
STATUTORY INSTRUMENTS

1991 No. 588

PENSIONS

**The Personal and Occupational Pension Schemes
(Pensions Ombudsman) Regulations 1991**

<i>Made</i>	- - - -	<i>11th March 1991</i>
<i>Laid before Parliament</i>		<i>11th March 1991</i>
<i>Coming into force</i>	- -	<i>1st April 1991</i>

The Secretary of State for Social Security in exercise of the powers conferred by sections 166(1) to (3A) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(1), sections 59C(3) and (5) and 66(2) of the Social Security Pensions Act 1975(2) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations in so far as they are made under powers In section 59C(5) of the Social Security Pensions Act should not be referred to it, by this instrument, which is otherwise made before the end of a period of 6 months from the coming into force of section 12 of and Schedule 3 to the Social Security Act 1990(3) 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 1991 and shall come into force on 1st April 1991.

(2) In these Regulations—

“the Pensions Act” means the Social Security Pensions Act 1975;

“complaint” means (except in the context of a complaint to the Defence Council as referred to in paragraph (c) of regulation 3) a complaint falling within section 59C(1) of the Pensions Act (complaint of maladministration);

“dispute” means a dispute falling within section 59C(2) of the Pensions Act (disputes of fact or law);

and other expressions have the same meaning as in the Pensions Act.

(1) 1975 c. 14. Sections 166(1) to (3A) and 168(1) apply by virtue of section 66(2) of the Social Security Pensions Act 1975 (c. 60) to the exercise of certain powers conferred by that Act.
(2) 1975 c. 60; section 59C was inserted by section 12(1) of, and Schedule 3 to, the Social Security Act 1990 (c.27).
(3) 1990 c. 27. See the Social Security Act 1986 (c. 50), section 61 (1)(b) and (5) as substituted by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 12(3). Section 12 of and Schedule 3 to the Social Security Act 1990 were brought into force by S.I.1900/1446.

Extension of Pensions Ombudsman's jurisdiction to employers

2.—(1) The Pensions Ombudsman may, in relation to an occupational pension scheme, investigate and determine any complaint or dispute involving an authorised complainant and the employer to which the scheme relates or has related.

(2) Where the Pensions Ombudsman commences an investigation under paragraph (1), the provisions of Part IVA of the Pensions Act (the Pensions Ombudsman) shall apply in relation to the employer as they would apply in relation to the trustees or managers of such a scheme.

Exclusion from jurisdiction

3. The Pensions Ombudsman shall not investigate or determine—

- (a) any complaint or dispute which can be investigated by, or under arrangements made by,—
 - (i) an organisation which is a recognised self-regulating organisation for the purposes of section 10 of the Financial Services Act 1986(4) (grant of recognition by the Secretary of State), or
 - (ii) 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;
- (b) any dispute in relation to a public service pension scheme, other than the National Health Service Superannuation Scheme for England and Wales established under section 10 of the Superannuation Act 1972(6) (superannuation of persons engaged in health services etc);
- (c) any complaint or dispute in respect of which there is a right to make a complaint to the Defence Council by virtue of—
 - (i) sections 180 and 181 of the Army Act 1955(7) (complaints by officers and soldiers),
 - (ii) sections 180 and 181 of the Air Force Act 1955(8) (complaints by officers and airmen), or
 - (iii) section 130 of the Naval Discipline Act 1957(9) (redress of complaints).

Time limit for making of complaints and reference of disputes

4.—(1) Subject to paragraphs (2) and (3), the Pensions Ombudsman shall not investigate a complaint or dispute if the act or omission which is the subject thereof occurred more than three years before the date on which the making of the complaint or the referral of the dispute is received by him in writing.

(2) Where, at the date of its occurrence, the authorised complainant was unaware of the act or omission referred to in paragraph (1), the period of three years shall begin on the earliest date on which he knew or ought reasonably to have known of its occurrence.

(3) Where it was not reasonably practicable for a complaint or dispute to be made or referred before the end of the period allowed under paragraph (1) or (2), the Pensions Ombudsman may

(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 Regulatory Association and the Life Assurance and Unit Trust Regulatory Organisation. A certified copy of the register entry relating to any of these recognitions may be obtained from the Security and Investments Board under section 103(5) of the Financial Services Act 1986.

(5) See the Financial Services Act 1986 (Delegation) Order 1987 (S.I. 1987/942).

(6) 1972 c. 11; the current regulations are the National Health Service (Superannuation) Regulations 1980 (S.I. 1980/362) to which there are amendments.

(7) 1955 c. 18.

(8) 1955 c. 19.

(9) 1957 c. 53.

nonetheless investigate and determine such complaint or dispute if it is made or referred within such further period as he considers reasonable.

Signed by authority of the Secretary of State for Social Security.

11th March 1991

Henley
Parliamentary Under-Secretary of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under subsections 59C(3) and (5) of the Social Security Pensions Act 1975 (“the Pensions Act”) as inserted by Schedule 3 to the Social Security Act 1990.

The Regulations make provision in relation to the Pensions Ombudsman established under section 59B(1) of that Act.

Regulation 2 makes provision for the extension of the Ombudsman’s jurisdiction to the employer in relation to an occupational pension scheme.

Regulation 3 excludes from the jurisdiction of the Pensions Ombudsman a complaint or dispute relating to the armed forces pension scheme in a case where there is a right to make a complaint to the Defence Council, disputes of fact or law in respect of public service schemes (other than the National Health Service Superannuation Scheme for England and Wales) and certain complaints and disputes which can be investigated by, or under arrangements made by, a recognised self-regulating organisation or a designated agency under the Financial Services Act 1986.

Regulation 4 makes provision as to the time limits for bringing a case to the Pensions Ombudsman.

These Regulations, except in so far as they are made under the powers in section 59C(5) of the Social Security Pensions Act 1975 are made before the expiry of 6 months from the coming into force of the provisions under which they are made; they are accordingly exempt by section 61(5) of that Act from reference to the Social Security Advisory Committee and have not been so referred.