

2005 No. 824

PENSIONS

The Pension Protection Fund (PPF Ombudsman) Order 2005

Made - - - - *15th March 2005*

Coming into force - - *6th April 2005*

Whereas a draft of this instrument was laid before Parliament in accordance with section 316(2)(g) of the Pensions Act 2004^(a) and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 209(4)(a), (b), (c), (d), (f) and (g), 210(6) and 315(2) and (4) of the Pensions Act 2004, and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Pension Protection Fund (PPF Ombudsman) Order 2005 and shall come into force on 6th April 2005.

(2) In this Order “the Act” means the Pensions Act 2004.

(3) Article 2(a) of this Order extends to Northern Ireland.

Remuneration, compensation, pension, allowances and reimbursement

2. The Secretary of State may—

(a) pay to or in respect of the PPF Ombudsman, or a Deputy PPF Ombudsman^(b), such amounts by way of remuneration, compensation for loss of office, pension and allowances, or make provision for any such payments, as the Secretary of State may determine; and

(b) reimburse the PPF Ombudsman, or a deputy PPF Ombudsman, in respect of any expenses incurred by him in the performance of his functions.

Staff of the PPF Ombudsman

3.—(1) The PPF Ombudsman may, with the approval of the Secretary of State as to numbers, appoint such persons to be members of his staff as the PPF Ombudsman considers appropriate.

(2) Any such appointments are to be made on such terms and conditions as are determined by the PPF Ombudsman with the approval of the Secretary of State.

^(a) 2004 c.35.

^(b) See section 210 of the Pensions Act 2004, which provides that the Secretary of State may appoint one or more persons to act as a deputy to the PPF Ombudsman.

Additional staff and facilities

4.—(1) The Secretary of State may make available to the PPF Ombudsman such additional staff and such other facilities as he considers appropriate.

(2) The availability of such staff and facilities may be on such terms as to payment by the PPF Ombudsman as the Secretary of State may determine.

Delegation of functions

5.—(1) Except as provided by paragraph (2), any function of the PPF Ombudsman may be delegated to and performed by—

- (a) a member of staff appointed by the PPF Ombudsman in accordance with article 3; or
- (b) an additional member of staff made available to him by the Secretary of State in accordance with article 4, who is authorised to perform that function by the PPF Ombudsman.

(2) The PPF Ombudsman must not delegate—

- (a) the determination of a reviewable matter referred to him by virtue of regulations made under section 213 of the Act (reference of reviewable matter to the PPF Ombudsman);
- (b) the determination of a complaint of maladministration referred to him by virtue of regulations made under section 214 of the Act (investigation by the PPF Ombudsman of complaints of maladministration);
- (c) the referral of a question of law under section 215 of the Act (referral of questions of law);
- (d) the decision to publish a report under section 216 of the Act (publishing reports etc);
- (e) the certification of an offence under section 218(2) of the Act (obstruction etc of the PPF Ombudsman).

Power to obtain information

6. In conducting an investigation in accordance with regulations made under section 213 or 214 of the Act the PPF Ombudsman may require any person who in his opinion is able to furnish information or produce documents necessary for the purposes of the investigation to furnish any such information or produce any such documents.

Restrictions on the disclosure of information

7.—(1) The PPF Ombudsman must not disclose any information which he obtains for the purposes of an investigation under section 213 or 214 of the Act unless—

- (a) the disclosure is to a person specified in paragraph (2); and
- (b) the PPF Ombudsman considers that disclosure would enable or assist that person to discharge his functions.

(2) The persons specified in this paragraph are—

- (a) the Board;
- (b) the Regulator;
- (c) the Pensions Compensation Board(a);
- (d) the Pensions Ombudsman(b);
- (e) the Financial Services Authority(c);

(a) See section 78(1) of the Pensions Act 1995 (c. 26) which establishes the Pensions Compensation Board.

(b) See section 145 of the Pension Schemes Act 1993 (c. 48) which establishes the Pensions Ombudsman.

(c) See section 1(1) of the Financial Services and Markets Act 2000 (c. 8) which establishes the Financial Services Authority.

- (f) any government department (including a Northern Ireland department);
- (g) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (appointment of persons to carry out general investigations);
 - (ii) subsection (3) or (5) of section 168 of that Act (appointment of persons to carry out investigations in particular cases); or
 - (iii) section 284 of that Act (power to investigate),
to conduct an investigation;
- (h) an inspector appointed under Part XIV of the Companies Act 1985(a) or under Part XV of the Companies (Northern Ireland) Order 1986(b);
- (i) a body designated under section 326(1) of the Financial Services and Markets Act 2000 (designation of professional bodies); and
- (j) a recognised investment exchange or recognised clearing house (as defined by section 285 of that Act) (exemption for recognised investment exchanges and clearing houses).

Signed by authority of the Secretary of State for Work and Pensions.

15th March 2005

Malcolm Wicks
Minister of State,
Department for Work and Pensions

(a) 1985 c.6. Part XIV of the Companies Act 1985 (as amended) provides that the Secretary of State may appoint one or more inspectors to investigate a company and its affairs.
(b) S.I. 1986/1032 (N.I. 6).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in respect of the PPF Ombudsman and the Deputy PPF Ombudsman.

Article 1 provides (amongst other things) that article 2(a) of this Order extends to Northern Ireland.

Article 2(a) provides that the Secretary of State may make payments to the PPF Ombudsman, or a Deputy PPF Ombudsman, by way of remuneration, compensation, pension and allowances. Article 2(b) makes provision for the reimbursement of expenses in respect of the same persons.

Article 3 provides for the appointment of staff by the PPF Ombudsman.

Article 4 provides that the Secretary of State may make available additional staff and facilities to the PPF Ombudsman.

Article 5 provides that the PPF Ombudsman may (with certain exceptions) delegate any functions to a member of his staff or (subject to authorisation by him) an additional member of staff made available by the Secretary of State. Paragraph (2) provides for the exceptions in this respect.

Article 6 provides that the PPF Ombudsman may require any person to provide information or furnish documents necessary to an investigation.

Article 7 makes provision about restrictions on the disclosure of information held by the PPF Ombudsman.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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