
STATUTORY INSTRUMENTS

1997 No. 724

**The Pensions Compensation Board (Determinations
and Review Procedure) Regulations 1997**

PART II

PROCEDURE ON DETERMINATIONS

Interpretation

2. For the purposes of this Part, “application” means an application to the Board for compensation under section 82 or, as the case may be, Article 80 of the Order, and the word “applicant” shall be construed accordingly.

Acknowledgment of application

3. The Board shall, within 14 days of receipt of an application, send to the applicant a written notice—

- (a) acknowledging receipt of the application; and
- (b) setting out the steps to be taken by the Board in determining the application.

Withdrawal of application, death of applicant and continuance

4.—(1) After an application has been sent or delivered to the Board at its proper address it may not be withdrawn without the Board’s consent in writing which consent shall not be unreasonably refused.

(2) Where an applicant dies or is unable or unwilling to continue with an application, the Board may appoint such other person as it thinks fit as a successor to the applicant, if such other person consents in writing, and the application shall be carried on by such other person in substitution for the applicant.

Holding of oral hearing

5. The Board may hold an oral hearing in respect of any question which it is within their functions to determine and the requirements in this Part of these Regulations in respect of such hearings shall apply.

Notice of oral hearing

6.—(1) Where the Board decides to hold an oral hearing, they shall fix the date, time and place for the hearing and, not less than 28 days before that date, send to the applicant, and to such other persons as it appears to them the justice of the case may require, a notice in writing specifying the date, time and place of the hearing, and the manner in which it is to be conducted.

(2) The notice referred to in paragraph (1) shall also ask the person notified to confirm within 14 days of receipt of the notice whether or not that person or his representative, if any, will attend the hearing, and if so, the names and addresses of the witnesses, if any, that person or his representative intends to call.

Requirements applying to oral hearings

7.—(1) An oral hearing shall be in public except where the Board are satisfied that, by reason of the disclosure of intimate personal or financial circumstances, commercially sensitive information, or information communicated or obtained in confidence, it is just and reasonable for the hearing, or part of it, to be in private.

(2) The Board may exclude from the hearing, or part of it, any person whose conduct has disrupted or is likely, in the opinion of the Board, to disrupt the hearing.

(3) The following persons shall be entitled to attend, and, in the case of persons listed in subparagraphs (a), (b), (c) and (f), to be heard, at an oral hearing whether or not it takes place in public—

- (a) the applicant;
- (b) a witness called by the applicant or the Board or by any other person entitled to be heard;
- (c) the trustees of the scheme to which the application relates;
- (d) a member of the Council on Tribunals or of the Scottish Committee of that Council;
- (e) the secretary to the Board;
- (f) such other persons as it appears to the Board the justice of the case may require.

(4) If the applicant or any other person entitled to be heard fails to attend or be represented at an oral hearing, the Board may—

- (a) unless they are satisfied that there is sufficient reason for such absence, hear and determine the application in the absence of that person; or
- (b) adjourn the hearing.

Procedure at oral hearings

8.—(1) The Board shall conduct the oral hearing in such manner as they consider most suitable to the clarification of the issues before them, and generally as to the just handling of the proceedings.

(2) The applicant and any other person entitled to be heard shall, subject to paragraph (3), be entitled to give evidence, call witnesses, to question any witnesses and to address the Board both on evidence and generally on the subject matter of the hearing.

(3) The Board may receive evidence of any fact which appears to them to be relevant even if such evidence would be inadmissible in proceedings before a court of law, but shall not refuse to admit any evidence which is admissible at law and is relevant.

(4) The Board may, if they are satisfied that it is just and reasonable to do so, permit the applicant to rely on grounds for the compensation claim which were not set out in the application, whether or not amended.

Notification of decision

9.—(1) The Board shall, within 14 days of making a determination as to whether to make a payment or payments to the trustees of the scheme to which the application relates, send written notice of their decision to the applicant, and, if different, to the trustees.

(2) The written notice referred to in paragraph (1) shall contain—

- (a) a statement of reasons for the Board's decision;

- (b) where a decision is made to award compensation, details of the terms and conditions, if any, subject to which the payment or payments will be made;
 - (c) a statement that there is a right to request a review of the Board's determination as specified under section 80(2) of the Act, or, as the case may be, Article 78(2) of the Order;
- and shall be signed by the Chairman of the Board.