3)(a)** (with reg. 3)
- C17** Reg. 6(2) excluded (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **4(3)(b)**
- C18** Reg. 6(2)(3) excluded (W.) (1.4.2015) by The Firefightersâ€™ Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (No. 848), regs. 1(2), **4(3)(b)** (with reg. 3)
- C19** Reg. 6(3) excluded (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **4(3)(b)**

Marginal Citations

- M1** Section 9(2) was substituted by section 136(3) of the Pensions Act 1995.
- M2** Sections 12A to 12D were inserted by section 136(5) of the Pensions Act 1995.

Amendment of an election.

7. An employer may amend his election at any time before the issue of a contracting-out certificate if the amendment does not alter the categories or descriptions of the earners to which the election relates [^{F16}or the date from which it is intended that the certificate is to have effect].

Textual Amendments

- F16** Words in reg. 7 added (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786) , reg. 1 , **Sch. 1 para. 4(6)**

Issue of contracting-out certificates.

8.—(1) Subject to the provisions of this regulation, when the Secretary of State has determined that an employment should be treated, either in relation to all earners in it or in relation to any specified category or description of earners, as contracted-out employment, he shall issue and send to the employer concerned a contracting-out certificate.

- (2) The contracting-out certificate shall specify—
- (a) the name and address of the employer;
 - (b) the name of the scheme by reference to which that employment is to be so treated;
 - (c) the employments to which the certificate relates or, if the contracting-out certificate does not relate to all earners in those employments, the categories or descriptions of the earners to whom it relates; and
 - (d) the date from which the certificate is to have effect,^{F17} being a date before the second abolition date].

[^{F18}(3) The Commissioners of Inland Revenue are not to issue a contracting-out certificate unless they consider it appropriate to do so and the scheme satisfied any contracting-out conditions or requirements which applied to the scheme from the date on which the certificate is to have effect.]

Textual Amendments

- F17** Words in reg. 8(2)(d) substituted (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#), regs. 1(2)(b), **28(5)(a)**
- F18** Reg. 8(3) inserted (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#), regs. 1(2)(b), **28(5)(b)**

Making of elections by employers for the variation or surrender of contracting-out certificates.

9.—[^{F19}(1) Subject to the provisions of paragraphs (2), (3) and (7) and regulation 10, an election with a view to the variation or surrender of a contracting-out certificate—

- (a) may be made only after notices of intention have been given in accordance with paragraphs (4) and (5); and
 - (b) shall be made in writing to the Inland Revenue.]
- (2) Where a proposed variation is a change—
- (a) in the name of the employer;
 - (b) in the address of the employer; or
 - (c) in the name of the scheme,

an election with a view to the variation of a certificate shall be made in writing to the Secretary of State within 3 months of the event to which the election relates or such longer period as the Secretary of State may in his discretion allow and may be made without compliance with paragraphs (1) and (4) to (7).

(3) In addition to the cases described in paragraph (2), in such cases as the Secretary of State may approve, where a proposed variation would not alter—

- (a) the categories or descriptions of the earners affected by the certificate; or
- (b) ^{F20} ... the benefits provided by the scheme; or
- (c) the contributions (if any) payable by those earners to the scheme,

an election with a view to the variation of a certificate shall be made in writing to the Secretary of State within 3 months of the event to which the election relates or such longer period as the Secretary of State may in his discretion allow and may be made without compliance with paragraphs (1) and (4) to (7).

(4) Notices of intention to make an election with a view to the variation or surrender of a contracting-out certificate shall be given within 3 months of the event to which the election relates, or such longer period as the Secretary of State may in his discretion allow, to the persons referred to in regulation 3(1)(a) to (d) in the manner mentioned in regulation 3(3).

(5) Notices given under this regulation shall be given in writing and shall—

- (a) specify the scheme and the employments concerned and, if the election is not intended to be in relation to all earners in those employments, the categories or descriptions of the earners to be so affected;
- (b) specify the date [^{F21}(being a date before the second abolition date)] from which it is intended that the variation or surrender is to have effect;

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- (c) specify the date of expiry of the notice in accordance with paragraphs (4) and (5) of regulation 3;
- (d) specify the name and business address of the person to whom representations may be made with respect to the matters included in the notice;
- (e) contain a statement that—
- (i) such representations may also be made to the Secretary of State, ^{F22}and]
 - (ii) the Secretary of State may defer his determination to enable the election to be further considered in the light of representations made by or on behalf of persons to whom the notice is given, ^{F23} ...
- ^{F24}(ea) ^{F25}where the notice is not about surrendering a contracting-out certificate due to the scheme winding up, contain a statement that] the Secretary of State has power to refuse to give effect to the election if he is not satisfied that the employer has undertaken consultations about the matters covered by the notice with all independent trade unions recognised in relation to the earners concerned;
- (f) explain (whether or not by reference to another document) how, if the proposed variation or surrender took place, the additional pensions of State retirement pensions and widows' benefits payable to or in respect of the earners concerned under the Contributions and Benefits Act, and the rates at which contributions payable by those earners under Part I of that Act, would be affected; and
- (g) describe (whether or not by reference to another document) any changes which would be made to the benefits provided under, and the contributions (if any) payable by the earners concerned to, the scheme if the proposed variation or surrender took place.
- (6) An employer who has given ^{F26}a notice under this regulation which is not about surrendering a contracting-out certificate due to the scheme winding up] shall undertake consultations, if he has not already done so, about the matters covered by the notice with all independent trade unions recognised in relation to the earners concerned and any question whether an employer has complied with this requirement may be referred to an industrial tribunal.
- (7) An election under this regulation may only be made after the date of the expiry of the notice given in accordance with paragraphs (4) and (5) and within 3 months of that date (or such longer period as the Secretary of State may in his discretion allow), so however that nothing in this paragraph shall prevent an election from being made after the giving of further notices which comply with the requirements of this regulation.
- (8) An employer may amend his election under this regulation at any time before the variation or surrender of the certificate if the amendment does not alter the categories or descriptions of the earners affected by the certificate ^{F27} or the date from which it is intended that the variation or surrender is to have effect].

Textual Amendments

- F19** Reg. 9(1) substituted (6.4.2002) by [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#) , regs. 1 , **2(4)**
- F20** Words in reg. 9(3)(b) omitted (6.4.2012) by virtue of [The Pensions Act 2007 \(Abolition of Contracting-out for Defined Contribution Pension Schemes\) \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/1245\)](#) , regs. 1(2) , **4(5)**
- F21** Words in reg. 9(5)(b) inserted (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#) , regs. 1(2)(b), **28(6)**
- F22** Word in reg. 9(5)(e)(i) inserted (6.4.2009) by [Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#) , regs. 1(2) , **4(2)(a)**

- F23** Word in reg. 9(5)(e)(ii) omitted (6.4.2009) by virtue of Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/615) , regs. 1(2) , **4(2)(b)**
- F24** Reg. 9(5)(e)(iii) renumbered as reg. 9(5)(ea) (6.4.2009) by Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/615) , regs. 1(2) , **4(2)(c)**
- F25** Words in reg. 9(5)(ea) inserted (6.4.2009) by Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/615) , regs. 1(2) , **4(2)(d)**
- F26** Words in reg. 9(6) substituted (6.4.2009) by Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/615) , regs. 1(2) , **4(2)(e)**
- F27** Words in reg. 9(8) added (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786) , reg. 1 , **Sch. 1 para. 4(7)**

Special provision with regard to elections for the issue, variation or surrender of certificates where [^{F28}(before the second abolition date)] the employment remains contracted-out.

10.—(1) Subject to ^{F29}... the provisions of this regulation, where in the case of an election with a view to the issue, variation or as the case may be, surrender of a contracting-out certificate the Secretary of State is satisfied, that—

- (a) any earner in respect of whose employment the election relates will continue to qualify for pensions which satisfy section 9(2) of the 1993 Act, ^{F30} ... under the scheme when the election takes effect;
- (b) the accrued rights to pensions which satisfy section 9(2) of the 1993 Act ^{F31} ... of that earner under that scheme, will be unaffected; and
- (c) the employment of the earner will continue to be contracted-out employment by reference to that same scheme, [^{F32}when the election takes effect]

then that election shall be made in writing to the Secretary of State and may be made without compliance with regulations 2(1), 4 and 5 and paragraphs (1) and (4) to (7) of regulation 9.

(2) Where, in accordance with paragraph (1), an election is made without compliance with the said provisions, the employer must give a notice in the manner mentioned in regulation 3(3) to—

- (a) the earners to whose employment the election relates; and
 - (b) the persons referred to in regulation 3(1)(b) to (d).
- (3) Notices given under paragraph (2) shall specify—
- (a) the name of the scheme;
 - (b) the reason for the election;
 - (c) the date [^{F33}(being a date before the second abolition date)] from when the change is to have effect; and
 - (d) the reasons why the election is being made without compliance with regulations 2(1), 4 and 5 and paragraphs (1) and (4) to (7) of regulation 9.

Textual Amendments

- F28** Words in reg. 10 inserted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(7)(a)**
- F29** Words in reg. 10(1) omitted (6.4.2016) by virtue of The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(7)(b)(i)**
- F30** Words in reg. 10(1)(a) omitted (6.4.2012) by virtue of The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245) , regs. 1(2) , **4(6)**

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- F31** Words in reg. 10(1)(b) omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) Order 2011 (S.I. 2011/1246) , arts. 1(2)(a) , **8(4)**
- F32** Words in reg. 10(1)(c) inserted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(7)(b)(ii)**
- F33** Words in reg. 10(3)(c) inserted (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **28(7)(c)**

Special circumstances in which the Secretary of State may determine earners to have been in contracted-out employment

^{F34}**11.**

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Textual Amendments

F34 Reg. 11 revoked (6.4.2016) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(b), **31(a)**

Special provision for holding companies and subsidiaries

^{F35}**12.**

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Textual Amendments

F35 Regs. 12-14 revoked (6.4.2019) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(c), **33(a)**

Special provision for public service pension schemes.

^{F35}**13.**

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Textual Amendments

F35 Regs. 12-14 revoked (6.4.2019) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(c), **33(a)**

Special provision for holders of pensionable judicial office.

^{F35}**14.**

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Textual Amendments

F35 Regs. 12-14 revoked (6.4.2019) by The Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015 (S.I. 2015/1677), regs. 1(2)(c), **33(a)**

Further information and change of circumstances.

15. An employer who makes an election with a view to the issue of a contracting-out certificate^{F36}..., shall furnish to the Secretary of State such reports, accounts and other documents and information relating to the scheme as the Secretary of State requires, and, in particular, shall

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notify the Secretary of State of any such change of circumstances affecting the scheme as he may have required the employer to notify as soon as practicable after its occurrence.

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Textual Amendments

F36 Words in reg. 15 omitted (6.4.2016) by virtue of [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#), regs. 1(2)(b), **28(8)**

Requirement to confirm relevant requirements are satisfied.

^{F37}**16.**

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Textual Amendments

F37 Regs. 16-21 revoked (6.4.2016) by [The Occupational Pension Schemes \(Schemes that were Contracted-out\) \(No.2\) Regulations 2015 \(S.I. 2015/1677\)](#), regs. 1(2)(b), **31(b)**

Changes to legislation:

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Changes and effects yet to be applied to :

- Instrument saved by [S.I. 1997/784 reg.8](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Act cert. functs. trans. (pt.prosp.) by [1999 c. 2 s.1 \(2\). Sch.2](#)