1991 No. 93

SOCIAL SECURITY

The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1991

Made	*14th March 1991*
Coming into operation . .	*1st April 1991*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 69C(3) and (5) of the Social Security Pensions (Northern Ireland) Order 1975(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations (Northern Ireland) 1991 and shall come into operation on 1st April 1991.

(2) In these regulations—

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975;

"complaint" means (except in the context of a complaint to the Defence Council as referred to in regulation 3(*c*)) a complaint falling within Article 69C(1) of the Pensions Order (complaint of maladministration);

"dispute" means a dispute falling within Article 69C(2) of the Pensions Order (disputes of fact or law).

Extension of Pensions Ombudsman's jurisdiction to employers

2.—(1) The Pensions Ombudsman may, in relation to an occupational pension scheme, investigate and determine any complaint or dispute involving any authorised complainant and the employer to which the scheme relates or has related.

(2) Where the Pensions Ombudsman commences an investigation under paragraph (1), the provisions of Part VA of the Pensions Order (the Pensions Ombudsman) shall apply in relation to the employer as they apply in relation to the trustees or managers of such a scheme.

(a) S.I. 1975/1503 (N.I. 15); by virtue of Article 2(3), definitions in Schedule 17 to the Social Security (Northern Ireland) Act 1975 (c. 15) apply to the exercise of certain powers conferred under this Order. Article 69C was inserted by Schedule 3 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

Exclusion from jurisdiction

3. The Pensions Ombudsman shall not investigate or determine—

(*a*) any complaint or dispute which can be investigated by, or under arrangements made by,—

(i) an organisation which is a recognised self-regulating organisation for the purposes of section 10 of the Financial Services Act 1986(**a**) (grant of recognition by the Secretary of State), or

(ii) a designated agency for the purposes of section 114 of the Financial Services Act 1986(**b**) (power of Secretary of State to transfer functions to a designated agency),

other than a complaint or dispute relating to the management of a personal pension scheme;

(*b*) any dispute in relation to a public service pension scheme, other than the Northern Ireland Teachers' Superannuation Scheme established under Article 11 of the Superannuation (Northern Ireland) Order 1972(**c**) (superannuation of teachers) with the exception of any dispute in relation to a matter in respect of which there is a right to determination by the Department of Education under regulations 3A(6), 4(5), 6(6) and 85(3) of the Teachers' Superannuation Regulations (Northern Ireland) 1977(**d**);

(*c*) any complaint or dispute in respect of which there is a right to make a complaint to the Defence Council by virtue of—

(i) sections 180 and 181 of the Army Act 1955(**e**) (complaints by officers and soldiers),

(ii) sections 180 and 181 of the Air Force Act 1955(**f**) (complaints by officers and airmen), or

(iii) section 130 of the Naval Discipline Act 1957(**g**) (redress of complaints).

Time-limits for making of complaints and reference of disputes

4.—(1) Subject to paragraphs (2) and (3), the Pensions Ombudsman shall not investigate a complaint or dispute if the act or omission which is the subject thereof occurred more than 3 years before the date on which the making of the complaint or the referral of the dispute is received by him in writing.

(**a**) 1986 c. 60; recognition orders relevant for these purposes have been made in relation to the Investment Management Regulatory Organisation, the Financial Intermediaries Managers and Brokers Regulatory Association and the Life Assurance and Unit Trust Regulatory Organisation. Under section 103(5) a certified copy of the register entry relating to any of these recognitions may be obtained from the Securities and Investments Board, Gavrelle House, 2/14 Bunhill Road, LONDON, EC1Y 8RA

(**b**) *See* the Financial Services Act 1986 (Delegation) Order 1987 (S.I. 1987/942)

(**c**) S.I. 1972/1073 (N.I. 10); Article 11 was amended by Articles 6(1), 10(3) and (4) and 13(1) and (2) of the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

(**d**) S.R. 1977 No. 260; relevant amending regulations are S.R. 1987 No. 315

(**e**) 1955 c. 18; *see also* section 142 of the Reserve Forces Act 1980 (c. 9)

(**f**) 1955 c. 19

(**g**) 1957 c. 53

(2) Where, at the date of its occurrence, the authorised complainant was unaware of the act or omission referred to in paragraph (1), the period of 3 years shall begin on and include the earliest date on which he knew or ought reasonably to have known of its occurrence.

(3) Where it was not reasonably practicable for a complaint or dispute to be made or referred before the end of the period allowed under paragraph (1) or (2), the Pensions Ombudsman may nonetheless investigate and determine such complaint or dispute if it is made or referred within such further period as he considers reasonable.

Sealed with the Official Seal of the Department of Health and Social Services on 14th March 1991.

(L.S.) *A. N. Burns*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision in relation to the Pensions Ombudsman established under section 59B(1) of the Social Security Act 1990 (c. 27).

Regulation 2 makes provision for the extension of the Pensions Ombudsman's jurisdiction to the employer in relation to an occupational pension scheme.

Regulation 3 excludes from the jurisdiction of the Pensions Ombudsman a complaint or dispute relating to the armed forces pension scheme in a case where there is a right to make a complaint to the Defence Council, disputes of fact or law in respect of public service schemes (other than aspects of the Northern Ireland Teachers' Superannuation Scheme) and certain complaints and disputes which can be investigated by, or under arrangements made by, a recognised self-regulating organisation or a designated agency under the Financial Services Act 1986.

Regulation 4 makes provision as to the time-limits for bringing a case to the Pensions Ombudsman.

Article 69C of the Social Security Pensions (Northern Ireland) Order 1975 is the enabling power under which these regulations are made. It was inserted by Schedule 3 to the Social Security (Northern Ireland) Order 1990 and came into operation on 1st October 1990 by virtue of Article 2(*g*) of the Social Security (1990 Order) (Commencement No. 1) Order (Northern Ireland) 1990 (S.R. 1990 No. 307 (C. 13)).

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.