

PENSIONS ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – the Pensions Regulator

Exercise of regulatory functions

Section 96: Standard procedure

295. This section specifies what needs to be included in the statement of procedure in normal circumstances where notice is given, i.e. that the persons directly affected by the regulatory action under consideration are informed (a “warning notice”) and that they are given a chance to make representations. The Regulator has to take consideration of this evidence and notify the persons directly affected of its determination whether or not to take the proposed action (a “determination notice”). The determination notice must contain reference to the right of referral to the Pensions Regulator Tribunal. The procedure must also provide for the form and content of warning notices and determination notices; the manner in which they are to be given, and any time limits which apply throughout this process.
296. *Subsection (3)* states that the determination may be referred to the Tribunal either by anyone to whom the determination notice is given or anyone who appears to the Tribunal to be directly affected by the determination.
297. *Subsection (4)* specifies that *subsection (3)* does not apply where the determination which is the subject of the determination notice is a determination to issue a clearance statement under *section 42* (*section 38* contribution notices: clearance statements) or *section 46* (financial support directions: clearance statements).
298. *Subsection (5)* provides that the regulatory function in question may not be exercised in the period during which persons have the right to have the determination referred to the Tribunal or, if it is referred, while the Tribunal process (including any appeal) is ongoing. However, *subsection (5)* does not apply to the list of regulatory functions in *subsection (6)*.