
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART VI

**OCCUPATIONAL AND PERSONAL PENSION
SCHEMES: MISCELLANEOUS PROVISIONS**

Pension disputes

Resolution of disputes

250. For Article 50 of the 1995 Order (resolution of disputes) substitute—

“Requirement for dispute resolution arrangements

50.—(1) The trustees or managers of an occupational pension scheme must secure that dispute resolution arrangements are made and implemented.

(2) Dispute resolution arrangements are such arrangements as are required by this Article for the resolution of pension disputes.

(3) For this purpose a pension dispute is a dispute which—

(a) is between—

(i) the trustees or managers of a scheme, and

(ii) one or more persons with an interest in the scheme (see Article 50A),

(b) is about matters relating to the scheme, and

(c) is not an exempted dispute (see paragraph (9)).

(4) The dispute resolution arrangements must provide a procedure—

(a) for any of the parties to the dispute mentioned in paragraph (3)(a)(ii) to make an application for a decision to be taken on the matters in dispute (“an application for the resolution of a pension dispute”), and

(b) for the trustees or managers to take that decision.

(5) Where an application for the resolution of a pension dispute is made in accordance with the dispute resolution arrangements, the trustees or managers must—

(a) take the decision required on the matters in dispute within a reasonable period of the receipt of the application by them, and

(b) notify the applicant of the decision within a reasonable period of it having been taken.

(6) The procedure provided for by the dispute resolution arrangements must include the provision required by Article 50B.

(7) Dispute resolution arrangements under paragraph (1) must, in the case of existing schemes, have effect on and after the date of the coming into operation of this Article in relation to applications made on or after that date.

(8) This Article does not apply in relation to an occupational pension scheme if—

- (a) every member of the scheme is a trustee of the scheme,
- (b) the scheme has no more than one member, or
- (c) the scheme is of a prescribed description.

(9) For the purposes of this Article a dispute is an exempted dispute if—

- (a) proceedings in respect of it have been commenced in any court or tribunal,
- (b) the Pensions Ombudsman has commenced an investigation in respect of it as a result of a complaint made or a dispute referred to him, or
- (c) it is of a prescribed description.

(10) If, in the case of an occupational pension scheme, the dispute resolution arrangements required by this Article to be made—

- (a) have not been made, or
- (b) are not being implemented,

Article 10 applies to any of the trustees or managers who have failed to take all reasonable steps to secure that such arrangements are made or implemented.

Meaning of “person with an interest in the scheme”

50A.—(1) For the purposes of Article 50 a person is a person with an interest in an occupational pension scheme if—

- (a) he is a member of the scheme,
- (b) he is a widow, widower or surviving dependant of a deceased member of the scheme,
- (c) he is a surviving non-dependant beneficiary of a deceased member of the scheme,
- (d) he is a prospective member of the scheme,
- (e) he has ceased to be within any of the categories of persons referred to in sub-paragraphs (a) to (d), or
- (f) he claims to be such a person as is mentioned in sub-paragraphs (a) to (e) and the dispute relates to whether he is such a person.

(2) In paragraph (1)(c) a “non-dependant beneficiary”, in relation to a deceased member of an occupational pension scheme, means a person who, on the death of the member, is entitled to the payment of benefits under the scheme.

(3) In paragraph (1)(d) a “prospective member” means any person who, under the terms of his contract of service or the rules of the scheme—

- (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 the scheme 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.

The dispute resolution procedure

50B.—(1) The procedure provided for by the dispute resolution arrangements under Article 50 must include the following provision.

(2) The procedure must provide that an application for the resolution of a pension dispute under Article 50(4) may be made or continued on behalf of a person who is a party to the dispute mentioned in Article 50(3)(a)(ii)—

- (a) where the person dies, by his personal representative,
- (b) where the person is a minor or is otherwise incapable of acting for himself, by a member of his family or some other person suitable to represent him, and
- (c) in any other case, by a representative nominated by him.

(3) The procedure may include provision about the time limits for making an application for the resolution of a pension dispute but it must require that—

- (a) in the case of a person with an interest in a scheme as mentioned in Article 50A(1)(e), the time limit for making an application is the end of the period of six months beginning immediately after the date upon which he ceased to be a person with an interest as mentioned in Article 50A(1)(a), (b), (c) or (d), and
- (b) in the case of a person with an interest in a scheme as mentioned in Article 50A(1)(f) who is claiming to be such a person as is mentioned in Article 50A(1)(e), the time limit for making an application is the end of the period of six months beginning immediately after the date upon which he claims that he ceased to be a person with an interest as mentioned in Article 50A(1)(a), (b), (c) or (d).

(4) The procedure must include provision about—

- (a) the manner in which an application for the resolution of a pension dispute is to be made,
- (b) the particulars which must be included in such an application, and
- (c) the manner in which any decisions required are to be reached and given.

(5) The procedure must provide that if, after an application for the resolution of a pension dispute has been made, the dispute becomes an exempted dispute within the meaning of Article 50(9)(a) or (b), the resolution of the dispute under the procedure ceases.”.