

2008 No. 649

PENSIONS

The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008

<i>Made</i>	- - - -	<i>5th March 2008</i>
<i>Laid before Parliament</i>		<i>13th March 2008</i>
<i>Coming into force</i>	- -	<i>6th April 2008</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 113(1)(d), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993(a) and sections 50(8)(c) and (9)(c), 124(1) and 174(2) and (3) of the Pensions Act 1995(b).

In accordance with section 185(1) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995 the Secretary of State has consulted with such persons as he considers appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 and shall come into force on 6th April 2008.

(2) In these Regulations “the Act” means the Pensions Act 1995.

Information requirements [power s113(1)(d) PSA 1993]

2.—(1) When the trustees or managers of an occupational pension scheme receive (or, as the case may be, the specified person(c) receives) an application under the relevant procedure, they must as soon as is reasonably practicable—

- (a) inform the applicant that TPAS (the Pensions Advisory Service)(d) is available to assist members and beneficiaries of the scheme in connection with any difficulty with the scheme, and
- (b) give the applicant the contact details for TPAS.

(a) 1993 c.48. Section 181(1) is cited because of the meaning there given to “prescribe” and “regulations”.
(b) 1995 c.26. Section 50 is substituted by section 273 of the Pensions Act 2004 (c.35) (“the 2004 Act”) as amended by section 16 of the Pensions Act 2007 (c.22). Section 124(1) is cited because of the meaning there given to “prescribed” and “regulations”.
(c) “Specified person” is a term used in section 50(4A) of the Pensions Act 1995. Subsection (4A) is inserted by section 273 of the 2004 Act.
(d) The Pensions Advisory Service Limited is a company limited by guarantee under the Companies Act 1985 (c.6); registered number 2459671.

(2) For the purposes of paragraph (1), the relevant procedure is a procedure for the application for the resolution of a pension dispute under section 50(4) of the Act (procedure for resolution of a pensions dispute).

(3) For the purposes of paragraph (1), “member” has the meaning given to it in section 124(1)(a) and 125(4) of the Act (interpretation of Part 1 and supplementary), and “members” is to be construed accordingly.

(4) When the trustees or managers of an occupational pension scheme notify the applicant of their decision on the matters in dispute in accordance with section 50(5)(b) of the Act (dispute resolution arrangements – duties of trustees or managers), the notification shall include—

- (a) a statement that the Pensions Ombudsman appointed under section 145(2) of the Pension Schemes Act 1993(b) may investigate and determine any complaint or dispute of fact or law, in relation to a scheme, made or referred in accordance with that Act, and
- (b) the Pensions Ombudsman’s contact details.

Exempted schemes [power s 50(8)(c) PA 1995]

3. An occupational pension scheme of a description prescribed for the purposes of section 50(8)(c) of the Act (schemes to which section 50 does not apply) is a scheme in relation to which the sole trustee of the scheme is a company and all members of the scheme are directors of that company.

Exempted disputes [power s 50(9)(c) PA 1995]

4. A dispute of a description prescribed for the purposes of section 50(9)(c) of the Act (exempted disputes) is a dispute in respect of which a notice of appeal has been issued by the complainant in accordance with—

- (a) regulation H2 of the Police Pensions Regulations 1987(c) (appeal to board of medical referees);
- (b) rule H2 of Schedule 2 to the Firemen’s Pension Scheme Order 1992(d) (appeal against opinion on a medical issue);
- (c) rule 2 of Part 6 of Schedule 1 to the Firefighters’ Compensation Scheme (Scotland) Order 2006(e) (appeal to medical referee);
- (d) regulation 31 of the Police (Injury Benefit) Regulations 2006(f) (appeal to board of medical referees);
- (e) rule 2 of Part 6 of Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006(g) (appeal to medical referee);
- (f) regulation 72 of the Police Pensions Regulations 2006(h) (appeal to board of medical referees);
- (g) rule 4 of Part 8 of Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006(i) (appeals against decisions based on medical advice);
- (h) regulation 31 of the Police (Injury Benefit) (Scotland) Regulations 2007(j) (appeal to board of medical referees);

(a) Section 124(1) was amended by paragraph 61 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c.30)
(b) Section 145(2) was amended by section 274(1) of the 2004 Act.
(c) S.I. 1987/257; the relevant amending instruments are S.I. 2003/535, and 2004/1491 and S.S.I. 2003/406 and 2004/486.
(d) S.I. 1992/129; the relevant amending instrument is S.I. 1997/2309. The scheme name is changed for England and Scotland by S.I. 2004/2306 and for Wales by S.I. 2004/2918. The scheme is revoked with transitional and saving provisions, see S.I. 2006/3432, S.I. 2007/199 and S.I. 2007/1072.
(e) S.S.I. 2006/338.
(f) S.I. 2006/932.
(g) S.I. 2006/1811.
(h) S.I. 2006/3415.
(i) S.I. 2006/3432.
(j) S.S.I. 2007/68.

- (i) rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2007(a) (appeals against decisions based on medical advice);
- (j) regulation 72 of Part 7 of the Police Pensions (Scotland) Regulations 2007(b) (appeal to board of medical referees);
- (k) rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007(c) (appeals against decisions based on medical advice); or
- (l) rule 2 of Part 6 of Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007(d) (appeal to medical referee).

Transitional provisions

5.—(1) Any disagreement which was ongoing before 6th April 2008 under arrangements made and implemented under section 50(1) of the Act shall continue until the procedure under those arrangements comes to an end, as if the relevant legislative provisions governing those arrangements were still in force.

(2) For the purposes of paragraph (1), the relevant legislative provisions are—

- (a) section 50 of the Act as it was in force immediately before 6th April 2008; and
- (b) the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996(e).

(3) In the case of any relevant application, regulation 3 of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996(f) shall apply as it had effect before 6th April 2008.

(4) For the purposes of paragraph (3), “relevant application” means an application concerning a complaint or dispute made—

- (a) to an occupational pension scheme under the arrangements required by section 50 of the Act; and
- (b) before 6th April 2008.

Consequential and miscellaneous amendments

6.—(1) In Schedule 1 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(g) (basic information about the scheme);

- (a) in paragraph 25, for “section 50(7)” substitute “section 50(8)”; and
- (b) in paragraph 26, for “OPAS” substitute “TPAS” in both places where it occurs.

(2) In Regulation 3 of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996;

- (a) in paragraph (1), for “the arrangements required by section 50(2)(b)” substitute “section 50(5)(b)”; and
- (b) in paragraph (2), for “section 50(2)(a) or (b)” substitute “section 50(5)(b)”.

(3) In the Stakeholder Pension Schemes Regulations 2000(h) in the table in Schedule 2 (regulations applying to schemes which are or have been registered under section 2) in the column headed “Statutory Instrument” for “The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996” substitute “The Occupational Pension Schemes

(a) S.S.I. 2007/199.

(b) S.S.I. 2007/201.

(c) S.I. 2007/1072 (W.110).

(d) S.I. 2007/1073 (W.111).

(e) S.I. 1996/1270; amended by S.I. 1999/3198, 2004/2306 and 2918 and 2005/2877.

(f) S.I. 1996/2475, to which there are amendments not relevant to these Regulations.

(g) S.I. 1996/1655; the relevant amending instrument is S.I. 1999/3198.

(h) S.I. 2000/1403; the relevant amending instrument is S.I. 2001/934.

(Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008”.

Revocation

7. The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 are revoked.

Signed by authority of the Secretary of State for Work and Pensions.

5th March 2008

Mike O'Brien
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are for the most part consequential upon section 273 of the Pensions Act 2004 (c.35) as amended by section 16 of the Pensions Act 2007 (c.22).

By virtue of section 273 of the Pensions Act 2004, section 50 of the Pensions Act 1995 (c.26) has been substituted by new sections 50, 50A and 50B. The new sections include much of the detail that was formerly contained in the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 (S.I. 1996/1270) (“the 1996 Regulations”).

Regulation 2 requires trustees or managers to make persons who apply for the resolution of a pension dispute (“applicants”) aware that the Pensions Advisory Service (TPAS) is available to assist them and the Pensions Ombudsman is available to investigate and determine any complaint or dispute, as part of the notification to the applicants of the trustees’ or managers’ or specified person’s decision in relation to the pension dispute.

Regulation 3 describes an occupational pension scheme in relation to which the requirement for dispute resolution arrangements does not apply.

Regulation 4 describes exempted disputes for the purposes of section 50 of the Pensions Act 1995.

Regulation 5 provides for transitional provision, to deal with cases already being considered under the internal dispute resolution procedures as they were prior to the coming into force of these Regulations, and also to deal with cases excluded from being considered by the Pensions Ombudsman because they were already being considered under internal dispute resolution procedures prior to the coming into force of these Regulations.

Regulation 6 makes consequential amendments to other Regulations. It also updates the references to the Pensions Advisory Service.

Regulation 7 revokes the 1996 Regulations.

These Regulations have only a negligible impact on the costs of business, charities and the voluntary sector. Publication of a full impact assessment is not necessary for such legislation.

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