



Pension Schemes Act 1993

1993 CHAPTER 48

PART X

INVESTIGATIONS: THE PENSIONS OMBUDSMAN

145 The Pensions Ombudsman.

- (1) For the purpose of conducting investigations in accordance with this Part or any corresponding legislation having effect in Northern Ireland there shall be a commissioner to be known as the Pensions Ombudsman.
- (2) The Pensions Ombudsman shall be appointed by the Secretary of State and shall hold ^[F1]and vacate] office upon such terms and conditions as the Secretary of State may think fit.
- ^[F2](3) The Pensions Ombudsman may resign or be removed from office in accordance with those terms and conditions.]
- ^[F3](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.]
- (5) The Secretary of State may—

Status: Point in time view as at 30/11/2016.

Changes to legislation: Pension Schemes Act 1993, Part X is up to date with all changes known to be in force on or before 21 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) pay to or in respect of the Pensions Ombudsman such amounts by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or by way of provision for any such benefits, as the Secretary of State may determine^{F4}...; and
 - (b) reimburse him in respect of any expenses incurred by him in the performance of his functions.
- (6) The Pensions Ombudsman shall prepare a report on the discharge of his functions for each financial year, and shall submit it to the Secretary of State as soon as practicable afterwards.
- (7) The Secretary of State shall arrange for the publication of each report submitted to him under subsection (6).
- [^{F5}(8) As soon as is reasonably practicable, the Pensions Ombudsman shall send to the Comptroller and Auditor General a statement of the Pensions Ombudsman’s accounts in respect of a financial year.
- (9) The Comptroller and Auditor General shall—
- (a) examine, certify and report on a statement received under this section; and
 - (b) send a copy of the statement and the report to the Secretary of State who shall lay them before Parliament.
- (10) In this section “financial year” means a period of 12 months ending with 31st March.]

Extent Information

E1 S. 145 extends to U.K. except s. 145(4)(5)(b) which extend only to G.B. see s. 192(2)

Textual Amendments

- F1** Words in s. 145(2) inserted (17.12.2004) by [Pensions Act 2004 \(c. 35\)](#), **ss. 274(1)**, 322(1) (with s. 313); [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)
- F2** S. 145(3) substituted (17.12.2004) by [Pensions Act 2004 \(c. 35\)](#), **ss. 274(2)**, 322(1) (with s. 313); [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)
- F3** S. 145(4A)-(4C) substituted for s. 145(4) (2.10.1995) by [Pensions Act 1995 \(c. 26\)](#), **ss. 156**, 180(1); [S.I. 1995/2548](#), [art. 2](#)
- F4** Words in s. 145(5) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 6 para. 7](#), **Sch. 7 Pt. IV**; [S.I. 1997/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)
- F5** S. 145(8)-(10) inserted (26.3.2008) by [The Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2008 \(S.I. 2008/817\)](#), [arts. 1, 9](#) (with [art. 10](#))

Commencement Information

I1 Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

[^{F6}145A Deputy Pensions Ombudsmen

- (1) The Secretary of State may appoint one or more persons to act as a deputy to the Pensions Ombudsman (“a Deputy Pensions Ombudsman”).
- (2) Any such appointment is to be upon such terms and conditions as the Secretary of State thinks fit.
- (3) A Deputy Pensions Ombudsman—

Status: Point in time view as at 30/11/2016.

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- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- (4) A Deputy Pensions Ombudsman may perform the functions of the Pensions Ombudsman—
- (a) during any vacancy in that office,
 - (b) at any time when the Pensions Ombudsman is for any reason unable to discharge his functions, or
 - (c) at any other time, with the consent of the Secretary of State.
- (5) References to the Pensions Ombudsman in relation to the performance of his functions are accordingly to be construed as including references to a Deputy Pensions Ombudsman in relation to the performance of those functions.
- (6) The Secretary of State may—
- (a) pay to or in respect of a Deputy Pensions Ombudsman such amounts—
 - (i) by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or
 - (ii) by way of provision for any such benefits,as the Secretary of State may determine, and
 - (b) reimburse the Pensions Ombudsman in respect of any expenses incurred by a Deputy Pensions Ombudsman in the performance of any of the Pensions Ombudsman's functions.]

Textual Amendments

F6 S. 145A inserted (17.12.2004) by Pensions Act 2004 (c. 35), ss. 274(3), 322(1) (with s. 313); S.I. 2004/3350, art. 2, Sch.

146 Functions of the Pensions Ombudsman.

- (1) ^{F7}The Pensions Ombudsman may investigate and determine the following ^{F8}matters]—
- (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,

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and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the complaint relates [^{F9}are references to the other scheme referred to in that sub-paragraph],

[^{F10}(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,]

(c) any dispute of fact or law ^{F11}... 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 ^{F12}... 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,

[^{F13}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) [^{F14}any dispute, in relation to a time while section 22 of the Pensions Act 1995 (circumstances in which Regulatory Authority may appoint an independent trustee) applies in relation to an occupational pension scheme, between an independent trustee of the scheme appointed under section 23(1) of that Act and either—

- (i) other trustees of the scheme, or
- (ii) former trustees of the scheme who were not independent trustees appointed under section 23(1) of that Act, 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.]]

[^{F15}(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.

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(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.]

(2) [^{F7}Complaints and references made to the Pensions Ombudsman must be made to him in writing.]

(3) [^{F7}For the purposes of this Part, the following persons (subject to subsection (4)) are responsible for the management of an occupational pension scheme [^{F16}or a personal 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.

^{F17}(3A)]

(4) [^{F7}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]

[^{F18}(4A) For the purposes of subsection (4) a person or body of persons is concerned with the administration of an occupational or personal pension scheme where the person or body is responsible for carrying out an act of administration concerned with the scheme.]

(5) The Pensions Ombudsman may investigate a complaint or dispute notwithstanding that it arose, or relates to a matter which arose, before 1st October 1990 (the date on which the provisions under which his office was constituted came into force).

(6) The Pensions Ombudsman shall not investigate or determine a complaint or dispute—

- [^{F19}(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 employment 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;]

(b) if the scheme is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection; or

(c) if and to the extent that the complaint or dispute, or any matter arising in connection with the complaint or dispute, is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection.

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- (7) The persons who, for the purposes of this Part are ^{F20}actual or potential beneficiaries] in relation to a scheme are—
- (a) a member of the scheme,
 - (b) the ^{F21}widow, widower or surviving civil partner], or any surviving dependant, of a deceased member of the scheme;
 - ^{F22}(ba) a person who is entitled to a pension credit as against the trustees or managers of the scheme;]
 - ^{F23}(bb) a person who has given notice in accordance with section 8 of the Pensions Act 2008 (right to opt out of membership of an automatic enrolment scheme);]
 - (c) where the complaint or dispute relates to the question—
 - (i) whether a person who claims to be such a person as is mentioned in ^{F24}paragraph (a), (b) ^{F25}, (ba) or (bb)]] is such a person, or
 - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled,
 the person so claiming.
- (8) In this Part—
- “employer”, in relation to a pension scheme, includes a person—
 - (a) who is or has been an employer in relation to the scheme, or
 - (b) who is or has been treated under section 181(2) as an employer in relation to the scheme for the purposes of any provision of this Act, or under section 176(2) of the ^{M1}Pension Schemes (Northern Ireland) Act 1993 as an employer in relation to the scheme for the purposes of any provision of that Act;
 - ^{F26}“independent trustee”, in relation to a scheme, means—
 - (a) a trustee of the scheme appointed under ^{F27}section 23(1) of the Pensions Act 1995 (appointment of independent trustee by the Regulatory Authority)],
 - (b) a person appointed under section 7(1) of that Act to replace a trustee falling within paragraph (a) or this paragraph;]
 - “member”, in relation to a pension scheme, includes a person—
 - (a) who is or has been in pensionable service under the scheme, or
 - (b) who is or has been treated under section 181(4) as a member in relation to the scheme for the purposes of any provision of this Act or under section 176(3) of the ^{M1} Pension Schemes (Northern Ireland) Act 1993 as a member in relation to the scheme for the purposes of any provision of that Act;
 - “Northern Ireland public service pension scheme” means a public service pension scheme within the meaning of section 176(1) of that Act;
 - “pensionable service” in this subsection includes pensionable service as defined in section 176(1) of that Act;
 - “trustees or managers”, in relation to a pension scheme which is a public service pension scheme or a Northern Ireland public service pension scheme, includes the scheme’s administrators.

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Textual Amendments

- F7** S. 146(1)-(4) substituted for s. 146(1)-(4) (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), [ss. 157\(2\)](#), 180(1); [S.I. 1996/1412](#), art. 2(2), Sch. Pt. 2; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F8** Word in s. 146(1) substituted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(9\)\(a\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F9** Words in s. 146(1)(b) substituted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(9\)\(b\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F10** S. 146(1)(ba) inserted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(2\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F11** Words in s. 146(1)(c) repealed (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [Sch. 9 Pt. III\(3\)](#) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)(e)
- F12** Words in s. 146(1)(d) repealed (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(9\)\(c\)](#), 86(1)(b)(2), [Sch. 9 Pt. III\(3\)](#) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)(e)
- F13** Words in s. 146(1) substituted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(3\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F14** S. 146(1)(f) substituted (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 24\(a\)](#); [S.I. 2005/275](#), art. 2(7), Sch. Pt. 7
- F15** S. 146(1A)(1B) inserted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(4\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F16** Words in s. 146(3) inserted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(5\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F17** S. 146(3A) repealed (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [Sch. 9 Pt. III\(3\)](#) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(e)
- F18** S. 146(4A) inserted (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), [ss. 275\(1\)](#), 322(1) (with [ss. 275\(2\)\(3\)](#), 313); [S.I. 2005/275](#), art. 2(7), Sch. Pt. 7
- F19** S. 146(6)(a) substituted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(6\)](#), 86(1)(b)(2) (with [ss. 53\(10\)](#), 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F20** Words in s. 146(7) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), [ss. 157\(3\)](#), 180(1); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F21** Words in s. 146(7)(b) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), [Sch. para. 16](#)
- F22** S. 146(7)(ba) inserted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(7\)\(a\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F23** S. 146(7)(bb) inserted (30.6.2012) by [Pensions Act 2008 \(c. 30\)](#), [ss. 66\(2\)](#), 149(1); [S.I. 2012/1682](#), art. 2, Sch. 2
- F24** Words in s. 146(7)(c)(i) substituted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(7\)\(b\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F25** Words in s. 146(7)(c)(i) substituted (30.6.2012) by [Pensions Act 2008 \(c. 30\)](#), [ss. 66\(3\)](#), 149(1); [S.I. 2012/1682](#), art. 2, Sch. 2
- F26** Words in s. 146(8) inserted (1.12.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 53\(8\)](#), 86(1)(b)(2) (with s. 83(6)); [S.I. 2000/3166](#), art. 2(2)(c)
- F27** Words in s. 146(8) substituted (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 24\(c\)](#); [S.I. 2005/275](#), art. 2(7), Sch. Pt. 7

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

Marginal Citations

- M1** 1993 c. 49.

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147 Death, insolvency or disability of authorised complainant.

- (1) Where an [^{F28}actual or potential beneficiary] dies or is a minor or is otherwise unable to act for himself, then, unless subsection (3) applies—
- (a) any complaint or dispute (whenever arising) which the [^{F28}actual or potential beneficiary] might otherwise have made or referred under this Part may be made or referred by the appropriate person, and
 - (b) anything in the process of being done by or in relation to the [^{F28}actual or potential beneficiary] under or by virtue of this Part may be continued by or in relation to the appropriate person,
- and any reference in this Part, except this section, to an [^{F28}actual or potential beneficiary] shall be construed as including a reference to the appropriate person.
- (2) For the purposes of subsection (1) “the appropriate person” means—
- (a) where the [^{F29}actual or potential beneficiary] has died, his personal representatives; or
 - (b) in any other case, a member of [^{F29}his] family, or some body or individual suitable to represent him.
- (3) Where a person is acting as an insolvency practitioner in relation to [^{F30}a person by whom, or on whose behalf, a complaint or reference has been made under this Part], investigations under this Part shall be regarded for the purposes of the ^{M2}Insolvency Act 1986 and the Bankruptcy (Scotland) Act [^{F31}2016] as legal proceedings.
- (4) In this section “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986, but disregarding subsection (5) of that section (exclusion of official receiver).

Textual Amendments

- F28** Words in s. 147(1) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 157(4), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F29** Words in s. 147(2) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 157(4), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F30** Words in s. 147(3) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 157(5), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F31** Word in s. 147(3) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 11(5)

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

Marginal Citations

- M2** 1986 c. 45.

148 Staying court proceedings where a complaint is made or a dispute is referred.

- (1) This section applies where—
- (a) a complaint has been made or a dispute referred to the Pensions Ombudsman; and

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- (b) any party to the investigation subsequently commences any legal proceedings in any court against any other party to the investigation in respect of any of the matters which are the subject of the complaint or dispute.
- (2) In England and Wales, where this section applies any party to the legal proceedings may at any time after acknowledgement of service, and before delivering any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.
- (3) In Scotland, where this section applies any party to the legal proceedings may—
 - (a) if the proceedings are in the Court of Session, at any time—
 - (i) after appearance has been entered but before defences have been lodged or any other step in the proceedings has been taken; or
 - (ii) (in procedure by petition) after intimation and service but before answers have been lodged or any other step in the proceedings has been taken; and
 - (b) if the proceedings are in the sheriff court, at any time—
 - (i) after notice has been given of intention to defend but before defences have been lodged or any other step in the proceedings has been taken; or
 - (ii) (in summary cause procedure) after appearance has been made, or notice of intention to appear has been lodged, but before any defence has been stated or any other step in the proceedings has been taken,apply to the court for a sist of process.
- (4) On an application under subsection (2) or (3) the court may make an order staying or, in Scotland, sisting the proceedings if it is satisfied—
 - (a) that there is no sufficient reason why the matter should not be investigated by the Pensions Ombudsman; and
 - (b) that the applicant was at the time when the legal proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the investigation.
- (5) For the purposes of this section the parties to an investigation are—
 - [^{F32}(a) the person by whom, or on whose behalf, the complaint or reference has been made,]
 - [^{F32}(b) any person responsible for the management of the scheme to which the complaint or reference relates]
 - ^{F33}(ba)
 - ^{F34}(bb)
 - (c) any person against whom allegations are made in the complaint or reference; and
 - (d) any person claiming under a person falling within paragraphs (a) to (c).

Textual Amendments

- F32** S. 148(5)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 157(6), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F33** S. 148(5)(ba) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(a), 322(1), Sch. 13 Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7

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F34 S. 148(5)(bb) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(a), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7

Commencement Information

II Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

149 Procedure on an investigation.

(1) Where the Pensions Ombudsman proposes to conduct an investigation into a complaint made or dispute referred under this Part, he shall give—

- (a) [^{F35}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], and
- (b) any other person against whom allegations are made in the complaint or reference,

an opportunity to comment on any allegations contained in the complaint or reference.

^{F36}(1)

^{F37}(1A)

^{F38}(1B)

(2) The Secretary of State may make rules with respect to the procedure which is to be adopted in connection with the making of complaints, the reference of disputes, and the investigation of complaints made and disputes referred, under this Part.

(3) The rules may include provision—

- (a) requiring any oral hearing held in connection with such an investigation to take place in public, except in such cases as may be specified in the rules; ^{F39}...
- (b) as to the persons entitled to appear and be heard on behalf of parties to an investigation, as defined in section 148(5); [^{F40}[^{F41}and]

^{F42}(ba)

(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.]^{F43} ...

^{F43}(d)

(4) Subject to any provision made by the rules, the procedure for conducting such an investigation shall be such as the Pensions Ombudsman considers appropriate in the circumstances of the case; and he may, in particular, obtain information from such persons and in such manner, and make such inquiries, as he thinks fit.

[^{F44}(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)

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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,
 - [^{F45}(b) the Board of the Pension Protection Fund,
 - (ba) the Ombudsman for the Board of the Pension Protection Fund,]
 - ^{F46}(c)
 - (d) any department of the Government (including the government of Northern Ireland),
 - [^{F47}(e) the Financial Conduct Authority,
 - (ea) the Prudential Regulation Authority,
 - (eb) the Bank of England,]
 - ^{F48}(f)
 - ^{F48}(g)
 - [^{F49}(h) a person appointed under—
 - (i) Part 14 of the Companies Act 1985,
 - (ii) section 167 of the Financial Services and Markets Act 2000,
 - (iii) subsection (3) or (5) of section 168 of that Act, or
 - (iv) section 284 of that Act,to conduct an investigation;]
 - ^{F50}(j)
 - [^{F51}(k) a body designated under section 326(1) of the Financial Services and Markets Act 2000; ^{F52}...
 - (l) a recognised investment exchange [^{F53}, recognised clearing house, EEA central counterparty or third country central counterparty] (as defined by section 285 of that Act).]
 - [^{F54}(n) a person who, in a member State other than the United Kingdom, has functions corresponding to functions of the Pensions Ombudsman.]
 - [^{F55}(o) [^{F56}the body corporate mentioned in paragraph 2] of Schedule 17 to the Financial Services and Markets Act 2000 (the scheme operator of the ombudsman scheme);
 - (p) an ombudsman as defined in paragraph 1 of that Schedule (interpretation).]

- (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.]

^{F57}(8)

Textual Amendments

F35 Words in s. 149(1)(a) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), **ss. 157(7)**, 180(1); S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

F36 S. 149(1) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), **ss. 276(2)(b)**, 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), **Sch. Pt. 7**

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- F37** S. 149(1A) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(b), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F38** S. 149(1B) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(b), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F39** Word in s. 149(3)(a) repealed (1.6.1996 for specified purposes, 16.10.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 158(b), 180(1), **Sch. 7 Pt. IV**; S.I. 1996/1412, art. 2(2), Sch. Pt. 2; S.I. 1996/2637, art. 4; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F40** S. 149(3)(c) and word inserted (1.6.1996 for specified purposes, 16.10.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 158(a), 180(1); S.I. 1996/1412, art. 2(2), Sch. Pt. 2; S.I. 1996/2637, art. 4; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F41** S. 149(3)(ba) substituted for word (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 54(4), 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F42** S. 149(3)(ba) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(c), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F43** S. 149(3)(d) and word repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(d), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F44** S. 149(5)-(7) added (6.4.1997) by Pensions Act 1995 (c. 26), ss. 159(1), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F45** S. 149(6)(b)(ba) substituted for s. 149(6)(b) (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 25(a)**; S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(1))
- F46** S. 149(6)(c) repealed (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2006/560, art. 2(3), **Sch. Pt. 3**
- F47** S. 149(6)(e)(ea)(eb) substituted for s. 149(6)(e) (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 78(2)(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F48** S. 149(6)(f)(g) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **123(a)**
- F49** S. 149(6)(h) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **123(b)**
- F50** S. 149(6)(j) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 144(3)** (with art. 10)
- F51** S. 149(6)(k)(l) substituted for s. 149(6)(k)-(m) (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **123(c)**
- F52** Word in s. 149(6) repealed (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2006/560, art. 2(3), **Sch. Pt. 3**
- F53** Words in s. 149(6)(l) substituted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **21(2)** (with regs. 52-58)
- F54** S. 149(6)(n) inserted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 25(b)**; S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(1))
- F55** S. 149(6)(o)(p) added (1.11.2005) by The Pensions Ombudsman (Disclosure of Information) (Amendment of Specified Persons) Order 2005 (S.I. 2005/2743), arts. 1, **2**
- F56** Words in s. 149(6)(o) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 78(2)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F57** S. 149(8) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(e), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

Status: Point in time view as at 30/11/2016.

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150 Investigations: further provisions.

- (1) For the purposes of an investigation under this Part or under any corresponding legislation having effect in Northern Ireland, the Pensions Ombudsman may require—
 - (a) [^{F58}any person responsible for the management of the scheme to which the complaint or reference relates], or
 - (b) any other person who, in his opinion is able to furnish information or produce documents relevant to the investigation,
to furnish any such information or produce any such documents.
- (2) For the purposes of any such investigation the Pensions Ombudsman shall have the same powers as the court in respect of the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad) and in respect of the production of documents.
- (3) No person shall be compelled for the purposes of any such investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the court.
- (4) If any person without lawful excuse obstructs the Pensions Ombudsman in the performance of his functions or is guilty of any act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the court, would constitute contempt of court, the Pensions Ombudsman may certify the offence to the court.
- (5) Where an offence is certified under subsection (4) the court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence and hearing any statement that may be offered in defence, deal with him in any manner in which the court could deal with him if he had committed the like offence in relation to the court.
- (6) To assist him in an investigation, the Pensions Ombudsman may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may with the approval of the Treasury determine.
- (7) The Pensions Ombudsman may refer any question of law arising for determination in connection with a complaint or dispute to the High Court or, in Scotland, the Court of Session.
- (8) In this section “the court” means—
 - (a) in England and Wales, [^{F59}the county court];
 - (b) in Scotland, the sheriff.
- (9) Subsections (4) and (5) shall be construed, in their application to Scotland, as if contempt of court were categorised as an offence in Scots law.

Textual Amendments

F58 Words in s. 150(1)(a) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), **ss. 157(8)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2

F59 Words in s. 150(8)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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Commencement Information

II Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

151 Determinations of the Pensions Ombudsman.

- (1) Where the Pensions Ombudsman has conducted an investigation under this Part he shall send a written statement of his determination of the complaint or dispute in question—
- [^{F60}(a) to the person by whom, or on whose behalf, the complaint or reference was made, and]
 - [^{F60}(b) to any person (if different) responsible for the management of the scheme to which the complaint or reference relates]^{F61} ...
 - ^{F61}[^{F62}(c)]
- and any such statement shall contain the reasons for his determination.
- (2) Where the Pensions Ombudsman makes a determination under this Part or under any corresponding legislation having effect in Northern Ireland, he may direct [^{F63}any person responsible for the management of the scheme to which the complaint or reference relates] to take, or refrain from taking, such steps as he may specify in the statement referred to in subsection (1) or otherwise in writing.
- (3) Subject to subsection (4), the determination by the Pensions Ombudsman of a complaint or dispute, and any direction given by him under subsection (2), shall be final and binding on—
- [^{F64}(a) the person by whom, or on whose behalf, the complaint or reference was made,]
 - [^{F64}(b) any person (if different) responsible for the management of the scheme to which the complaint or reference relates,]^{F65}and]
 - ^{F66}(ba)
 - ^{F67}(bb)
 - [^{F64}(c) any person claiming under a person falling within [^{F68}paragraph (a) or (b)]^{F69} ...]
- (4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a determination or direction of the Pensions Ombudsman at the instance of any person falling within paragraphs (a) to (c) of subsection (3).
- (5) Any determination or direction of the Pensions Ombudsman shall be enforceable—
- (a) in England and Wales, in [^{F70}the county court] as if it were a judgment or order of that court, and
 - (b) in Scotland, [^{F71}in like manner as an extract registered decree arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.]
- (6) If the Pensions Ombudsman considers it appropriate to do so in any particular case, he may publish in such form and manner as he thinks fit a report of any investigation under this Part and of the result of that investigation.
- (7) For the purposes of the law of defamation, the publication of any matter by the Pensions Ombudsman—

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- (a) in submitting or publishing a report under section 145(6) or subsection (6) of this section
- [^{F72}(aa) in disclosing any information under section 149(5)], or
- (b) in sending to any person a statement under subsection (1) or a direction under subsection (2),
- shall be absolutely privileged.

Textual Amendments

- F60** S. 151(1)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. **157(9)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F61** S. 151(1)(c) and word repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(f), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F62** S. 151(1)(c) and word inserted (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. **54(7)**, 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F63** Words in s. 151(2) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. **157(10)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F64** S. 151(3)(a)(b)(c) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. **157(11)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F65** S. 151(3)(ba)(bb) substituted for word (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. **54(8)**, 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F66** S. 151(3)(ba) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(g), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F67** S. 151(3)(bb) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(g), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F68** Words in s. 151(3)(c) substituted (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. **54(8)**, 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F69** Words in s. 151(3)(c) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(h), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F70** Words in s. 151(5)(a) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F71** Words in s. 151(5)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 8**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F72** S. 151(7)(aa) inserted (6.4.1997) by Pensions Act 1995 (c. 26), ss. **159(2)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

[^{F73}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]

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Textual Amendments

F73 S. 151A inserted (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 160, 180(1); S.I. 1996/1412, art. 2(2), Sch. Pt. 2; S.I. 1997/664, art. 2(3), Sch. Pt. 2

152 Power to make special county court rules.

- (1) The Secretary of State may make rules—
- (a) regulating the practice, and the forms of proceedings, which are to be followed in [^{F74}the county court] in any proceedings under or by virtue of this Part; and
 - (b) prescribing the scales of costs to be paid in connection with any such proceedings.
- (2) Without prejudice to the generality of subsection (1), rules under this section may, to any extent and with or without modifications, apply any [^{F75}rules of court] to proceedings under or by virtue of this Part.

Textual Amendments

F74 Words in s. 152(1)(a) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 9 para. 119(a); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F75 Words in s. 152(2) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 9 para. 119(b); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I1 Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

Status:

Point in time view as at 30/11/2016.

Changes to legislation:

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