

**EXPLANATORY MEMORANDUM TO THE PENSION PROTECTION
FUND (INVESTIGATION BY PPF OMBUDSMAN OF COMPLAINTS OF
MALADMINISTRATION) REGULATIONS 2005**

2005 No. 2025

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 The Pension Protection Fund Ombudsman (PPF Ombudsman) is a new Ombudsman office established under section 209 of the Pensions Act 2004 (the Act).
 - 2.2 The Board of the Pension Protection Fund (PPF) is a new executive non-departmental public body which is established under section 107 of the Act, and opened its doors on 6 April 2005.
 - 2.3 Any complaints of maladministration against the PPF will be dealt with by a two stage internal process. If the internal process does not resolve the matter, then the complaint may be referred to the independent PPF Ombudsman.
 - 2.4 The regulations set out the procedures for dealing with the investigation and determination process of the PPF Ombudsman. The regulations make provisions for example about those who can make applications, the timings by which those applications are to be made, the Ombudsman's conduct of investigations including arrangements for any oral hearings, and the making of determinations and giving of directions by the Ombudsman.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative background**
 - 4.1 The Act received Royal Assent on 18th November 2004. This is the first use of the power under section 214 of the Act.
 - 4.2 Subject to specified conditions the PPF will pay compensation to members of eligible occupational schemes where the sponsoring employer is insolvent and the scheme has insufficient assets to pay benefits at a level at least equal to the amount the PPF will provide.
 - 4.3 These regulations are needed to ensure that the required framework is in place for the independent PPF Ombudsman to deal with any disputes that remain unresolved, following the internal PPF processes, where a person complains of maladministration by the PPF.
 - 4.4 A separate set of regulations under the powers in section 213 of the Act will provide the framework for the PPF Ombudsman to deal with any

unresolved disputes about 'reviewable matters', which are Board decisions and are listed in Schedule 9 to the Act.

5. Extent

5.1 This instrument applies to Great Britain

6. European Convention on Human Rights

6.1 The Minister of State for Pensions Reform, Stephen Timms, has made the following statement regarding Human Rights:

In my view the provisions of the Pension Protection Fund (Investigation by PPF Ombudsman of Complaints of Maladministration) Regulations 2005 are compatible with the Convention rights.

7. Policy Background

7.1 From 6th April 2005 the PPF protects members of eligible defined benefit occupational pension schemes (including the defined benefit element of hybrid schemes) by paying compensation in lieu of pension scheme rights if the employer has a qualifying insolvency event and there are insufficient assets in the pension scheme to cover the PPF levels of compensation.

7.2 The regulations set out the procedures for the PPF Ombudsman to investigate and determine maladministration disputes which remain unresolved by the internal PPF processes of investigation and determination by the Board and by a Committee of the Board. The PPF internal processes are provided for in Section 208 of the Act and in the Pension Protection Fund (Maladministration) Regulations 2005, S.I. 2005/650.

7.3 There is no need to refer the regulations to the Social Security Advisory Committee (SSAC) as the PPF and the PPF Ombudsman do not provide Social Security Benefits.

7.4 There is no requirement to consult on these regulations, and no formal consultation has been undertaken. These regulations are being made within six months of the relevant provisions of the Act coming into force. However, the draft regulations have had the benefit of brief informal consultation with the PPF Ombudsman; they have been revised in the light of his comments.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The regulations will have no impact on the public sector.

9. Contact

9.1 Mary Mattioli at the Department of Work and Pensions Tel: 0207 712 2174 or e-mail: mary.mattioli-ballard1@dwp.gsi.gov.uk can answer any queries regarding this instrument.