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STATUTORY INSTRUMENTS

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**1996 No. 1270**

**PENSIONS**

**The Occupational Pension Schemes (Internal  
Dispute Resolution Procedures) Regulations 1996**

<i>Made</i>	- - - -	<i>10th May 1996</i>
<i>Laid before Parliament</i>		<i>17th May 1996</i>
<i>Coming into force</i>	- -	<i>6th April 1997</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 10(2)(b), 50(1), (2)(a), (3) and (7), 124(1) and 174(2) and (3) of the Pensions Act 1995<sup>(1)</sup>, and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of Part I of the Act by virtue of which they are made<sup>(2)</sup> hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations—

“the Act” means the Pensions Act 1995<sup>(3)</sup>;

“scheme” means an occupational pension scheme within the meaning of section 1 of the Pension Schemes Act 1993<sup>(4)</sup>; and

“prospective member” means any person who, under the terms of his contract of service or the scheme rules—

- (a) is able, at his own option, to become a member of the scheme,
- (b) will become so able if he continues in the same employment for a sufficiently long period,
- (c) will be admitted to it automatically unless he makes an election not to become a member, or
- (d) may be admitted to it subject to the consent of his employer.

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(1) 1995 c. 26. Section 124(1) is cited because of the meaning ascribed to “prescribed” and “regulations”.  
(2) See section 120(2)(c) of the Pensions Act 1995 which provides that the requirement to consult does not apply where regulations are made before the end of the period of six months beginning with the coming into force of the provisions of Part I of the Act by virtue of which they are made.  
(3) 1995 c. 26.  
(4) 1993 c. 48.

### **Meaning of “prescribed persons” and “complainant of a prescribed description”**

2.—(1) For the purposes of section 50(1) of the Act (requirement for schemes to make arrangements for the resolution of disagreements between prescribed persons) and of these Regulations, the prescribed persons are, on the one hand, the trustees or managers of the scheme and, on the other hand—

- (a) the active, deferred and pensioner members of the scheme;
- (b) a widow, widower or surviving dependant of a deceased member of the scheme;
- (c) prospective members of the scheme;
- (d) persons who ceased to be within any of the categories of persons referred to in sub-paragraphs (a) to (c) above within the six months immediately preceding the date of an application under regulation 4 of these Regulations; and
- (e) where there is a disagreement which relates to a question whether a person who claims to be such a person as is mentioned in sub-paragraphs (a) to (d) above is such a person, the person so claiming.

(2) For the purposes of section 50(2) of the Act (resolution of a disagreement on the application of a complainant) and of these Regulations, a complainant of a prescribed description is a person referred to in paragraph (1)(a) to (e) above.

### **Representation**

3.—(1) An application under arrangements required by section 50 of the Act may be made or continued on behalf of a complainant by a representative nominated by him.

(2) Where a complainant dies or is a minor or is otherwise incapable of acting for himself, an application may be made or continued on his behalf—

- (a) in the case of his death, by his personal representative; and
- (b) in any other case, by a member of his family or some other person suitable to represent him.

### **Application for a decision**

4.—(1) An application for a decision under arrangements required by section 50(2)(a) of the Act shall set out particulars of the disagreement in respect of which a decision is sought.

(2) The particulars shall include—

- (a) where the complainant is a person described in either regulation 2(1)(a), (c) or (d) or a person claiming to be such under regulation 2(1)(e), the full name, address, date of birth and the national insurance number of the complainant;
  - (b) where the complainant is a person described in regulation 2(1)(b), or a person claiming to be such under regulation 2(1)(e), the full name, address and date of birth of the complainant, his relationship to the scheme member and the full name, address, date of birth and national insurance number of the scheme member;
  - (c) the full name and address of any representative acting on behalf of the complainant and whether such address is the address to be used for service on the complainant of any documents in connection with the disagreement;
  - (d) a statement as to the nature of the disagreement with sufficient details to show why the complainant is aggrieved.
- (3) The application shall be signed by or on behalf of the complainant.

### **Notice of a decision**

5.—(1) Subject to paragraph (3), a decision on the matters raised by an application under regulation 4 shall be issued to the complainant and, where applicable, his representative by notice in writing within two months from the date on which the particulars specified in regulation 4(2) were received.

(2) The notice shall include—

- (a) a statement of the decision;
- (b) a reference to any legislation relied upon;
- (c) a reference to such parts of any scheme rules relied upon and, where a discretion has been exercised, a reference to such parts of the scheme rules by which such discretion is conferred; and
- (d) a reference to the complainant's right to refer the disagreement for reconsideration by the trustees or managers of the scheme within the time limit described in regulation 6(1).

(3) If, in any case, written notice of a decision under section 50(2)(a) of the Act is not issued within two months from the date on which particulars of the disagreement were received, an interim reply must immediately be sent to the complainant and, where applicable, his representative setting out the reasons for the delay and an expected date for issuing the decision.

### **Referral of disagreement to the trustees or managers**

6.—(1) An application to the trustees or managers of a scheme to reconsider a disagreement in respect of which a decision referred to in regulation 5 has been made may be made within six months from the date of the notice of the decision and shall set out particulars of the grounds on which the application is made.

(2) The particulars shall include—

- (a) the matters referred to in regulation 4(2)(a) to (c);
- (b) a copy of the notice of the decision made under section 50(2)(a) of the Act;
- (c) a statement of the reasons why the complainant is dissatisfied with the decision made under section 50(2)(a) of the Act; and
- (d) a statement that the complainant wishes the disagreement to be reconsidered by the trustees or managers of the scheme.

(3) The application shall be signed by or on behalf of the complainant.

### **Notice of decision from trustees or managers**

7.—(1) Subject to paragraph (3), the trustees or managers of a scheme shall issue to the complainant and, where applicable, his representative a notice in writing of their decision on the matters raised under regulation 6 within two months from the date on which the particulars specified in regulation 6(2) were received by them.

(2) The notice shall include—

- (a) a statement of the decision and an explanation as to whether and, if so, to what extent that decision either confirms or replaces the decision made under section 50(2)(a) of the Act;
- (b) a reference to any legislation relied upon;
- (c) a reference to such parts of any scheme rules relied upon and, where a discretion has been exercised, a reference to such parts of the scheme rules by which such discretion is conferred;

- (d) a statement that OPAS (The Pensions Advisory Service)<sup>(5)</sup> is available to assist members and beneficiaries of the scheme in connection with difficulties which they have failed to resolve with the trustees or managers of the scheme and the address at which it may be contacted; and
- (e) a statement that the Pensions Ombudsman appointed under section 145(2) of the Pension Schemes Act 1993 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 the address at which he may be contacted.

(3) If, in any case, written notice of a decision under section 50(2)(b) of the Act is not issued within two months from the date on which particulars of the disagreement were received under regulation 6, an interim reply must immediately be sent to the complainant and, where applicable, his representative setting out the reasons for the delay and an expected date for issuing the decision.

### **Exempted schemes**

- 8.** The requirements of section 50 of the Act shall not apply to the following schemes —
- (a) schemes in which all the members are trustees; and
  - (b) schemes with no more than one member.

### **Exempted disagreements**

- 9.** The requirements of section 50 of the Act shall not apply to a disagreement if, in respect of that disagreement—
- (a) proceedings have been begun in any court or tribunal;
  - (b) the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him; or
  - (c) a notice of appeal has been issued by the complainant under regulation H2 of the Firemen's Pension Scheme Order 1992<sup>(6)</sup> or regulation H2 of the Police Pensions Regulations 1987<sup>(7)</sup>.

### **Civil penalties**

**10.** For the purpose of section 50(6) of the Act, the maximum amount of the penalty which may be imposed by the Occupational Pensions Regulatory Authority<sup>(8)</sup> under section 10(2)(b) of the Act is—

- (a) £1,000 in the case of an individual, and
- (b) £10,000 in any other case.

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<sup>(5)</sup> OPAS Limited is a company limited by guarantee under the Companies Act 1985 (c. 6): registered number 2459671.

<sup>(6)</sup> S.I.1992/129.

<sup>(7)</sup> S.I.1987/257.

<sup>(8)</sup> The Occupational Pensions Regulatory Authority is established under section 1 of the Pensions Act 1995 (c. 26).

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

10th May 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.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of Part I of the Pensions Act 1995 (c. 26) (“the Act”) by virtue of which they are made. They are accordingly exempt from the requirement in section 120(2)(c) of the Act for the Secretary of State to consult such persons as he considers appropriate.

Regulation 1 provides for the citation, commencement and interpretation of the regulations.

Regulation 2 makes provision as to the persons to whom the arrangements made for the resolution of disagreements shall apply and as to who may bring complaints.

Regulation 3 makes provision so as to enable a representative to act on behalf of the complainant.

Regulations 4 to 7 make provision as to the manner in which applications are to be made and decisions given.

Regulations 8 and 9 make provision for the arrangements made for the resolution of disagreements not to apply in certain cases.

Regulation 10 makes provision as to the maximum penalty which may be imposed by the Occupational Pensions Regulatory Authority in any case where the Authority is satisfied that the arrangements required by section 50 of the Act have not been made or are not being implemented by a scheme.

An assessment of the compliance cost for business of the measures arising from the Act, including these Regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, 11th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.