
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 6

REVIEWS, APPEALS AND MALADMINISTRATION

References to the PPF Ombudsman

Reference of reviewable matter to the PPF Ombudsman

192.—(1) Regulations must make provision—

- (a) for a reviewable matter to be referred to the PPF Ombudsman following a reconsideration decision under regulations made under paragraph (1)(b) of, or by virtue of paragraph (3) (b) of, Article 189 in respect of the matter, and
- (b) for the PPF Ombudsman—
 - (i) to investigate and determine what (if any) is the appropriate action for the Board to take in relation to the matter, and
 - (ii) to remit the matter to the Board with directions for the purpose of giving effect to his determination.

(2) Regulations under paragraph (1) must make provision about the making of references to the PPF Ombudsman, including provision—

- (a) about the descriptions of persons who may make them,
- (b) about the manner of making such references, including the times by which they are to be made, and
- (c) for prescribed persons to be notified of—
 - (i) references made under the regulations, and
 - (ii) determinations and directions given under the regulations.

(3) Regulations under paragraph (1) must—

- (a) require the PPF Ombudsman to conduct an oral hearing in relation to any reviewable matter referred to him under the regulations or to dispose of the matter on the basis of written representations,
- (b) enable the PPF Ombudsman to consider evidence relating to the matter which was not available to the Board or the Reconsideration Committee, and
- (c) make other provision about the procedure for conducting investigations, and reaching and giving determinations, under the regulations, including the times by which determinations are to be given.

- (4) The provision that may be made by virtue of paragraph (3)(c) includes provision—
- (a) conferring rights on prescribed persons—
 - (i) to make representations to the PPF Ombudsman in relation to a reviewable matter referred to him by virtue of this Article,
 - (ii) to be heard or represented at any oral hearing by the PPF Ombudsman in relation to such a matter,
 - (b) about the consideration of evidence by the PPF Ombudsman, including—
 - (i) production of documents,
 - (ii) oral hearings,
 - (iii) expert evidence,
 - (iv) attendance of witnesses,
 - (c) conferring rights on prescribed persons to continue a reference made by a person who has died or is otherwise unable to act for himself,
 - (d) as to the costs or expenses of prescribed persons,
 - (e) conferring rights on prescribed persons to apply for a stay in relation to prescribed legal proceedings which begin after the reference is made and conferring power on the relevant court to make an order staying the proceedings if it is satisfied of prescribed matters, and
 - (f) for securing that any determination or direction of the PPF Ombudsman under the regulations is binding on prescribed persons.
- (5) Regulations under paragraph (1) may include provision—
- (a) conferring power on the PPF Ombudsman to direct the Board to pay such compensation as he considers appropriate to such persons as he may direct,
 - (b) conferring power on the Board to make such payments,
 - (c) conferring power on the PPF Ombudsman to direct that—
 - (i) any determinations, directions or other decisions which are made by the Board in accordance with any determination or direction given by him, or
 - (ii) any variations, revocations or substitutions of its determinations, directions or other decisions which are made by the Board in accordance with any determination or direction given by him,are to be treated as if they were made at such time (which may be a time prior to his determination or direction) as he considers appropriate,
 - (d) conferring power on the PPF Ombudsman to direct that any notice varied, substituted, issued or given by the Board in accordance with any determination or direction given by him is to be treated—
 - (i) as if it were issued or given at such time (which may be a time prior to his determination or direction) as he considers appropriate;
 - (ii) as if it became binding for the purposes of this Part at the time at which he gives his determination or direction or at such later time as he considers appropriate,
 - (e) prescribing the circumstances in which any determination or other act of the Board in accordance with any determination or direction given by the PPF Ombudsman, is not to be treated as being a reviewable matter for the purposes of this Chapter, and
 - (f) conferring such other powers on the Board as may be required when a matter is remitted to it (including such powers as the Board may have on making a review decision or reconsideration decision under regulations made under Article 189(1)).

Investigation by PPF Ombudsman of complaints of maladministration

193.—(1) Regulations must provide for the investigation and determination by the PPF Ombudsman of such matters as may be prescribed following decisions on relevant complaints given by the Board or the committee of the Board referred to in Article 190(3)(b) under regulations made under that Article.

(2) Regulations under this Article must make provision—

- (a) prescribing the descriptions of person who may refer matters to the PPF Ombudsman under the regulations,
- (b) about the manner in which such references may be made, including the times by which they are to be made,
- (c) about the procedure for conducting investigations, and reaching and giving determinations, on such references, including the times by which the determinations are to be given,
- (d) about the powers of the PPF Ombudsman on making such determinations, including—
 - (i) the power to direct the Board to pay such compensation as he considers appropriate to such persons as he considers have sustained injustice in consequence of the matters complained of, and
 - (ii) the power to direct the Board to take or refrain from taking such other steps as he may specify,
- (e) conferring such powers on the Board as are necessary to comply with such requirements,
- (f) for prescribed persons to be notified of—
 - (i) references to the PPF Ombudsman under the regulations, and
 - (ii) determinations and directions by the PPF Ombudsman under the regulations,
- (g) conferring rights on prescribed persons—
 - (i) to make representations to the PPF Ombudsman in relation to a matter referred to him by virtue of this Article,
 - (ii) to be heard or represented at any oral hearing by the PPF Ombudsman in relation to such a matter,
- (h) about the consideration of evidence by the PPF Ombudsman, including—
 - (i) production of documents,
 - (ii) oral hearings,
 - (iii) expert evidence,
 - (iv) attendance of witnesses,
- (i) conferring rights on prescribed persons to continue a reference made by a person who has died or is otherwise unable to act for himself,
- (j) as to the costs or expenses of prescribed persons,
- (k) conferring rights on prescribed persons to apply for a stay in relation to prescribed legal proceedings which begin after the reference is made and conferring power on the relevant court to make an order staying the proceedings if it is satisfied of prescribed matters, and
- (l) for securing that any determination or direction of the PPF Ombudsman under the regulations is binding on prescribed persons.

Referral of questions of law

194. The PPF Ombudsman may refer any question of law arising for determination in connection with—

- (a) a reviewable matter referred to him by virtue of regulations under Article 192, or
- (b) a matter referred to him by virtue of regulations under Article 193,

to the High Court.

Publishing reports etc.

195.—(1) If the PPF Ombudsman considers it appropriate to do so in any particular case, he may publish in such form and manner as he considers appropriate a report of any investigation carried out by virtue of regulations under Article 192 or 193 and of the result of that investigation.

(2) For the purposes of the law of defamation, the publication of any matter by the PPF Ombudsman under or by virtue of any provision of this Chapter shall be absolutely privileged.

Determinations of the PPF Ombudsman

196.—(1) A person bound by a determination or direction by the PPF Ombudsman by virtue of regulations made under Article 192 or 193 may appeal on a point of law arising from the determination or direction to the High Court.

(2) Any determination or direction of the PPF Ombudsman is enforceable in a county court as if it were a judgment or order of that court.

Obstruction etc. of the PPF Ombudsman

197.—(1) This Article applies if any person—

- (a) without lawful excuse obstructs the PPF Ombudsman in the performance of his functions, or
- (b) is guilty of any act or omission in relation to an investigation by the PPF Ombudsman under regulations made under Article 192 or 193, which, if that investigation were a proceeding in the court, would constitute contempt of court.

(2) The PPF Ombudsman may certify the offence to the court.

(3) Where an offence is certified under paragraph (2), the court may—

- (a) inquire into the matter,
- (b) hear any witnesses who may be produced against or on behalf of the person charged with the offence and any statement that may be offered in defence, and
- (c) 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.

(4) In this Article “the court” means a county court.