



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART X

#### INVESTIGATIONS: THE PENSIONS OMBUDSMAN

#### 142 Functions of the Pensions Ombudsman.

[<sup>F1</sup>(1) The Pensions Ombudsman may investigate and determine the following [<sup>F2</sup>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,

and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the complaint relates [<sup>F3</sup>are references to the other scheme referred to in that sub-paragraph]

[<sup>F4</sup>(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,]

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- (c) any dispute of fact or law <sup>F5</sup> . . . 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,<sup>F5</sup> . . . and
- (d) any dispute of fact or law <sup>F5</sup> . . . 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,

<sup>F6</sup>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) <sup>F7</sup>any dispute, in relation to a time while Article 22 of the Pensions (Northern Ireland) Order 1995 (circumstances in which the Regulatory Authority may appoint an independent trustee) applies in relation to an occupational pension scheme, between an independent trustee of the scheme appointed under Article 23(1) of that Order and either—
  - (i) other trustees of the scheme, or
  - (ii) former trustees of the scheme who were not independent trustees appointed under Article 23(1) of that Order, 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.]

<sup>F8</sup>[ The Pensions Ombudsman shall not investigate or determine any dispute or question (1A) 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.

(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) 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 <sup>F9</sup>or a personal pension scheme]—
  - (a) the trustees or managers, and
  - (b) the employer;

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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.

<sup>F10</sup>(3A) . . . . .

- (4) Regulations may provide that, subject to any prescribed modification 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.]

[<sup>F11</sup>(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—

- [<sup>F12</sup>(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 industrial 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.

- (7) The persons who, for the purposes of this Part are [<sup>F13</sup>actual or potential beneficiaries'] in relation to a scheme are—

- (a) a member of the scheme;
- (b) the [<sup>F14</sup>widow, widower or surviving civil partner], or any surviving dependant, of a deceased member of the scheme;

[<sup>F15</sup>(ba) a person who is entitled to a pension credit as against the trustees or managers of the scheme;]

[<sup>F16</sup>(bb) a person who has given notice in accordance with section 8 of the Pensions (No. 2) Act (Northern Ireland) 2008 (right to opt out of membership of an automatic enrolment scheme);]

- (c) where the complaint or dispute relates to the question—

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- (i) whether a person who claims to be such a person as is mentioned in <sup>F17</sup>paragraph (a), (b) <sup>F18</sup>, (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 176(2) as an employer in relation to the scheme for the purposes of any provision of this Act, or under section 181(2) of the <sup>M1</sup>Pension Schemes Act 1993 as an employer in relation to the scheme for the purposes of any provision of that Act;

<sup>F19</sup>“independent trustee”, in relation to a scheme, means—

- (a) a trustee of the scheme appointed under <sup>F20</sup>Article 23(1) of the Pensions (Northern Ireland) Order 1995 (appointment of independent trustee by the Regulatory Authority)]
- (b) a person appointed under Article 7(1) of that Order 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 176(4) as a member in relation to the scheme for the purposes of any provision of this Act or under section 181(4) of the Pension Schemes Act 1993 as a member in relation to the scheme for the purposes of any provision of that Act;

“trustees or managers”, in relation to a pension scheme which is a public service pension scheme or a United Kingdom public service pension scheme, includes the scheme’s administrators;

“United Kingdom public service pension scheme” means a public service pension scheme as defined in section 181(1) of the Pension <sup>M2</sup>Schemes Act 1993;

and in this subsection “pensionable service” includes pensionable service as defined in section 181(1) of the <sup>M3</sup>Pension Schemes Act 1993.

#### Textual Amendments

- F1** S. 142(1)-(4) substituted (23.7.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 153(2)**; S.R. 1996/307, art. 2(a), **Sch. Pt. I**; S.R. 1997/192, **art. 2(b)**
- F2** Words in s. 142(1) substituted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(9)(a)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F3** Words in s. 142(1)(b) substituted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(9)(b)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F4** S. 142(1)(ba) inserted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(2)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F5** Words in s. 142(1)(c)(d) repealed (1.12.2000) by 2000 c. 4 (N.I.), ss. 49(9)(c), 67, **Sch. 9 Pt. III(3)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F6** Words in s. 142(1)(d) and s. 142(1)(e)-(g) substituted (1.12.2000) for words in s. 142(1)(d) by 2000 c. 4 (N.I.), **s. 49(3)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F7** S. 142(1)(f) substituted (6.4.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 10 para. 19(a)**; S.R. 2005/48, art. 2(7), Sch. Pt. 7

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- F8** S. 142(1A)(1B) inserted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(4)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F9** Words in s. 142(3) inserted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(5)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F10** S. 142(3A) repealed (1.12.2000) by 2000 c. 4 (N.I.), s. 67, **Sch. 9 Pt. III(3)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F11** S. 142(4A) inserted (6.4.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), arts. 1(2), **252** (with art. 285(5)); S.R. 2005/48, art. 2(7), Sch. Pt. 7
- F12** S. 142(6)(a) substituted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(6)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F13** Words in s. 142(7) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 153(3)**; S.R. 1997/192, **art. 2(b)**
- F14** Words in s. 142(7)(b) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 17**
- F15** S. 142(7)(ba) inserted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(7)(a)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F16** S. 142(7)(bb) inserted (30.6.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 64(2), 118(1)** (with s. 73); S.R. 2012/266, art. 2(b), Sch. Pt. 2
- F17** Words in s. 142(7)(c)(i) substituted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(7)(b)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F18** Words in s. 142(7)(c)(i) substituted (30.6.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 64(3), 118(1)** (with s. 73); S.R. 2012/266, art. 2(b), Sch. Pt. 2
- F19** S. 142(8): definition of “independent trustee”  
inserted (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(8)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**
- F20** Words in s. 142(8) substituted (6.4.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 10 para. 19(c)**; S.R. 2005/48, art. 2(7), Sch. Pt. 7

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**Modifications etc. (not altering text)**

- C1** S. 142(6) modified (1.12.2000) by 2000 c. 4 (N.I.), **s. 49(10)** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. I**

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**Marginal Citations**

- M1** 1993 c. 48.  
**M2** 1993 c. 48.  
**M3** 1993 c. 48.

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**Changes and effects yet to be applied to :**

- s. 142(1)(c)(d) words repealed by [2000 c. 4 \(N.I.\) Sch. 9 Pt. 3\(3\)](#)
- s. 142(3A) repealed by [2000 c. 4 \(N.I.\) Sch. 9 Pt. 3\(3\)](#)
- specified provision(s) amendment to savings in S.R. 2016/106 for effects of 2015 c. 5 (N.I.), Sch. 13 by [S.R. 2016/162 art. 5](#)
- specified provision(s) savings for effects of 2015 c. 5 (N.I.), Sch. 13 by [S.R. 2016/106 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act power to modify conferred by [S.I. 2005/255 \(N.I.\) art. 281\(3\)\(a\)\(i\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 21A inserted by [2008 c. 1 \(N.I.\) Sch. 4 para. 9](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 9 together with the inserted s. 21A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 21A repealed by [2008 c. 13 \(N.I.\) s. 85\(2\)\(b\) Sch. 10 Pt. 3](#) (This amendment not applied to [legislation.gov.uk](#). This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 9 together with the inserted s. 21A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 23A inserted by [2008 c. 1 \(N.I.\) Sch. 4 para. 10](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 10 together with the inserted s. 23A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 23A repealed by [2008 c. 13 \(N.I.\) s. 85\(2\)\(b\) Sch. 10 Pt. 3](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 10 together with the inserted s. 23A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 42(1A)(1B) inserted by [2008 c. 13 \(N.I.\) s. 82\(2\)](#)
- s. 42(1A) words substituted by [2012 c. 3 \(N.I.\) Sch. 3 para. 7](#)
- s. 42A inserted by [2008 c. 13 \(N.I.\) s. 82\(3\)](#)
- s. 42A repealed by [2015 c. 5 \(N.I.\) Sch. 12 para. 79](#)
- s. 42A heading words substituted by [2012 c. 3 \(N.I.\) Sch. 3 para. 8\(b\)](#)
- s. 42A(1)(c) words substituted by [2012 c. 3 \(N.I.\) Sch. 3 para. 8\(a\)](#)
- s. 67(1A) inserted by [2016 c. 1 \(N.I.\) s. 39\(2\)\(b\)](#)
- s. 78A inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 2](#)
- s. 79(1A)-(1AC) substituted for s. 79(1A) by [2016 c. 1 \(N.I.\) Sch. 1 para. 3](#)
- s. 80-80F substituted for s. 80 by [2016 c. 1 \(N.I.\) Sch. 1 para. 4](#)
- s. 81A inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 5](#)
- s. 82A82B inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 6](#)
- s. 90(2A)(a)(viii) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(2\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 90(2A)(a)(ix) inserted by [2015 c. 5 \(N.I.\) Sch. 18 para. 9\(2\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))

- s. 90(2A)(b)(vi) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(2\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 90(2A)(b)(vii) inserted by [2015 c. 5 \(N.I.\) Sch. 18 para. 9\(2\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 97AI(7)(a)(x) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(4\)\(a\)](#)
- s. 97AI(7)(b)(viii) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(4\)\(b\)](#)
- s. 109(4)(4A) substituted for s. 109(4) by [2016 c. 1 \(N.I.\) s. 38\(5\)](#)
- s. 141(4)(5) added by [S.I. 2005/255 \(N.I.\) art. 251](#)
- s. 142(6A) inserted by [S.I. 2005/255 \(N.I.\) Sch. 10 para. 19\(b\)](#)
- s. 170A inserted by [2008 c. 13 \(N.I.\) Sch. 9 para. 1](#)
- s. 172(2)(b)(ii)-(ix) substituted for s. 172(2)(b)(ii) by [2008 c. 1 \(N.I.\) Sch. 4 para. 33](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 33 repealed immediately before the "abolition date" (see [2008 c. 1 \(N.I.\)](#), s. 13) by S.R. 2012/124, art. 7(2))
- Sch. 2 para. A1 inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 8](#)
- Sch. 2 para. 3A omitted by [2016 c. 1 \(N.I.\) Sch. 1 para. 9](#)