
STATUTORY INSTRUMENTS

1996 No. 2638

PENSIONS

The Personal and Occupational Pension Schemes (Pensions Ombudsman) (Procedure) Amendment Rules 1996

Made - - - - *15th October 1996*

Coming into force - - *6th April 1997*

The Secretary of State for Social Security, in exercise of the powers conferred by section 149(2) and (3) of the Pension Schemes Act 1993(1), and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(2), hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Personal and Occupational Pension Schemes (Pensions Ombudsman) (Procedure) Amendment Rules 1996 and shall come into force on 6th April 1997.

(2) In these Rules—

“the principal Rules” means the Personal and Occupational Pension Schemes (Pensions Ombudsman) (Procedure) Rules 1995(3).

Amendment of the principal Rules

2.—(1) In paragraph (2) of rule 1 of the principal Rules—

- (a) in the definition of “complaint”, for the words “section 146(1)” there shall be substituted the words “section 146(1)(a) and (b)”;
- (b) after the definition of “complaint” there shall be inserted the definition ““complainant” means a person by or in respect of whom the complaint is made or dispute is referred under section 146(1) of the Pension Schemes Act;”;
- (c) in the definition of “dispute”, for the words “section 146(2)” there shall be substituted the words “section 146(1)(c) and (d)”;

(1) 1993 c. 48. Section 149(3) of the Pension Schemes Act 1993 was amended by section 158 of the Pensions Act 1995 (c. 26) which added a new paragraph (3)(c).
(2) 1992 c. 53.
(3) S.I.1995/1053.

- (d) for sub-paragraph (a) of the definition of “respondent” there shall be substituted the words “(a) a person responsible for the management of a personal or an occupational pension scheme, or”; and
 - (e) for sub-paragraph (b) of the definition of “respondent” there shall be substituted the words “(b) any other person to whom Part X of the Pension Schemes Act applies as it applies to a person responsible for the management of a personal or an occupational pension scheme”.
- (2) In rule 2(1) of the principal Rules, for the words “An authorised complainant” there shall be substituted the words “a complainant” and, in each place where they appear in the principal Rules, for the words “the authorised complainant” there shall be substituted the words “the complainant”.
- (3) After rule 15 of the principal Rules, there shall be inserted the following rule—

“Payment of travel and subsistence expenses and compensation for lost earnings

15A.—(1) Where the Pensions Ombudsman considers it appropriate for an oral hearing to be held in connection with an investigation conducted by him, he may, having regard to the particular circumstances of the case, make payments in respect of allowances, fees and expenses in accordance with the following provisions of this rule.

(2) In this rule, “specified” in relation to any amount means the amount determined by the Secretary of State from time to time and notified by him to the Pensions Ombudsman.

(3) Sub-paragraphs (a) to (c) of paragraph (4) apply only in respect of complaints or disputes in which the complainant is an actual or potential beneficiary of a personal or an occupational pension scheme.

(4) Subject to paragraph (3), travelling expenses actually and reasonably incurred may be paid to the following—

- (a) in a case where the complainant attends the hearing, that person;
- (b) in a case where the complainant cannot, for reasons of ill health or incapacity, attend the hearing but is represented at the hearing by a relative or friend who is not receiving any form of remuneration in connection with his involvement in the complaint or dispute, that relative or friend;
- (c) in a case where the complainant requires, for reasons of ill health or incapacity, to be accompanied at the hearing by an attendant, that attendant;
- (d) a witness, other than a medical or other expert witness, attending the hearing where an application has been made in writing to the Pensions Ombudsman and the Pensions Ombudsman certifies that, in the circumstances of the case, the attendance of the witness is necessary or desirable.

(5) An allowance in respect of day and, where applicable, overnight subsistence may be paid at the specified rate to the persons and in the circumstances mentioned in paragraph (4).

(6) An allowance in respect of travel and subsistence expenses may be paid in advance of a hearing to the persons and in the circumstances mentioned in paragraph (4) where the Pensions Ombudsman is satisfied that such persons would not otherwise be able to attend the hearing.

(7) Compensation in respect of lost earnings may be paid, subject to the specified daily maximum, to the persons and in the circumstances mentioned in paragraph (4) where the Pensions Ombudsman is satisfied that—

- (a) by attending the hearing, such persons have experienced an interruption in employment which results in a reduction in their gross earnings; and
- (b) had such persons not attended the hearing, their gross earnings in respect of the period of interruption of employment would not have been less than the amount claimed.

(8) A claim for travel and subsistence expenses or, as the case may be, for compensation in respect of lost earnings must be made in writing to the Pensions Ombudsman and must be accompanied by full particulars and evidence of the expenses and lost earnings claimed.

(9) In any case where the Pensions Ombudsman considers it appropriate to hold an oral hearing in connection with an investigation conducted by him, he must immediately provide to an actual or potential beneficiary and, on request, to any other person full particulars of the arrangements made for the payment of specified travel and subsistence expenses, including information about advance payments and compensation in respect of lost earnings.”.

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

15th October 1996

Oliver Heald
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 Rules)

These Rules amend the Personal and Occupational Pension Schemes (Pensions Ombudsman) (Procedure) Rules 1995 (“the principal Rules”) which make provision as to the procedure to be followed where a complaint or dispute relating to an occupational or personal pension scheme is referred to the Pensions Ombudsman under Part X of the Pension Schemes Act 1993 (“the Act”).

Rule 1 provides for the citation, commencement and interpretation of the Rules.

Rules 2(1) and 2(2) make amendments to certain definitions used in the principal Rules to reflect amendments to the Act made by the Pensions Act 1995.

Rule 2(3) inserts a new rule 15A into the principal Rules which makes provision for the Pensions Ombudsman to pay travel and subsistence expenses and compensation for lost earnings in certain cases to those who attend oral hearings in connection with an investigation by the Pensions Ombudsman of a complaint or dispute.

An assessment of the compliance cost to business of the measures arising from the Pensions Act 1995, including these Rules, has been prepared and a copy has been placed in the libraries of both Houses of Parliament. Copies may be obtained by post from the Department of Social Security, 11th floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.