
DRAFT STATUTORY INSTRUMENTS

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The Pensions (Northern Ireland) Order 2005

PART III

THE BOARD OF THE PENSION PROTECTION FUND

CHAPTER 6

REVIEWS, APPEALS AND MALADMINISTRATION

Review etc. by the Board

Meaning of “reviewable matters”

188.—(1) For the purposes of this Chapter, “reviewable matter” means a matter mentioned in Schedule 8.

(2) Regulations may provide, in relation to any reference in that Schedule to a failure by the Board to do any act or make any determination, that—

- (a) the reference is to be construed as a reference to a failure by the Board to do the act or make the determination within a prescribed period, and
- (b) the reference is to be construed as not including a failure to do the act or make the determination which first occurs after a prescribed time.

(3) Regulations may make provision suspending the effect of any determination, direction or other act of the Board, or any notice given or issued by it, which relates to a reviewable matter until—

- (a) the period within which the matter may be reviewed by virtue of this Chapter has expired, and
- (b) if the matter is so reviewed—
 - (i) the review and any reconsideration,
 - (ii) any reference to the PPF Ombudsman in respect of the matter, and
 - (iii) any appeal against his determination or directions,has been finally disposed of.

(4) Regulations may amend Schedule 8 by—

- (a) adding to it any other description of determination, act or failure of, or matter determined or for determination by, the Board, or
- (b) removing from it any such determination, act, failure or matter for the time being mentioned in it.

(5) Regulations under paragraph (4) may also modify any provision of this Part in consequence of provision made by virtue of sub-paragraph (a) or (b) of that paragraph.

Review and reconsideration by the Board of reviewable matters

189.—(1) Regulations must—

- (a) provide for the Board, on the written application of an interested person, to give a decision (“a review decision”) on any reviewable matter, and
- (b) require a committee of the Board constituted for the purposes of this Article (the “Reconsideration Committee”), on the written application of an interested person following a review decision, to reconsider the reviewable matter and give a decision (“a reconsideration decision”).

(2) In paragraph (1) “interested person”, in relation to a reviewable matter, means a person of a description prescribed in relation to reviewable matters of that description.

(3) Regulations under paragraph (1) may—

- (a) permit a review decision in respect of a reviewable matter of a prescribed description to be made otherwise than on an application, and
- (b) permit a reconsideration decision in respect of such a matter to be made otherwise than on an application.

(4) Regulations under paragraph (1) must provide for the Board’s powers on making a review decision or reconsideration decision to include power—

- (a) to vary or revoke the determination, direction or other decision already made by the Board in respect of the reviewable matter,
- (b) to substitute a different determination, direction or decision,
- (c) to provide for such variations, revocations or substitutions, or any determinations, directions or other decisions made as a result of the review decision or reconsideration decision, to be treated as if they were made at such time (which may be a time prior to the making of the review decision or reconsideration decision) as the Board considers appropriate,
- (d) to provide for any notice varied, substituted, issued or given by the Board as a result of the review decision or reconsideration decision, to be treated as if it were issued or given at such time (which may be a time prior to the making of the review decision or reconsideration decision) as the Board considers appropriate,
- (e) generally to deal with the matters arising on the review decision or reconsideration decision as if they had arisen on the original determination, direction or decision,
- (f) to pay such compensation as the Board considers appropriate to such persons as it may determine, and
- (g) to make savings and transitional provision.

(5) Regulations under paragraph (1) must include provision—

- (a) about applications under the regulations for a review decision or reconsideration decision in respect of a reviewable matter, including the times by which they are to be made,
- (b) requiring notice—
 - (i) of such applications, or
 - (ii) of a decision of the Board or the Reconsideration Committee by virtue of paragraph (3) to give a review decision or reconsider a reviewable matter otherwise than on such an application,

to be given to interested persons in relation to the matter,

- (c) with a view to securing that individuals concerned in giving a reconsideration decision were not concerned in the reviewable matter in respect of which the decision is to be made,

- (d) as to the procedure for reaching and giving decisions under the regulations, including—
 - (i) rights of interested persons to make representations to the Reconsideration Committee on a reconsideration under regulations made under paragraph (1)(b), and
 - (ii) the times by which decisions are to be given, and
- (e) requiring notice of the review decision or the reconsideration decision in respect of a reviewable matter to be given to interested persons in relation to the matter.
- (6) Provision required by paragraph (5)(c) may modify paragraphs 15 and 16 of Schedule 5 to the Pensions Act 2004 (c. 35) (membership and procedure of committees of the Board).

Investigation by the Board of complaints of maladministration

- 190.**—(1) Regulations must make provision for dealing with relevant complaints.
- (2) For the purposes of this Chapter, “relevant complaint” means a complaint—
- (a) by a person who is or might become entitled to compensation under the pension compensation provisions, or
 - (b) by a person who has made or may make an application under Article 165 (fraud compensation),
- alleging that he has sustained injustice in consequence of maladministration in connection with any act or omission by the Board or any person exercising functions on its behalf.
- (3) Regulations under paragraph (1) must—
- (a) provide for the Board to investigate and give decisions on matters complained of in relevant complaints, and
 - (b) provide for a committee of the Board, on applications following such decisions, to investigate matters complained of and give decisions on them.
- (4) Such regulations may, in particular, make provision—
- (a) about the making of relevant complaints and applications under the regulations, including the times by which they are to be made,
 - (b) with a view to securing that individuals concerned in giving a decision were not concerned in the matter which is the subject of the relevant complaint in question,
 - (c) as to the procedure for reaching and giving decisions under the regulations, including—
 - (i) rights of prescribed persons to make representations to the Board, on an investigation under regulations made under paragraph (3)(b), and
 - (ii) the times by which decisions are to be given, and
 - (d) requiring notice—
 - (i) of a relevant complaint under the regulations, or
 - (ii) of a decision under the regulations in respect of the complaint,to be given to prescribed persons in relation to the matter.
- (5) Regulations under paragraph (1) may confer power on the Board to pay such compensation as it considers appropriate to such persons as it considers have sustained injustice in consequence of the matters complained of.
- (6) The power conferred by paragraph (4)(b) includes power to modify paragraphs 15 and 16 of Schedule 5 to the Pensions Act 2004 (c. 35) (membership and procedure of committees of the Board).