

**EXPLANATORY MEMORANDUM TO THE
PENSION PROTECTION FUND (APPOINTMENT OF ORDINARY
MEMBERS) REGULATIONS 2005**

2005 NO. 616

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 Board of the Pension Protection Fund (“the Board”) is established by section 107 of the Pensions Act 2004 (c.35) (“the Act”).

2.2 This instrument sets out the procedures which the Board must follow when making appointments of ordinary members to the Board.

2.3 Ordinary members are non-executive and executive members of the Board other than the chair and Chief Executive.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Board is an executive non-departmental public body (NDPB) which, subject to specified conditions, will pay compensation to members of eligible occupational pension 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 Pension Protection Fund would provide.

4.2 Section 108 of the Act provides that the Board is to consist of a chairman, a Chief Executive and at least five other persons who are known as ordinary members. Schedule 5 makes further provision about the Board, including provision as to the appointment of members.

4.3 It requires the appointments of the first five ordinary members to be made by the Secretary of State for Work and Pensions. Subsequent appointments of ordinary members are to be made by the Board in accordance with any procedure that may be prescribed.

4.4 These regulations set out the procedure which the Board must follow when making such appointments after 6 April 2005.

4.5 This is the first use of the regulation making power in paragraph 2(3) of Schedule 5 to the Act.

5. **Extent**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

6.1 Not applicable.

7. **Policy Background**

7.1 Whilst it is appropriate for an NDPB to be able to make appointments to its Board, the aim of these regulations is to provide that when the Board exercises its power to appoint new ordinary members they should follow a procedure which provides for fair and open competition.

7.2 The procedure established by these regulations is modelled on that set out by the Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies (the OCPA Code) which was published in December 2003. The Commissioner for Public Appointments regulates, monitors and reports on ministerial appointments to a range of bodies such as health bodies, non-departmental public bodies, public corporations, nationalised industries and the appointments of the Utility Regulators. The Commissioner's remit and the OCPA Code are restricted to ministerial appointments so do not extend to appointments by the Board.

7.3 For this reason we are using these regulations to provide that when making future appointments of ordinary members the Board must apply the OCPA principles of merit, equal opportunities, probity, openness and transparency and proportionality and follow a similar procedure to that set out in the OCPA Code but adapted to the situation of the Board.

7.4 There has not been any consultation with regard to these Regulations. As these Regulations are made within six months beginning with the coming into force of the provisions of the Act by virtue of which they are made, the requirement for the Secretary of State to consult does not apply.

8. Impact

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

8.2 The impact on the public sector is negligible.

9. Contact

9.1 Cathy Twamley at the Department for Work and Pensions tel: 020 7962 8675 or email: cathy.twamley@dpw.gsi.gov.uk can answer any queries regarding this instrument.