

Status: Point in time view as at 10/07/2009.

Changes to legislation: Pensions Act 2004, SCHEDULE 4 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 102

THE PENSIONS REGULATOR TRIBUNAL

PART 1

THE TRIBUNAL

The Panels

- 1 (1) The Lord Chancellor must appoint a panel of persons for the purpose of serving as chairmen of the Tribunal (“the panel of chairmen”).
- (2) A person is qualified for membership of the panel of chairmen if—
 - [^{F1}(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis,]
 - (b) he is an advocate or solicitor in Scotland of at least [^{F2}5] years' standing,
 - (c) he is a member of the Bar of Northern Ireland of at least [^{F3}5] years' standing, or
 - (d) he is a solicitor of the Supreme Court of Northern Ireland of at least [^{F4}5] years' standing.
- (3) The panel of chairmen must include at least one member who is a person of the kind mentioned in sub-paragraph (2)(b).
- (4) The Lord Chancellor must also appoint a panel of persons who appear to him to be qualified by experience or otherwise to deal with matters of the kind that may be referred to the Tribunal (“the lay panel”).

Textual Amendments

- F1** Sch. 4 para. 1(2)(a) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(2)(a)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F2** Word in Sch. 4 para. 1(2)(b) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F3** Word in Sch. 4 para. 1(2)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F4** Word in Sch. 4 para. 1(2)(d) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)

Commencement Information

- I1** Sch. 4 para. 1 in force at 17.12.2004 by S.I. 2004/3350, art. 2, **Sch.**

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The President

- 2 (1) The Lord Chancellor must appoint one of the members of the panel of chairmen to preside over the exercise of the Tribunal’s functions.
- (2) The member so appointed is to be known as the President of the Pensions Regulator Tribunal (in this Schedule referred to as “the President”).
- (3) The Lord Chancellor may appoint one of the members of the panel of chairmen to be the Deputy President.
- (4) The Deputy President is to have such functions in relation to the Tribunal as the President may assign to him.
- (5) The Lord Chancellor may not appoint a person to be the President or Deputy President unless that person—
- [^{F5}(a) satisfies the judicial-appointment eligibility condition on a 7-year basis,]
 - (b) is an advocate or solicitor in Scotland of at least [^{F6}7] years' standing,
 - (c) is a member of the Bar of Northern Ireland of at least [^{F7}7] years' standing, or
 - (d) is a solicitor of the Supreme Court of Northern Ireland of at least [^{F8}7] years' standing.
- (6) If the President ceases to be a member of the panel of chairmen, he also ceases to be the President.
- (7) If the Deputy President ceases to be a member of the panel of chairmen, he also ceases to be the Deputy President.
- (8) If the President is absent or otherwise unable to act, his functions may be exercised—
- (a) by the Deputy President, or
 - (b) if there is no Deputy President or he too is absent or otherwise unable to act, by a person appointed for that purpose from the panel of chairmen by the Lord Chancellor.
- [^{F9}(9) The Lord Chancellor may appoint a person to be President or Deputy President, or appoint a person under sub-paragraph (8)(b), only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland.]

Textual Amendments

- F5** Sch. 4 para. 2(5)(a) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 10 para. 40(3)(a)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F6** Word in Sch. 4 para. 2(5)(b) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 10 para. 40(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F7** Word in Sch. 4 para. 2(5)(c) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 10 para. 40(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F8** Word in Sch. 4 para. 2(5)(d) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 10 para. 40(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F9** Sch. 4 para. 2(9) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, **Sch. 1 para. 26**

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Commencement Information

I2 Sch. 4 para. 2 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Terms of office etc

- 3 (1) Subject to the provisions of this Schedule, each member of the panel of chairmen and the lay panel—
- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- (2) A member of either panel is eligible for re-appointment if he ceases to hold office.

Commencement Information

I3 Sch. 4 para. 3 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Remuneration and allowances

- 4 The Lord Chancellor may pay, or make provision for paying, out of money provided by Parliament, any person in respect of his service—
- (a) as a member of the Tribunal (including service as the President or Deputy President), or
 - (b) as a person appointed under paragraph 7(4) (appointment of experts),
- such remuneration and allowances as the Lord Chancellor may determine.

Commencement Information

I4 Sch. 4 para. 4 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Staff

- 5 (1) The Lord Chancellor may appoint such staff for the Tribunal as he may determine.
- (2) The remuneration of the Tribunal's staff is to be paid by the Lord Chancellor out of money provided by Parliament.

Commencement Information

I5 Sch. 4 para. 5 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Expenses

- 6 The Lord Chancellor may pay, out of money provided by Parliament, such expenses of the Tribunal as the Lord Chancellor may determine.

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Commencement Information

I6 Sch. 4 para. 6 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

PART 2

CONSTITUTION OF THE TRIBUNAL

- 7 (1) On a reference to the Tribunal, the persons to act as members of the Tribunal for the purposes of the reference are to be selected from the panel of chairmen or the lay panel in accordance with arrangements made by the President for the purposes of this paragraph (“the standing arrangements”).
- (2) The standing arrangements must provide for at least one member to be selected from the panel of chairmen.
- (3) If, while a reference is being dealt with, a person serving as a member of the Tribunal in respect of the reference becomes unable to act, the reference may be dealt with—
- (a) by the other members selected in respect of the reference, or
 - (b) if it is being dealt with by a single member, by such other member of the panel of chairmen as may be selected in accordance with the standing arrangements for the purposes of the reference.
- (4) If it appears to the Tribunal that a matter before it involves a question of fact of special difficulty, it may appoint one or more experts to provide assistance.
- (5) For the purposes of this Schedule, a “reference to the Tribunal” means a reference to the Tribunal under this Act or any provisions in force in Northern Ireland corresponding to this Act.

Commencement Information

I7 Sch. 4 para. 7 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

PART 3

TRIBUNAL PROCEDURE

General

- 8 ^[F10](1) For the purpose of dealing with references, or any matter preliminary or incidental to a reference, the Tribunal must sit at such times and in such place or places as the Lord Chancellor may direct.
- ^[F11](2) Before giving a direction under sub-paragraph (1) in relation to sittings in England and Wales the Lord Chancellor must consult the Lord Chief Justice of England and Wales.
- (3) Before giving a direction under sub-paragraph (1) in relation to sittings in Scotland the Lord Chancellor must consult the Lord President of the Court of Session.

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- (4) Before giving a direction under sub-paragraph (1) in relation to sittings in Northern Ireland the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland.]

Textual Amendments

- F10** Sch. 4 para. 8(1): Sch. 4 para. 8 renumbered as Sch. 4 para. 8(1) (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, [Sch. 1 para. 27\(2\)](#)
- F11** Sch. 4 para. 8(2)(3)(4) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, [Sch. 1 para. 27\(3\)](#)

Commencement Information

- I8** Sch. 4 para. 8 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

- 9 Rules made by the Lord Chancellor under section 102 may, in particular, include provision—
- (a) as to the manner in which references are to be instituted;
 - (b) for the holding of hearings in private in such circumstances as may be specified in the rules;
 - (c) as to the persons who may appear on behalf of the parties;
 - (d) for a member of the panel of chairmen to hear and determine interim matters arising on a reference;
 - (e) for the Tribunal to deal with urgent cases expeditiously;
 - (f) as to the withdrawal of references;
 - (g) as to the registration, publication and proof of decisions and orders.

Commencement Information

- I9** Sch. 4 para. 9 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](#)

Practice directions

- 10 The President may give directions as to the practice and procedure to be followed by the Tribunal in relation to references to it.

Commencement Information

- I10** Sch. 4 para. 10 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Evidence

- 11 (1) The Tribunal may by summons require any person to attend, at such time and place as is specified in the summons, to give evidence or to produce any document in his custody or under his control which the Tribunal considers it necessary to examine.
- (2) The Tribunal may—
- (a) take evidence on oath and for that purpose administer oaths, or

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- (b) instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matters in respect of which he is examined.
- (3) A person who without reasonable excuse refuses or fails—
 - (a) to attend following the issue of a summons by the Tribunal, or
 - (b) to give evidence,
 is guilty of an offence.
- (4) A person guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) A person who without reasonable excuse—
 - (a) alters, suppresses, conceals or destroys a document which he is or is liable to be required to produce for the purposes of proceedings before the Tribunal, or
 - (b) refuses to produce a document when so required,
 is guilty of an offence.
- (6) A person guilty of an offence under sub-paragraph (5) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (7) In this paragraph “document” includes information recorded in any form and, in relation to information recorded otherwise than in a legible form, references to its production include references to producing a copy of the information—
 - (a) in a legible form, or
 - (b) in a form from which it can readily be produced in a legible form.

Commencement Information

III Sch. 4 para. 11 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Decisions of the Tribunal

- 12
- (1) A decision of the Tribunal may be taken by a majority.
 - (2) The decision must state whether it was unanimous or taken by a majority.
 - (3) The decision must be recorded in a document which—
 - (a) contains a statement of the reasons for the decision, and
 - (b) is signed and dated by the member of the panel of chairmen dealing with the reference.
 - (4) The Tribunal must inform each party to the reference of its decision.
 - (5) The Tribunal must as soon as reasonably practicable send a copy of the document mentioned in sub-paragraph (3)—
 - (a) to each of the parties to the reference, and
 - (b) to such other persons as appear to the Tribunal to be directly affected by the decision.

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(6) The Tribunal must send the Secretary of State and the Department for Social Development in Northern Ireland a copy of its decision.

(7) In this paragraph “document” includes information recorded in any form.

Commencement Information

I12 Sch. 4 para. 12 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Costs

13 (1) If the Tribunal considers that a party to any proceedings on a reference has acted vexatiously, frivolously or unreasonably it may order that party to pay to another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.

(2) If, in any proceedings on a reference, the Tribunal considers that a determination of the Regulator which is the subject of the reference was unreasonable it may order the Regulator to pay to another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.

Commencement Information

I13 Sch. 4 para. 13 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

PART 4

STATUS ETC

Disqualification

14 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices), at the appropriate place insert— “ Any member, in receipt of remuneration, of a panel of persons who may be selected to act as members of the Pensions Regulator Tribunal. ”

Commencement Information

I14 Sch. 4 para. 14 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

15 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (other disqualifying offices), at the appropriate place insert— “ Any member, in receipt of remuneration, of a panel of persons who may be selected to act as members of the Pensions Regulator Tribunal. ”

Commencement Information

I15 Sch. 4 para. 15 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

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The Parliamentary Commissioner for Administration

- 16 In Schedule 4 to the Parliamentary Commissioner Act 1967 (c. 13) (relevant tribunals for the purposes of section 5(7) of that Act), at the appropriate place insert—
 —“ The Pensions Regulator Tribunal constituted under section 102 of the Pensions Act 2004. ”

Commencement Information

I16 Sch. 4 para. 16 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

Judicial Pensions and Retirement Act 1993

- 17 (1) The Judicial Pensions and Retirement Act 1993 (c. 8) is amended as follows.
- (2) In Schedule 1 (offices which may be qualifying offices), in Part 2, at the appropriate place insert— “ President or Deputy President of the Pensions Regulator Tribunal ”
- (3) In Schedule 5 (relevant offices in relation to retirement provisions), at the appropriate place insert— “ Member of the Pensions Regulator Tribunal. ”

Commencement Information

I17 Sch. 4 para. 17 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, **Sch.**

Disclosure of information

- 18 In section 449(1) of the Companies Act 1985 (c. 6) (exceptions from restrictions on publication and disclosure), after paragraph (m) insert—
 “(n) for the purposes of proceedings before the Pensions Regulator Tribunal.”

Commencement Information

I18 Sch. 4 para. 18 in force at 6.4.2006 by [S.I. 2006/560](#), art. 2(3), **Sch. Pt. 3**

- 19 In Schedule 15D to that Act (permitted disclosures of information) (as inserted by Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004), after paragraph 44 insert—
 “44A A disclosure for the purposes of proceedings before the Pensions Regulator Tribunal.”

Commencement Information

I19 Sch. 4 para. 19 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 20 In section 87(2) of the Companies Act 1989 (c. 40) (exceptions from restrictions on disclosure), after paragraph (c) insert—
 “(d) proceedings before the Pensions Regulator Tribunal.”

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Commencement Information

I20 Sch. 4 para. 20 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 21 In section 50(2) of the Courts and Legal Services Act 1990 (c. 41) (exceptions from restrictions on disclosure), after paragraph (s) insert—
“(t) the Pensions Regulator Tribunal to discharge any of its functions.”

Commencement Information

I21 Sch. 4 para. 21 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

f^{F12} Delegation

Textual Amendments

F12 Sch. 4 para. 22 and cross-heading inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, **Sch. 1 para. 28**

- 22 (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under this Schedule.
- (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this Schedule.
- (3) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this Schedule—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

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