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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 203**

**PENSIONS**

**The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations (Northern Ireland) 1996**

*Made* - - - - *16th May 1996*  
*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 Articles 10(2)(b) and 50(1), (2)(a), (3) and (7) of the Pensions (Northern Ireland) Order 1995(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 Pension Schemes (Internal Dispute Resolution Procedures) Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1997.

(2) In these Regulations—

“the Order” means the Pensions (Northern Ireland) Order 1995;

“scheme” means an occupational pension scheme;

“prospective member” means any person who under the terms of his contract of service or the scheme rules—

- (a) is able, at his own option, to become a member of the scheme;
- (b) will become so able if he continues in the same employment for a sufficiently long period;
- (c) will be admitted to it automatically unless he makes an election not to become a member, or
- (d) may be admitted to it subject to the consent of his employer.

**Meaning of “prescribed persons” and “complainant of a prescribed description”**

2.—(1) For the purposes of Article 50(1) of the Order (requirement for schemes to make arrangements for the resolution of disagreements between prescribed persons) and of these Regulations, the prescribed persons are, on the one hand, the trustees or managers of the scheme and, on the other hand—

- (a) the active, deferred and pensioner members of the scheme;

- (b) a widow, widower or surviving dependant of a deceased member of the scheme;
- (c) prospective members of the scheme;
- (d) persons who ceased to be within any of the categories of persons referred to in sub-paragraphs (a) to (c) within the 6 months immediately preceding the date of an application under regulation 4, and
- (e) where there is a disagreement which relates to a question whether a person who claims to be such a person as is mentioned in sub-paragraphs (a) to (d) is such a person, the person so claiming.

(2) For the purposes of Article 50(2) of the Order (resolution of a disagreement on the application of a complainant) and of these Regulations, a complainant of a prescribed description is a person referred to in paragraph (1)(a) to (e).

### **Representation**

3.—(1) An application under the arrangements required by Article 50 of the Order may be made or continued on behalf of a complainant by a representative nominated by him.

(2) Where a complainant dies or is a minor or is otherwise incapable of acting for himself, an application may be made or continued on his behalf—

- (a) in the case of his death, by his personal representative, and
- (b) in any other case, by a member of his family or other person suitable to represent him.

### **Application for a decision**

4.—(1) An application for a decision under the arrangements required by Article 50(2)(a) of the Order shall set out particulars of the disagreement in respect of which a decision is sought.

(2) The particulars shall include—

- (a) where the complainant is a person described in regulation 2(1)(a), (c) or (d) or a person claiming to be such under regulation 2(1)(e), the full name, address, date of birth and the national insurance number of the complainant;
- (b) where the complainant is a person described in regulation 2(1)(b) or a person claiming to be such under regulation 2(1)(e), the full name, address and date of birth of the complainant, his relationship to the scheme member and the full name, address, date of birth and national insurance number of the deceased scheme member;
- (c) the full name and address of any representative acting on behalf of the complainant and whether such address is the address to be used for service on the complainant of any documents in connection with the disagreement;
- (d) a statement as to the nature of the disagreement with sufficient details to show why the complainant is aggrieved.

(3) The application shall be signed by or on behalf of the complainant.

### **Notice of a decision**

5.—(1) Subject to paragraph (3), a decision on the matters raised by an application under regulation 4 shall be issued to the complainant and, where applicable, his representative by notice in writing within 2 months from the date on which the particulars specified in regulation 4(2) were received.

(2) The notice shall include—

- (a) a statement of the decision;

- (b) a reference to any legislation relied upon;
- (c) a reference to such parts of any scheme rules relied upon and, where a discretion has been exercised, a reference to such parts of the scheme rules by which such discretion is conferred, and
- (d) a reference to the complainant's right to refer the disagreement for reconsideration by the trustees or managers of the scheme within the time limit described in regulation 6(1).

(3) If, in any case, written notice of a decision under Article 50(2)(a) of the Order is not issued within 2 months from the date on which particulars of the disagreement were received an interim reply must immediately be sent to the complainant and, where applicable, his representative setting out the reasons for the delay and an expected date for issuing the decision.

### **Referral of disagreement to the trustees or managers**

6.—(1) An application to the trustees or managers of a scheme to reconsider a disagreement in respect of which a decision referred to in regulation 5 has been made may be made within 6 months from the date of the notice of the decision and shall set out particulars of the grounds on which the application is made.

- (2) The particulars shall include—
  - (a) the matters referred to in regulation 4(2)(a) to (c);
  - (b) a copy of the notice of the decision made under Article 50(2)(a) of the Order;
  - (c) a statement of the reasons why the complainant is dissatisfied with the decision made under Article 50(2)(a) of the Order, and
  - (d) a statement that the complainant wishes the disagreement to be reconsidered by the trustees or managers of the scheme.
- (3) The application shall be signed by or on behalf of the complainant.

### **Notice of decision from trustees or managers**

7.—(1) Subject to paragraph (3), the trustees (or managers) of a scheme shall issue to the complainant and, where applicable, his representative a notice in writing of their decision on the matters raised under regulation 6 within 2 months from the date on which the particulars specified in regulation 6(2) were received by them.

- (2) The notice shall include—
  - (a) a statement of the decision and an explanation as to whether and, if so, to what extent that decision either confirms or replaces the decision made under Article 50(2)(a) of the Order;
  - (b) a reference to any legislation relied upon;
  - (c) a reference to such parts of any scheme rules relied upon and, where a discretion has been exercised, a reference to such parts of the scheme rules by which such discretion is conferred;
  - (d) a statement that the Occupational Pensions Advisory Service<sup>(2)</sup> is available to assist members and beneficiaries of the scheme in connection with difficulties which they have failed to resolve with the trustees or managers of the scheme and the address at which it may be contacted, and
  - (e) a statement that the Pensions Ombudsman<sup>(3)</sup> may investigate and determine any complaint or dispute of fact or law in relation to a scheme made or referred in accordance

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(2) The Occupational Pensions Advisory Service's address for correspondence is 11 Belgrave Road, London SW1V 1RB

(3) The Pensions Ombudsman is appointed under section 145(2) of the Pension Schemes Act 1993 (c. 48)

with the Pension Schemes (Northern Ireland) Act 1993<sup>(4)</sup> and the address at which he may be contacted.

(3) If, in any case, written notice of a decision under Article 50(2)(b) of the Order is not issued within 2 months from the date on which particulars of the disagreement were received under regulation 6, an interim reply must immediately be sent to the complainant and, where applicable, his representative setting out the reasons for the delay and an expected date for issuing the decision.

#### **Exempted schemes**

8. The requirements of Article 50 of the Order shall not apply to the following schemes—
- (a) schemes in which all the members are trustees;
  - (b) schemes with no more than one member.

#### **Exempted disagreements**

9. The requirements of Article 50(1) of the Order shall not apply to a disagreement if, in respect of that disagreement—

- (a) proceedings have been begun in any court or tribunal;
- (b) the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him, or
- (c) a notice of appeal has been issued by the complainant under Article 61 of the Firemen's Pension Scheme Order (Northern Ireland) 1973<sup>(5)</sup> or regulation H2 of the Royal Ulster Constabulary Pensions Regulations 1988<sup>(6)</sup>.

#### **Civil penalties**

10. For the purposes of Article 50(6) of the Order, the maximum amount of the penalty which may be imposed by the Authority under Article 10(2)(b) of the Order is—

- (a) £1,000 in the case of an individual, and
- (b) £10,000 in any other case.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on .

16th May 1996

*W. G. Purdy*  
Assistant Secretary

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(4) 1993 c. 49

(5) S.R. & O. (N.I.) 1973 No. 393; relevant amending order is S.R. 1976 No. 216; see also S.R. & O. (N.I.) 1973 No. 504

(6) S.R. 1988 No. 374

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## EXPLANATORY NOTE

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

The Pensions (1995 Order) (Commencement No. 2) Order (Northern Ireland) 1995 (S.R. [1996 No. 91](#) (C. 4)) provides for the coming into operation of Articles 10(2) and 50 of the Pensions (Northern Ireland) Order 1995 (“the Order”), the enabling provisions under which these Regulations are made, on 6th April 1996 for the purposes only of authorising the making of regulations. As the Regulations are made before the end of a period of six months from the commencement of those Articles, the requirement for consultation under Article 117(1) of the Order does not apply by virtue of paragraph (2)(c) of that Article.

Regulation 2 makes provision as to the persons to whom the arrangements made for the resolution of disagreements shall apply and as to who may bring complaints.

Regulation 3 makes provision so as to enable a representative to act on behalf of the complainant.

Regulations 4 to 7 make provision as to the manner in which applications are to be made and decisions given.

Regulations 8 and 9 make provision for the arrangements made for the resolution of disagreements not to apply in certain cases.

Regulation 10 makes provision as to the maximum penalty which may be imposed by the Occupational Pensions Regulatory Authority in any case where the Authority are satisfied that the arrangements required by Article 50 of the Order have not been made or are not being implemented by a scheme.