
S T A T U T O R Y I N S T R U M E N T S

1973 No. 1776**PENSIONS****OCCUPATIONAL PENSION SCHEMES****The Occupational Pensions Board (Determinations and Review Procedure) Regulations 1973**

Made - - - 25th October 1973
Laid before Parliament 2nd November 1973
Coming into Operation 23rd November 1973

The Secretary of State for Social Services in exercise of his powers under sections 66(7) and (8), 67(4) and 92(3) of the Social Security Act 1973^(a) and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals as required by sections 66(9) and 67(5) of that Act, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Occupational Pensions Board (Determinations and Review Procedure) Regulations 1973 and shall come into operation on 23rd November 1973.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1973;

“the Board” means the Occupational Pensions Board;

“the court” has the same meaning as in section 86(2) of the Act;

“referred question” means a question referred to the Board by the Secretary of State under section 85(1)(d) of the Act;

“scheme” means occupational pension scheme:

and other expressions have the same meanings as in the Act.

(3) Except insofar as the context otherwise requires any reference in these regulations to any enactment shall be construed as a reference to that enactment as amended, extended, or re-enacted by any other enactment.

(4) Any notice required by these regulations to be given to any person shall be treated as duly given if sent to him by post at his usual or last known address or the address of the principal place at which any employment to which the notice relates is last known to have been carried on.

(a) 1973 c. 38.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Applications to the Board for a review of a determination

2.—(1) An application to the Board, under section 67(2) of the Act, for a review of a determination made by them shall be made in writing and shall state—

- (a) the name and address of the applicant;
- (b) particulars of the determination in respect of which a review is sought;
- (c) the reason why the applicant claims that he is a person interested in that determination;
- (d) the grounds on which review of the determination is sought,

so however that the Board, if they think fit, may treat as a valid application an application which does not satisfy the requirements of sub-paragraphs (a) to (d) above.

(2) If, on receipt of an application for a review of a determination, the Board decide to refuse to review that determination they shall notify the applicant in writing of that refusal, the reasons for it and of the right of appeal to the court on a point of law.

(3) If, on receipt of an application for a review of a determination, the Board decide to review that determination they shall give notice of the application and of their intention to review that determination to—

- (a) the trustees or managers of the scheme;
- (b) any other person (including a person who is an employer of persons in service in an employment to which the scheme applies) who in the opinion of the Board should be given such notice,

and the notice shall state that any person to whom it is given may make representations in connection with the review.

(4) The Board shall allow a period of 21 days (or such lesser period as the Board, with the agreement of all persons to whom notice of the application has been given, may think fit) to elapse after the giving of the notices required by paragraph (3) above and subject to regulation 3 below they shall then proceed to review the determination as soon as practicable with a view to confirming, varying or revoking it having regard to any representations that they have received.

(5) If it appears to the Board that any review which they are to undertake involves a question of special difficulty, they may direct that in dealing with the review they shall have the assistance of an assessor or assessors having the necessary professional qualifications, whom they shall select after consultation with the appropriate professional bodies.

(6) When the Board have made a determination under paragraph (4) above they shall record that determination in writing and as soon as practicable shall give notice in writing of the determination, the reasons for it and of the right to appeal to the court on a point of law to the applicant for the review, to any person to whom notice was given under paragraph (3) above and in the case of a referred question to the Secretary of State.

Formal hearings in connection with reviews

3.—(1) If the applicant for the review of any determination by the Board, or any person to whom notice of the application has been given under regulation 2(3) above, requests a formal hearing of the application, the Board shall grant the request unless, after considering the grounds of the application and any reasons given for the request, they are satisfied that the determination can properly be made without such a hearing, in which event they shall inform the person making the request of its refusal and of the reasons for it, and may proceed to make the determination without such a hearing, so however that they shall not proceed to make their determination until they have afforded the person making the request a reasonable opportunity of making a written submission in connection with the review.

(2) If, in accordance with the provisions of the foregoing paragraph, a request for a formal hearing has been granted, or if, notwithstanding that no request has been made, the Board are otherwise satisfied that a formal hearing is desirable, reasonable notice (being 21 days or such lesser period as the Board, with the agreement of all persons to whom notice of the hearing has been given, may think fit) of the time and place of the hearing shall be given to every person to whom notice of the application has been given under regulation 2(3) above.

(3) In any case in which a formal hearing of a review is held such hearing shall be in public except insofar as the Board for special reasons otherwise direct, so however that in cases in which the Board direct that a hearing or any part of it shall be held in private a member of the Council on Tribunals, in his capacity as such, shall nevertheless be entitled to attend.

(4) Any person to whom notice of the hearing has been given under paragraph (2) above shall be entitled to be heard at the hearing and to be represented thereat by any other person whether legally qualified or not and, for the purpose of the proceedings at the hearing, such representative shall have all the rights and powers to which the person whom he represents is entitled under these regulations.

(5) Any person having the right to be heard who appears at a hearing by the Board may give evidence and call witnesses and shall be given an opportunity of putting questions directly to any witness called at the hearing.

(6) The Board may, if they think fit, require any persons to attend at a hearing to give evidence, or to produce documents, reasonably required for determining the issue before them and may take evidence on oath and for that purpose administer oaths.

(7) If any person to whom notice of the hearing has been given under paragraph (2) above should fail to appear either in person or by a representative at the hearing the Board may proceed to determine the issue notwithstanding the absence of any such person or representative, or may give such directions with a view to the determination of the issue as they think proper.

Reviews by the Board without application being made

4. In any case where the Board enter upon a review of a determination made by them without an application for review being made the provisions of regulations 2(3) to (6) and 3 above shall apply as if the review were being entered upon consequent upon an application for review being made.

Reference of questions by the Secretary of State

5.—(1) Whenever the Secretary of State refers to the Board a referred question the Board shall, as soon as may be practicable, proceed to determine that question in accordance with the provisions of this regulation.

(2) Before determining any referred question the Board shall notify in writing the person to whom the referred question relates, the employer of that person during any period in question and any other persons appearing to them to be interested.

(3) The Board shall record their determination on any referred question in writing and as soon as practicable shall give notice in writing of the determination and of the reasons for it to the Secretary of State and to any person to whom notice of the reference was given under paragraph (2) above, and such persons shall at the same time be referred to the Board's powers of review under section 67 of the Act.

(4) The provisions of regulations 2(4) and (5) and 3 above shall apply to the determination of a referred question as they apply to the determination of an application for review and as if references therein to regulation 2(3) were references to regulation 5(2).

Formal hearings in any other case

6. Where, in relation to any question which falls to be determined by the Board, provision for a formal hearing is not otherwise made by these regulations and the Board are satisfied that a formal hearing is desirable, they shall give reasonable notice (being 21 days or such lesser period as the Board, with the agreement of all persons to whom notice of the hearing has been given, may think fit) of the time and place of the hearing to every person appearing to them to be interested and the provisions of regulations 2(5) and 3(3) to (7) above shall apply to such a hearing as they apply to a hearing held in connection with a review.

General power to require production of documents and furnishing of information

7.—(1) For the purposes of any of the Board's functions under sections 51 to 63 and 67 of, and Schedules 15 and 16 to, the Act, they may require any person to produce to them such documents or furnish them with such information as they may reasonably require.

(2) In any case where the Board require documents or information for the purpose of conducting a review under section 67 of the Act they may postpone making their review until such documents or information are supplied.

Offences and penalties

8. If any person neglects or refuses to produce any documents or furnish any information which under regulation 7 above he is required to produce or furnish he shall be liable on summary conviction to a penalty not exceeding for any one offence £50 or, for an offence of continuing any such failure after conviction, £10 for each day on which it is so continued.

Keith Joseph,
Secretary of State for Social Services.

25th October 1973.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide the procedure relating to applications for review of determinations made by the Occupational Pensions Board under the Social Security Act 1973; to the determination of questions referred to the Board by the Secretary of State under section 85(1)(d) of the Act, and to the holding of formal hearings by the Board.

Provision is made for the Board to require production of documents and furnishing of information, and for penalties for failure to comply with such a requirement.

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