

**EXPLANATORY MEMORANDUM TO THE
PENSION PROTECTION FUND (PPF OMBUDSMAN) ORDER 2005**

2005 No. 824

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 commissioner established by section 209(1) of the Pensions Act 2004 (c.35) (“the Pensions Act”).
 - 2.2 This instrument provides that the Secretary of State for Work and Pensions may pay remuneration to, and reimburse expenses incurred by, the PPF Ombudsman and any deputy PPF Ombudsman appointed under section 210(1) of the Pensions Act.
 - 2.3 This instrument also makes provision for the appointment of staff, the provision of facilities, the delegation of functions, the obtaining of information, and the restrictions on disclosure by the PPF Ombudsman or a Deputy PPF Ombudsman.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 This Order is made under powers in the Pensions Act and is subject to the affirmative procedure. The use of the affirmative procedure is required by section 316(2)(g) of the Pensions Act.
4. **Legislative Background**
 - 4.1 The Pensions Act received Royal Assent on 18th November 2004. Section 107 establishes the Board of the PPF (“the Board”). The Board is an executive non departmental public body at arms’ length from Government which, subject to specified conditions, will pay compensation to members of eligible pension schemes where the employer is insolvent and the pension scheme is underfunded.
 - 4.2 The Pensions Act also establishes the office of PPF Ombudsman. The Ombudsman will be appointed by the Secretary of State for Work and Pensions.
 - 4.3 Sections 213 and 214 of the Pensions Act provide for the PPF Ombudsman to investigate and determine references of “reviewable

matters” and complaints of maladministration. Section 210 provides that the Secretary of State may appoint one or more deputies to the PPF Ombudsman, with the power to perform the same functions.

4.4 Section 209 of the Act provides that the Secretary of State may make provision (by Order) concerning the terms and conditions of appointment of the PPF Ombudsman. Section 210(6) provides that any such order may extend to any deputies. The Order may include provision for remuneration and for reimbursement of expenses.

4.5 This is the first use of this Order making power under the Pensions Act 2004.

5. Extent

5.1 This instrument applies to Great Britain. Article 2(a) also extends to Northern Ireland.

6. European Convention on Human Rights

6.1 The provisions of this Order are compatible with Convention rights.

7. Policy background

7.1 Section 213 of the Pensions Act provides for review and reconsideration by the Board of the reviewable matters listed in Schedule 9. The Board may undertake a review/reconsideration on its own volition or in response to an application for a review. Section 214 of the Pensions Act also provides for investigation of complaints concerning maladministration.

7.2 If, following internal review and reconsideration by the Board, a dispute remains unresolved, the reviewable matter or the complaint of maladministration may be referred to the PPF Ombudsman.

7.3 The Pension Schemes Act 1993 (“the 1993 Act”) makes similar provision for disputes of fact or law or complaints of maladministration to be referred to the Pensions Ombudsman. Further, the 1993 Act provides for the Secretary of State to determine the Pensions Ombudsman’s terms and conditions. The provisions in this Order broadly mirror the provisions already in place for the Pensions Ombudsman.

7.4 The office of PPF Ombudsman is separate from that of the Pensions Ombudsman, but initially both offices will be held by the same person (the current Pensions Ombudsman, David Laverick).

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.

9. Contact

Anne Packer at the Department for Work and Pensions Tel: 020 7962 8104 or e-mail: anne.packer1@dwp.gsi.gov.uk can answer any queries regarding the instrument.

31 January 2005