2000 CHAPTER 4

# PART II

## PENSIONS

## CHAPTER II

## OCCUPATIONAL AND PERSONAL PENSION SCHEMES

*Other provisions*

**Jurisdiction of the Pensions Ombudsman**

**49.**—(1) Section 142 of the Pension Schemes Act (functions of the Pensions Ombudsman) shall be amended as follows.

(2) In subsection (1), after paragraph (b) there shall be inserted—

"(ba) a complaint made to him by or on behalf of an independent trustee of a trust scheme who, in connection with any act or omission which is an act or omission either—

(i) of trustees of the scheme who are not independent trustees, or

(ii) of former trustees of the scheme who were not independent trustees,

alleges maladministration of the scheme,".

(3) In that subsection, for the words after sub-paragraph (ii) of paragraph (d) there shall be substituted—

"and in a case falling within sub-paragraph (ii) references in this Part to the scheme to which the reference relates are references to each of the schemes,

(e) any dispute not falling within paragraph (f) between different trustees of the same occupational pension scheme,

(f) any dispute, in relation to a time while Article 22 of the Pensions (Northern Ireland) Order 1995 (schemes subject to insolvency procedures) applies in relation to an occupational pension scheme, between an independent trustee of the scheme and either—

(i) trustees of the scheme who are not independent trustees, or

(ii) former trustees of the scheme who were not independent trustees, and

(g) any question relating, in the case of an occupational pension scheme with a sole trustee, to the carrying out of the functions of that trustee.".

(4) After that subsection there shall be inserted—

"(1A) The Pensions Ombudsman shall not investigate or determine any dispute or question falling within subsection (1)(c) to (g) unless it is referred to him—

(a) in the case of a dispute falling within subsection (1)(c), by or on behalf of the actual or potential beneficiary who is a party to the dispute,

(b) in the case of a dispute falling within subsection (1)(d), by or on behalf of any of the parties to the dispute,

(c) in the case of a dispute falling within subsection (1)(e), by or on behalf of at least half the trustees of the scheme,

(d) in the case of a dispute falling within subsection (1)(f), by or on behalf of the independent trustee who is a party to the dispute,

(e) in the case of a question falling within subsection (1)(g), by or on behalf of the sole trustee.

(1B) For the purposes of this Part any reference to or determination by the Pensions Ombudsman of a question falling within subsection (1)(g) shall be taken to be the reference or determination of a dispute.".

(5) In subsection (3), after "occupational pension scheme" there shall be inserted "or a personal pension scheme".

(6) In subsection (6) for paragraph (a) there shall be substituted—

"(a) if, before the making of the complaint or the reference of the dispute—

(i) proceedings in respect of the matters which would be the subject of the investigation have been begun in any court or industrial tribunal, and

(ii) those proceedings are proceedings which have not been discontinued or which have been discontinued on the basis of a settlement or compromise binding all the persons by or on whose behalf the complaint or reference is made;".

(7) In subsection (7)—

(a) after paragraph (b) there shall be inserted—

"(ba) a person who is entitled to a pension credit as against the trustees or managers of the scheme;"; and

(b) in paragraph (c)(i), for "paragraph (a) or (b)" there shall be substituted "paragraph (a), (b) or (ba)".

(8) In subsection (8) after the definition of "employer" there shall be inserted—

""independent trustee", in relation to a scheme, means—

(a) a trustee of the scheme appointed under Article 23(1)(b) of the Pensions (Northern Ireland) Order 1995 (appointment of independent trustee by insolvency practitioner or official receiver),

(b) a person appointed under Article 7(1) of that Order to replace a trustee falling within paragraph (a) or this paragraph;".

(9) In subsection (1)—

(a) for "complaints and disputes" there shall be substituted "matters";

(b) in paragraph (b), for the words from "is to" to the end of the paragraph there shall be substituted "are references to the other scheme referred to in that sub-paragraph"; and

(c) in paragraphs (c) and (d), the words "which arises" shall cease to have effect.

(10) Subsection (6) shall not have effect in relation to proceedings begun before the day appointed under section 68 for the coming into operation of this section.