

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSIONS SCHEME (INTERNAL DISPUTE
RESOLUTION PROCEDURES CONSEQUENTIAL AND MISCELLANEOUS
AMENDMENTS) REGULATIONS 2008

2008 No. 649

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 Trustees or managers of occupational pension schemes are required to have in place arrangements for the resolution of disagreements relating to that scheme. The arrangements provide for a formal process whereby interested parties can have their dispute determined by the trustees of the scheme. These regulations provide a number of mainly technical provisions to support changes to primary legislation that come into force in April 2008 – more details can be found at paragraph 7.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Under provisions in section 50 of the Pensions Act 1995, occupational pension schemes have been required to operate internal dispute resolution (IDR) arrangements since 1997. These arrangements provide a way for scheme members and other interested parties to have a dispute considered formally by the trustees or managers of the scheme.
 - 4.2 Section 50 was substantially revised by section 273 of the Pensions Act 2004. Under the changes, schemes are able to adopt a one-stage process under which the only decision will be made by the trustees. The new IDR provisions are intended to be flexible and simple, avoid disruption to present two-stage arrangements where schemes do not want to change, but enable schemes to move to a one stage procedure if that is what they prefer.
 - 4.3 Section 273 of the Pensions Act 2004 was itself amended by section 16 of the Pensions Act 2007 to ensure:

- (i) Trustees can delegate the decision to a sub committee, and
- (ii) Schemes can continue to operate a two stage process if they wish.

4.4 The necessary changes to section 273 of the Pensions Act 2004 are included in section 16 of the Pensions Act 2007. Section 273 will be commenced for the purposes of making the IDR regulations shortly before the Regulations come into force, and come fully into force from 6th of April 2008.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

6. European convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 One of the recommendations in the report by Alan Pickering” A simpler way to better pensions” was that the IDR procedures should be less prescriptive and move away from a process that required two stages of decision making. Those schemes that wish to retain a two stage process will not be prevented from doing so. The changes to section 50 of the Pensions Act 1995 were made in section 273 of the Pensions Act 2004. Section 273 of the Pensions Act 2004 was itself amended by section 16 of the Pensions Act 2007 to ensure it works as intended. The revised requirements will come into force on 6th April 2008.

7.2 Although the principle requirements are in primary legislation, some minor and technical provisions require secondary legislation. Consequently, these regulations provide:

- That some specified schemes aren’t required to operate dispute resolution arrangements,
- That some specified disputes fall outside the scope of the dispute resolution arrangements,
- That individuals applying for resolution of a dispute must be given information about the Pensions Advisory Service and the Pensions Ombudsman,
- Transitional arrangements that tell schemes how to deal with existing disputes when the new arrangements come into force,
- Minor miscellaneous and consequential amendments to other regulations, and

- Revocation of the existing dispute resolution regulations which are no longer required.

Consultation

- 7.3 A six week consultation exercise was carried out that sought comments on the Regulations. Nineteen responses to the consultation were received.

Key issues raised

- 7.4 As a result of the consultation process, the Regulations now require trustees/managers to give applicants details of the Pensions Advisory Service as reasonably practicable after an application for resolution of a dispute is received instead of with the decision.

Guidance

- 7.5 These Regulations are of interest to pension lawyers, pensions scheme actuaries and trustees and the amendments are minor and technical. It is therefore inappropriate to issue specific guidance.
- 7.6 Under section 50(5) of the Pensions Act 1995, trustees or managers are required to make their decision and notify the applicant within a reasonable time. The Pensions Regulator is required under section 90(2)(a) of the Pensions Act 2004 to issue a code of practice giving guidance and information about what constitutes a reasonable period.

Consolidation

- 7.7 The Government accepts the need for consolidation in due course. However most users of pensions legislation are pensions professionals who will have access to their own online resource materials. In addition the Department for Work and Pensions publishes the “Blue Volumes”, which can be accessed by members of the public. The Blue Volumes contain the legislation for which the Department is responsible. The legislation is presented in a consolidated format and is updated regularly. The weblink is http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/pdf/c_0031.pdf

8. Impact

- 8.1 A full impact assessment has not been produced for this instrument as it has only a negligible impact on the private and voluntary sectors.
- 8.2 There are no public sector costs.

9. Contact

Olu Abe at the Department for Work and Pensions (Tel: 020 7962 8500) or e-mail: olu.abe@dwp.gsi.gov.uk can answer any queries regarding the instrument.