STATUTORY RULES OF NORTHERN IRELAND

1997 No. 140

PENSIONS

The Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations (Northern Ireland) 1997

Made - - - -	*10th March 1997*
Coming into operation	*6th April 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 165(8), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations (Northern Ireland) 1997 and shall come into operation on 6th April 1997.

(2) In these Regulations—

"the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993;

"scheme" means an occupational pension scheme or a personal pension scheme.

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954(**2**) shall apply to these Regulations as it applies to a Measure of the Assembly.

(4) For the purposes of these Regulations, and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954, where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

Application of regulations

2. These Regulations apply to any review under section 17 of the Social Security Administration (Northern Ireland) Act 1992(**3**) of any question falling to be determined by the Department by virtue

(**1**) 1993 c. 49; section 165(8) was added by paragraph 60(*c*) of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22))
(**2**) 1954 c. 33 (N.I.)
(**3**) 1992 c. 8

of section 165(7) of the 1993 Act(**4**) (questions arising in connection with the issue, cancellation or variation of contracting-out certificates or appropriate scheme certificates and other questions falling to be determined by the Department under the 1993 Act, not being questions under section 165(1)(*e*) of the 1993 Act(**5**)).

Applications to the Department for a review of a determination

3.—(1) An application to the Department for a review of a determination shall be made in writing and shall state—

(a) the name and address of the applicant;

(b) the names and addresses of the trustees or managers of the scheme;

(c) particulars of the determination in respect of which a review is sought;

(d) the reason why the applicant claims that he is a person interested in that determination;

(e) the grounds on which a review of the determination is sought.

(2) Notwithstanding paragraph (1), the Department may allow an application to be treated as properly made even if the requirements of that paragraph are not met.

(3) If, on receipt of an application for a review of a determination, the Department decides to refuse to review that determination it shall send written notice to the applicant of—

(a) that refusal;

(b) the reasons for that refusal; and

(c) the right of appeal to the Court of Appeal on a question of law.

(4) If, on receipt of an application for a review of a determination, the Department decides to review that determination it shall send written notice of the application and of its intention to review that determination to—

(a) the applicant;

(b) the trustees or managers of the scheme;

(c) any other person (including a person who is an employer of persons in service in an employment to which the scheme applies) who in the opinion of the Department should be given such notice,

and the notice shall state that any person to whom it is given may request a formal hearing of the review and may make representations in connection with the review to the Department within 21 days of receipt of the notice.

Formal hearings in connection with reviews

4.—(1) If the applicant for a review of a determination or any person to whom notice of the application has been given under regulation 3(4) requests a formal hearing of the application, the Department shall grant the request unless, after considering the grounds of the application and any reasons given for the request, it is satisfied that the review of the determination can properly be made without such a hearing.

(2) If the Department is satisfied that the review can properly be made without a formal hearing, it shall inform the person making the request of its refusal and of the reason for that refusal and may proceed to review the determination without such a hearing, but it shall not proceed to make its review of the determination until it has allowed the person making the request at least 21 days to make any written submissions in connection with the review.

(**4**) Section 165(7) was added by paragraph 60(*c*) of Schedule 3 to the Pensions (Northern Ireland) Order 1995
(**5**) Section 165(1)(*e*) is substituted by paragraph 60(*a*)(iii) of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(3) If, in accordance with the provisions of paragraph (1), a request for a formal hearing has been granted, or if no request has been made but the Department is otherwise satisfied that a formal hearing is desirable, reasonable notice (being at least 21 days or such lesser period as the Department, with the agreement of all persons to whom notice of the hearing has been given, may think fit) of the time and place of the hearing shall be given to every person to whom notice of the application has been given under regulation 3(4).

(4) In any case in which a formal hearing of a review is held such hearing shall be in public except where the Department is satisfied that, by reason of the confidential or sensitive nature of matters raised, it is just and reasonable for the hearing or any part of it to be in private.

(5) Any person to whom notice of the hearing has been given under paragraph (3) shall be entitled to be heard at the hearing and may give evidence and call witnesses and shall be given an opportunity of putting questions directly to any witness called at the hearing.

(6) A person who has the right to be heard shall be entitled to be represented by another person whether legally qualified or not.

(7) If any person to whom notice of the hearing has been given under paragraph (3) fails to appear or be represented at the hearing, the Department may proceed with the hearing notwithstanding the absence of the person or his representative.

Procedure for review decision

5.—(1) Subject to paragraph (2), the Department shall allow a period of at least 21 days to elapse after the sending of the notices required by regulation 3(4) and it shall then proceed to review the determination as soon as practicable with a view to confirming, varying or revoking that determination having regard to any representations that it has received.

(2) The Department may allow a period of less than 21 days to elapse before proceeding to review the determination in accordance with paragraph (1) with the agreement of all persons to whom notice of the application has been given.

(3) If it appears to the Department that any review involves a question of special difficulty, it may take the advice and assistance of an assessor who has the relevant professional qualifications.

(4) When the Department has made a determination on a review it shall record that determination in writing and as soon as practicable shall send notice in writing of—

(a) the determination;

(b) the reasons for the determination; and

(c) the right to appeal to the Court of Appeal on a question of law,

to every person to whom notice was sent under regulation 3(4).

Review by the Department without an application being made

6. In any case where the Department enters upon a review of a determination without an application for review being made, the provisions of regulations 3(4), 4 and 5 shall apply as if the review were being entered upon consequent upon an application being made, save that the notice referred to under regulation 3(4) shall not refer to any application and any reference to the applicant shall be disregarded.

Revocations

7. The Regulations listed in column 2 of the Schedule are revoked to the extent specified in column 3 of that Schedule.