

PENSIONS ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – the Pensions Regulator

Establishment

Sections 2 and 3: Membership of the Regulator; Further provision about the Regulator

24. *Section 2* deals with membership of the Regulator. The Regulator will consist of: a chairman (who will be appointed by the Secretary of State); a Chief Executive; and at least five other members appointed by the Secretary of State, after consulting the chairman (*subsection (1)(c)*). The chairman must not be appointed from the staff of the Regulator (as defined in *paragraph 7 of Schedule 1*) or be the chairman of the Board of the Pension Protection Fund. By virtue of *subsection (3)* at least two of the members of the Regulator appointed under *subsection (1)(c)* are to be appointed from the staff of the Regulator.
25. The inclusion of executive members on the Board implements a recommendation of Derek Higgs' review for the Chancellor of the Exchequer and the Secretary of State for Trade and Industry of the role and effectiveness of non-executive directors (January 2003) which states:

““The Board should include a balance of executive and non executive directors (including independent non-executives) such that no individual or small group of individuals can dominate the board's decision taking. (Annex A, item 3 – Board Balance and Independence).”
26. The executive members of the Regulator are to be the Chief Executive and the two or more members appointed from the staff of the Regulator under *subsection (1)(c)*. All other members of the Regulator will be non-executive members. *Subsection (4)* provides that in appointing members under *subsection (1)(c)* the Secretary of State must ensure that the majority of members of the Regulator are non-executive members. No member of the staff of the Board of the Pension Protection Fund is eligible for appointment as a member of the Regulator.
27. *Schedule 1* (which is introduced by *section 3*) contains further provision about the constitution of the Regulator