



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 2

#### THE BOARD OF THE PENSION PROTECTION FUND

#### CHAPTER 1

#### THE BOARD

##### **Modifications etc. (not altering text)**

- C1** Pt. 2 modified (8.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pension Protection Fund \(Partially Guaranteed Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/277\)](#), regs. 1(1), **2-11**
- C2** Pt. 2 modified in part (9.3.2005 for specified purposes, 1.4.2005 for specified purposes, 6.4.2005 in so far as not already in force (except ch. 4)) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1, **2-60**, 71, 72
- C3** Pt. 2 applied in part (with modifications) (20.7.2005 for specified purposes, 1.9.2005 for specified purposes, 5.12.2005 for specified purposes) by [The Financial Assistance Scheme Regulations 2005 \(S.I. 2005/1986\)](#), regs. 1(1), 4, **Sch. 1**

#### *Establishment*

#### **107 The Board of the Pension Protection Fund**

There shall be a body corporate called the Board of the Pension Protection Fund (in this Act referred to as “the Board”).

##### **Commencement Information**

- I1** S. 107 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, **Sch.**

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## 108 Membership of the Board

- (1) The Board is to consist of the following members—
  - (a) a chairman,
  - (b) the Chief Executive of the Board, and
  - (c) at least five other persons (“ordinary members”).
- (2) The chairman must not be appointed from the staff of the Board or be the chairman of the Regulator.
- (3) The number of ordinary members must not exceed any maximum number which may be prescribed.
- (4) At least two ordinary members must be appointed from the staff of the Board.
- (5) No member of the Determinations Panel established by the Regulator under section 9, or member of the staff of the Regulator, is eligible for appointment as a member of the Board.
- (6) Any power to appoint ordinary members must be exercised so as to secure that a majority of the members of the Board are non-executive members.
- (7) In this Part—
  - (a) references to executive members of the Board are to—
    - (i) the Chief Executive, and
    - (ii) the ordinary members appointed from the staff of the Board, and
  - (b) references to non-executive members of the Board are to members who are not executive members.

### Commencement Information

- I2** S. 108(1)(2)(5)-(7) in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)
- I3** S. 108(4) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

## 109 Further provision about the Board

Schedule 5 makes further provision about the Board, including provision as to—

- the appointment of members,
- the terms of appointment, tenure and remuneration of members,
- the appointment of the Chief Executive and other staff,
- the proceedings of the Board,
- its accounts, and
- the status and liability of the Board, its members and staff.

### Commencement Information

- I4** S. 109 in force at 17.12.2004 for specified purposes by [S.I. 2004/3350](#), art. 2, [Sch.](#)
- I5** S. 109 in force at 6.4.2005 for specified purposes by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)
- I6** S. 109 in force at 21.7.2005 for specified purposes by [S.I. 2005/1720](#), art. 2(6)(b); [S.I. 2005/2024](#); [S.I. 2005/2025](#)
- I7** S. 109 in force at 1.9.2005 for specified purposes by [S.I. 2005/2447](#), art. 2(4), [Sch. Pt. 1](#)

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- 18** S. 109 in force at 1.1.2006 for specified purposes and 1.4.2006 for specified purposes by S.I. 2005/3331, art. 2(4), **Sch. Pt. 4**
- 19** S. 109 in force at 6.4.2006 for specified purposes by S.I. 2006/560, art. 2(3), **Sch. Pt. 3**

### *General provision about functions*

#### **110 Board’s functions**

- (1) The Board must hold, manage and apply, in accordance with this Part and any provision in force in Northern Ireland corresponding to it—
  - (a) a fund to be known as the Pension Protection Fund, and
  - (b) a fund to be known as the Fraud Compensation Fund.
- (2) Sections 175 and 189 make provision for contributions to those funds to be levied by the Board.
- (3) The Board also has such other functions as are conferred on it by, or by virtue of, this or any other enactment.

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#### **Commencement Information**

- I10** S. 110(1)(a) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- I11** S. 110(1)(b) in force at 1.9.2005 by S.I. 2005/1720, art. 2(16), **Sch. Pt. 3**
- I12** S. 110(2) in force at 9.12.2005 by S.I. 2005/3331, art. 2(2), **Sch. Pt. 2**
- I13** S. 110(3) in force at 17.12.2004 by S.I. 2004/3350, art. 2, **Sch.**

#### **111 Supplementary powers**

The Board may do anything which—

- (a) is calculated to facilitate the exercise of its functions, or
- (b) is incidental or conducive to their exercise.

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#### **Commencement Information**

- I14** S. 111 in force at 17.12.2004 by S.I. 2004/3350, art. 2, **Sch.**

### *Non-executive functions*

#### **112 Non-executive functions**

- (1) The functions listed in subsection (4) (in this Part referred to as “the non-executive functions”) are functions of the Board.
- (2) The Board must establish a committee to discharge the non-executive functions on its behalf.
- (3) Only non-executive members of the Board may be members of that committee.
- (4) The non-executive functions are—

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- (a) the duty to keep under review the question whether the Board’s internal financial controls secure the proper conduct of its financial affairs;
  - (b) the duty to determine under sub-paragraph (5)(a) of paragraph 12 of Schedule 5, subject to the approval of the Secretary of State, the terms and conditions as to remuneration of any Chief Executive appointed under sub-paragraph (4) of that paragraph;
  - (c) the duty to determine under paragraph 13(3)(a) of that Schedule, subject to the approval of the Secretary of State, the terms and conditions as to remuneration of any member of the staff who is also to be an executive member of the Board;
  - (d) the duty to determine under paragraph 13(3)(b) of that Schedule, the terms and conditions as to remuneration of any member of the staff of a description prescribed for the purposes of that provision.
- (5) The committee established under this section must prepare a report on the discharge of the non-executive functions for inclusion in the Board’s annual report to the Secretary of State under section 119.
- (6) The committee’s report must relate to the same period as that covered by the Board’s report.
- (7) The members of any sub-committee of the committee (established by virtue of paragraph 15(2) of Schedule 5)—
- (a) may include persons who are not members of the committee, but
  - (b) must not include persons who are executive members or other staff of the Board.
- (8) The committee may authorise any of its sub-committees to discharge on its behalf—
- (a) any of the non-executive functions;
  - (b) the duty to prepare a report under subsection (5).

#### **Commencement Information**

**I15** S. 112(1)-(3)(4)(b)(c)(d) in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

**I16** S. 112(4)(a)(7)(8) in force at 10.2.2005 by [S.I. 2005/275](#), art. 2(4), [Sch. Pt. 4](#)

**I17** S. 112(5)(6) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

### *Financial matters*

#### **113 Investment of funds**

- (1) The Board may invest for the purposes of the prudent management of its financial affairs.
- (2) When exercising the power conferred by subsection (1) in relation to the Pension Protection Fund, the Board must have regard to—
- (a) the interests of persons who are or may become entitled to compensation under the pension compensation provisions (see section 162) or any corresponding provisions in force in Northern Ireland, and
  - (b) the effect of the exercise of the power on the rate of any levy which may be imposed under section 174 or 175 or any corresponding provision in force

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in Northern Ireland and the interests which persons have in the rate of any such levy.

- (3) When exercising the power conferred by subsection (1) in relation to the Fraud Compensation Fund, the Board must have regard to—
  - (a) the interests of members of occupational pension schemes in relation to which section 189(1), or any corresponding provision in force in Northern Ireland, applies, and
  - (b) the effect of the exercise of the power on the level of any levy which may be imposed under section 189 or any corresponding provision in force in Northern Ireland and the interests which persons have in the rate of any such levy.
- (4) For the purposes of subsection (1) there must be at least two fund managers.
- (5) For this purpose “fund manager” means an individual who or firm which is appointed by the Board to manage the fund maintained under section 173 (the Pension Protection Fund).
- (6) The Board must not appoint an individual or firm as a fund manager unless it is satisfied—
  - (a) in the case of an individual, that the individual has the appropriate knowledge and experience for managing the investments of the Pension Protection Fund, or
  - (b) in the case of a firm, that arrangements are in place to secure that any individual who will exercise functions which the firm has as fund manager will, at the time he exercises those functions, have the appropriate knowledge and experience for managing the investments of that Fund.

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**Commencement Information**

**I18** S. 113 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

## **114 Investment principles**

- (1) The Board must secure—
  - (a) that a statement of investment principles is prepared and maintained, and
  - (b) that the statement is reviewed at such intervals, and on such occasions, as may be prescribed and, if necessary, revised.
- (2) In this section “statement of investment principles” means a written statement of the investment principles governing determinations about investments made by or on behalf of the Board.
- (3) Before preparing or revising a statement of investment principles, the Board must comply with any prescribed requirements.
- (4) A statement of investment principles must be in the prescribed form and cover, amongst other things, the prescribed matters.

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**Commencement Information**

**I19** S. 114(1)(a)(2) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

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- I20** S. 114(1)(b)(3)(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), [Sch. Pt. 3](#)

## 115 Borrowing

- (1) The Board may—
- (a) borrow from a deposit-taker such sums as it may from time to time require for exercising any of its functions;
  - (b) give security for any money borrowed by it.
- (2) The Board may not borrow if the effect would be—
- (a) to take the aggregate amount outstanding in respect of the principal of sums borrowed by it over its borrowing limit, or
  - (b) to increase the amount by which the aggregate amount so outstanding exceeds that limit.
- (3) In this section—
- “borrowing limit” means such limit as the Secretary of State may specify by order;
- “deposit-taker” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to accept deposits, or
  - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.
- (4) The definition of “deposit-taker” in subsection (3) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000,
  - (b) any relevant order under that section, and
  - (c) Schedule 2 to that Act.

### Commencement Information

- I21** S. 115(1)(2)(4) in force at 8.3.2005 by [S.I. 2005/275](#), art. 2(5), [Sch. Pt. 5](#)
- I22** S. 115(3) in force at 10.2.2005 for specified purposes by [S.I. 2005/275](#), art. 2(1), [Sch. Pt. 1](#)
- I23** S. 115(3) in force at 8.3.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(5), [Sch. Pt. 5](#)

## 116 Grants

The Secretary of State may pay the Board out of money provided by Parliament such sums as he may determine towards any of its expenses, other than expenditure which by virtue of section 173(3) or 188(3) is payable out of—

- (a) the Pension Protection Fund, or
- (b) the Fraud Compensation Fund.

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#### Commencement Information

**I24** S. 116 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

### 117 Administration levy

- (1) Regulations may provide for the imposition of a levy (“administration levy”) in respect of eligible schemes (see section 126) for the purpose of meeting—
  - (a) expenditure of the Secretary of State relating to the establishment of the Board;
  - (b) any expenditure of the Secretary of State under section 116.
- (2) An administration levy is payable to the Secretary of State by or on behalf of—
  - (a) the trustees or managers of an eligible scheme, or
  - (b) any other prescribed person.
- (3) An administration levy is payable at the prescribed rate and at prescribed times.
- (4) Before prescribing a rate under subsection (3), the Secretary of State must consult the Board.
- (5) An amount payable by a person on account of an administration levy is a debt due from him to the Secretary of State.
- (6) An amount so payable is recoverable by the Secretary of State or, if he so determines, by the Regulator on his behalf.
- (7) Without prejudice to the generality of subsections (1), (5) and (6), regulations under this section may include provision relating to—
  - (a) the collection and recovery of amounts payable by way of levy under this section;
  - (b) the circumstances in which any such amount may be waived.

#### Commencement Information

- I25** S. 117(1)(3)(7)(a) in force at 10.2.2005 for specified purposes and at 1.4.2005 in so far as not already in force by [S.I. 2005/275](#), [art. 2\(2\)](#), [Sch. Pt. 2](#)
- I26** S. 117(2)(a)(5)(6) in force at 1.4.2005 by [S.I. 2005/275](#), [art. 2\(6\)](#), [Sch. Pt. 6](#)
- I27** S. 117(4) in force at 10.2.2005 by [S.I. 2005/275](#), [art. 2\(4\)](#), [Sch. Pt. 4](#)
- I28** [S. 117\(7\)\(b\)](#) in force at 1.1.2007 for specified purposes and 1.3.2007 in so far as not already in force by [S.I. 2006/2272](#), [art. 2\(6\)](#)

PROSPECTIVE

### 118 Fees

- (1) Regulations may authorise the Board—
  - (a) to charge prescribed fees;
  - (b) to charge fees sufficient to meet prescribed costs.

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- (2) Regulations under subsection (1) may prescribe, or authorise the Board to determine, the time at which any fee is due.
- (3) Any fee which is owed to the Board by virtue of regulations under this section may be recovered as a debt due to the Board.

### *Annual reports*

## **119 Annual reports to Secretary of State**

- (1) The Board must prepare a report for each financial year.
- (2) Each report—
  - (a) must deal with the activities of the Board in the financial year for which it is prepared, including the matters mentioned in subsection (3), and
  - (b) must include the report prepared under subsection (5) of section 112 by the committee established under that section.
- (3) The matters referred to in subsection (2)(a) are—
  - (a) the strategic direction of the Board and the manner in which it has been kept under review;
  - (b) the steps taken to scrutinise the performance of the Chief Executive in securing that the Board’s functions are exercised efficiently and effectively;
  - (c) the Board’s objectives and targets and the steps taken to monitor the extent to which they are being met.
- (4) The Board must send each report to the Secretary of State as soon as practicable after the end of the financial year for which it is prepared.
- (5) The Secretary of State must lay before each House of Parliament a copy of every report received by him under this section.
- (6) In this section “financial year” means—
  - (a) the period beginning with the date on which the Board is established and ending with the next following 31st March, and
  - (b) each successive period of 12 months.

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#### **Commencement Information**

**I29** S. 119 in force at 6.4.2005 by *S.I. 2005/275, art. 2(7), Sch. Pt. 7*



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