STATUTORY RULES OF NORTHERN IRELAND

1997 No. 39

PENSIONS

The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997

Made - - - -	*3rd February 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 142(4) and (6)(*b*) and (*c*), 147A, 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 Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1997 and shall come into operation on 6th April 1997.

(2) In these Regulations—

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

"administrator" means any person, other than a person responsible for the management of an occupational or a personal pension scheme within the meaning of section 142(3) and (3A) of the Act, concerned with the administration of the scheme;

"actual or potential beneficiaries" has the same meaning as in section 142(7) of the Act;

"complaint" means a complaint falling within section 142(1)(*a*) or (*b*) of the Act (complaint of maladministration);

"dispute" means a dispute falling within section 142(1)(*c*) or (*d*) of the Act (disputes of fact or law).

(3) In these Regulations any reference to a numbered Article is a reference to the Article of the Pensions (Northern Ireland) Order 1995(**2**) bearing that number.

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

(**1**) 1993 c. 49; section 142 was amended by Article 153(2) and (3) of the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22)) and section 147A was inserted by Article 156 of that Order
(**2**) S.I. 1995/3213 (N.I. 22)
(**3**) 1954 c. 33 (N.I.)

Jurisdiction in relation to administrators

2.—(1) The Pensions Ombudsman may investigate and determine a complaint concerning the administration of an occupational or a personal pension scheme made to him by or in respect of an actual or potential beneficiary of the scheme who alleges that he has sustained injustice in consequence of maladministration in connection with an act or omission of an administrator.

(2) Where the Pensions Ombudsman commences an investigation under paragraph (1), the provisions of Part X of the Act (investigations: the Pensions Ombudsman) shall apply in relation to the administrator as they would apply in relation to a person responsible for the management of the scheme.

Exclusion from jurisdiction: use of internal disputes procedure

3.—(1) In a case to which Article 50 applies (internal dispute resolution), the Pensions Ombudsman shall not, subject to paragraph (2) of this regulation, investigate or determine a complaint or dispute concerning an occupational pension scheme unless written notice of a decision in respect of that complaint or dispute has first been issued by the trustees or managers of the scheme under the arrangements required by Article 50(2)(*b*).

(2) Where, in a case to which Article 50 applies, an application concerning a complaint or dispute has been made to an occupational pension scheme under the arrangements required by that Article, the Pensions Ombudsman may investigate and determine that complaint or dispute in advance of written notice of a decision being issued in respect of it under Article 50(2)(*a*) or (*b*) provided he is satisfied that—

(a) there is no real prospect of a notice being issued within a reasonable period from the date on which the complaint or dispute was received by him in writing; and

(b) it is reasonable in the circumstances that he should investigate and determine the complaint or dispute.

Exclusions from jurisdiction

4.—(1) The Pensions Ombudsman shall not investigate or determine any complaint or dispute which can be investigated by, or under arrangements made by—

(a) an organisation which is a recognised self-regulating organisation for the purposes of section 10 of the Financial Services Act 1968(**4**) (grant of recognition by the Secretary of State); or

(b) a designated agency for the purposes of section 114 of the Financial Services Act 1986(**5**) (power of Secretary of State to transfer functions to a designated agency),

other than a complaint or dispute relating to the management of a personal pension scheme.

(2) For the purposes of the investigation or determination of any complaint or dispute, the Pensions Ombudsman shall not make any findings of fact to the effect that a person responsible for the management of an occupational pension scheme has failed to comply with the requirements under the following provisions—

(a) Articles 16 to 21 (requirement for member-nominated trustees etc.);

(**4**) 1986 c. 60; Recognition Orders relevant for these purposes have been made in relation to the Investment Management Regulatory Organisation, the Financial Intermediaries Managers and Brokers Association, the Life Assurance and Unit Trust Regulatory Organisation, the Securities and Futures Authority and the Personal Investment Authority. A certified copy of the register entry relating to any of these recognitions may be obtained from the Securities and Investments Board under section 103(5) of the Financial Services Act 1986

(**5**) Section 114 was amended by section 193(2) of, and paragraph 12 of Schedule 23 to, the Companies Act 1989 (c. 40). *See also* section 206 of that Act and the Financial Services Act 1986 (Delegation) Order 1987 (S.I. 1987/942) as amended by article 4 of S.I. 1991/200