



Pensions Act 1995

1995 CHAPTER 26

PART IV

MISCELLANEOUS AND GENERAL

Pensions Ombudsman

156 Employment of staff by the Pensions Ombudsman

For section 145(4) of the Pension Schemes Act 1993 (staff of the Pensions Ombudsman), there is substituted—

“(4A) The Pensions Ombudsman may (with the approval of the Secretary of State as to numbers) appoint such persons to be employees of his as he thinks fit, on such terms and conditions as to remuneration and other matters as the Pensions Ombudsman may with the approval of the Secretary of State determine.

(4B) The Secretary of State may, on such terms as to payment by the Pensions Ombudsman as the Secretary of State thinks fit, make available to the Pensions Ombudsman such additional staff and such other facilities as he thinks fit.

(4C) Any function of the Pensions Ombudsman, other than the determination of complaints made and disputes referred under this Part, may be performed by any—

- (a) employee appointed by the Pensions Ombudsman under subsection (4A), or
- (b) member of staff made available to him by the Secretary of State under subsection (4B),

who is authorised for that purpose by the Pensions Ombudsman.”

157 Jurisdiction of Pensions Ombudsman

- (1) Sections 146 to 151 of the Pension Schemes Act 1993 are amended as shown in subsections (2) to (11).

Status: This is the original version (as it was originally enacted).

(2) In section 146 (investigations concerning the trustees or managers of schemes), for subsections (1) to (4) there is substituted—

“(1) The Pensions Ombudsman may investigate and determine the following complaints and disputes—

(a) a complaint made to him by or on behalf of an actual or potential beneficiary of an occupational or personal pension scheme who alleges that he has sustained injustice in consequence of maladministration in connection with any act or omission of a person responsible for the management of the scheme,

(b) a complaint made to him—

(i) by or on behalf of a person responsible for the management of an occupational pension scheme who in connection with any act or omission of another person responsible for the management of the scheme, alleges maladministration of the scheme, or

(ii) by or on behalf of the trustees or managers of an occupational pension scheme who in connection with any act or omission of any trustee or manager of another such scheme, allege maladministration of the other scheme,

and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the complaint relates is to the other scheme referred to in that paragraph,

(c) any dispute of fact or law which arises in relation to an occupational or personal pension scheme between—

(i) a person responsible for the management of the scheme, and
(ii) an actual or potential beneficiary,

and which is referred to him by or on behalf of the actual or potential beneficiary, and

(d) any dispute of fact or law which arises between the trustees or managers of an occupational pension scheme and—

(i) another person responsible for the management of the scheme, or

(ii) any trustee or manager of another such scheme,

and which is referred to him by or on behalf of the person referred to in sub-paragraph (i) or (ii); and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the reference relates is to the scheme first mentioned in that paragraph.

(2) Complaints and references made to the Pensions Ombudsman must be made to him in writing.

(3) For the purposes of this Part, the following persons (subject to subsection (4)) are responsible for the management of an occupational pension scheme—

(a) the trustees or managers, and

(b) the employer;

but, in relation to a person falling within one of those paragraphs, references in this Part to another person responsible for the management of the same scheme are to a person falling within the other paragraph.

- (3A) For the purposes of this Part, a person is responsible for the management of a personal pension scheme if he is a trustee or manager of the scheme.
- (4) Regulations may provide that, subject to any prescribed modifications or exceptions, this Part shall apply in the case of an occupational or personal pension scheme in relation to any prescribed person or body of persons where the person or body—
- (a) is not a trustee or manager or employer, but
 - (b) is concerned with the financing or administration of, or the provision of benefits under, the scheme,
- as if for the purposes of this Part he were a person responsible for the management of the scheme”.
- (3) In subsection (7) of that section, for ““authorised complainants”” there is substituted “actual or potential beneficiaries”.
- (4) In section 147 (death, insolvency etc.), in subsections (1) and (2), for “authorised complainant” there is substituted “actual or potential beneficiary” and for “the authorised complainant's” there is substituted “his”.
- (5) In subsection (3) of that section, for “an authorised complainant” there is substituted “a person by whom, or on whose behalf, a complaint or reference has been made under this Part”.
- (6) In section 148 (staying court proceedings), in subsection (5), for paragraphs (a) and (b) there is substituted—
- “(a) the person by whom, or on whose behalf, the complaint or reference has been made,
 - (b) any person responsible for the management of the scheme to which the complaint or reference relates”.
- (7) In section 149 (procedure on investigation), in subsection (1)(a), for “the trustees and managers of the scheme concerned” there is substituted “any person (other than the person by whom, or on whose behalf, the complaint or reference was made) responsible for the management of the scheme to which the complaint or reference relates”.
- (8) In section 150 (investigations: further provisions), in subsection (1)(a), for “any trustee or manager of the scheme concerned” there is substituted “any person responsible for the management of the scheme to which the complaint or reference relates”.
- (9) In section 151 (determinations of Pensions Ombudsman), for subsection (1)(a) and (b) there is substituted—
- “(a) to the person by whom, or on whose behalf, the complaint or reference was made, and
 - (b) to any person (if different) responsible for the management of the scheme to which the complaint or reference relates”.
- (10) In subsection (2) of that section, for “the trustees or managers of the scheme concerned” there is substituted “any person responsible for the management of the scheme to which the complaint or reference relates”.
- (11) In subsection (3) of that section, for paragraphs (a) to (c) there is substituted—

Status: This is the original version (as it was originally enacted).

- “(a) the person by whom, or on whose behalf, the complaint or reference was made,
- (b) any person (if different) responsible for the management of the scheme to which the complaint or reference relates, and
- (c) any person claiming under a person falling within paragraph (a) or (b)”.

(12) In Part I of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the direct supervision of the Council on Tribunals), in paragraph 35(e), for “section 146(2)” there is substituted “section 146(1)(c) and (d)”.

158 Costs and expenses

In section 149 of the Pension Schemes Act 1993—

- (a) after subsection (3)(b) there is inserted “and
 - (c) for the payment by the Ombudsman of such travelling and other allowances (including compensation for loss of remunerative time) as the Secretary of State may determine, to—
 - (i) actual or potential beneficiaries of a scheme to which a complaint or reference relates, or
 - (ii) persons appearing and being heard on behalf of such actual or potential beneficiaries, who attend at the request of the Ombudsman any oral hearing held in connection with an investigation into the complaint or dispute.”, and
- (b) at the end of subsection (3)(a), “and” is omitted.

159 Disclosing information

(1) In section 149 of the Pension Schemes Act 1993, after subsection (4) there is added—

- “(5) The Pensions Ombudsman may disclose any information which he obtains for the purposes of an investigation under this Part to any person to whom subsection (6) applies, if the Ombudsman considers that the disclosure would enable or assist that person to discharge any of his functions.
- (6) This subsection applies to the following—
 - (a) the Regulatory Authority,
 - (b) the Pensions Compensation Board,
 - (c) the Registrar,
 - (d) any department of the Government (including the government of Northern Ireland),
 - (e) the Bank of England,
 - (f) the Friendly Societies Commission,
 - (g) the Building Societies Commission,
 - (h) an inspector appointed by the Secretary of State under Part XIV of the Companies Act 1985 or section 94 or 177 of the Financial Services Act 1986,

- (j) an inspector appointed by the Department of Economic Development in Northern Ireland under Part XV of the Companies (Northern Ireland) Order 1986,
 - (k) a person authorised under section 106 of the Financial Services Act 1986 to exercise powers conferred by section 105 of that Act,
 - (l) a designated agency or transferee body or the competent authority within the meaning of that Act, and
 - (m) a recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house, within the meaning of that Act.
- (7) The Secretary of State may by order—
- (a) amend subsection (6) by adding any person or removing any person for the time being specified in that subsection, or
 - (b) restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in that subsection.”
- (2) In section 151 of that Act, in subsection (7)(a), after “this section” there is inserted—
- “(aa) in disclosing any information under section 149(5)”.

160 Interest on late payment of benefit

After section 151 of the Pension Schemes Act 1993 there is inserted—

“151A Interest on late payment of benefit

Where under this Part the Pensions Ombudsman directs a person responsible for the management of an occupational or personal pension scheme to make any payment in respect of benefit under the scheme which, in his opinion, ought to have been paid earlier, his direction may also require the payment of interest at the prescribed rate”.