

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

2005 No. 2023

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 amends article 7 of the Pension Protection Fund (PPF Ombudsman) Order 2005. Article 7 restricts disclosure of information by the PPF Ombudsman. This instrument extends the power of the Ombudsman to disclose information so that it applies to information obtained during the course of his investigation of matters referred to him by virtue of regulations made under section 213 or 214 of the Pensions Act.
 - 2.3 The instrument makes provision so that, for the purposes of his investigation of reviewable matters or complaints of maladministration referred to him, the PPF Ombudsman may disclose information he has obtained in the course of his investigations of reviewable matters or complaints of maladministration to specified persons.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 The Pensions Act received Royal Assent in November 2004.
 - 4.2 Section 107 of the Pensions Act establishes the Board of the Pension Protection Fund (“the PPF”). The PPF 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.
 - 4.3 Section 209 of the Pensions Act establishes the office of PPF Ombudsman, and enables the Secretary of State to make provisions by Order for, among other things, restrictions on the disclosure of information held by the PPF Ombudsman.

4.4 Sections 213 and 214 of the Pensions Act provide for the PPF Ombudsman to investigate and determine references of “reviewable matters” – the decisions of the Board which are listed at Schedule 9 to the Act - and to investigate and determine complaints of maladministration against the PPF. The Ombudsman provides independent investigation of disputes that remain unresolved following the two stage internal PPF processes.

4.5 This is the second use of this Order making power under the Pensions Act; the Order making power was commenced in February 2005.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 The Minister of State for Pensions Reform, Stephen Timms, has made the following statement regarding Human Rights:

In my view the provisions of the Pension Protection Fund (PPF Ombudsman) Amendment Order 2005 are compatible with the Convention rights.

7. Policy background

7.1 The PPF opened its doors on 6 April 2005.

7.2 Sections 206 and 207 of the Pensions Act provide for review and reconsideration by the PPF of the “reviewable matters” listed in that Act. Section 208 also provides for two stage investigation by the PPF, in this case of complaints concerning maladministration. These sections include regulation making provisions, and the relevant PPF procedures are in regulations made under sections 207 and 208.

7.3 The PPF Ombudsman is an independent commissioner who will investigate references from people whose dispute remains unresolved after the two stage internal PPF processes.

7.4 The PPF Ombudsman and a Deputy PPF Ombudsman - with the power to perform the same functions - have been appointed by the Secretary of State for Work and Pensions.

7.5 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.

7.6 The office of PPF Ombudsman is separate from that of the Pensions Ombudsman, but initially both offices are being held by David Laverick, and Charles Gordon is both Deputy Pensions Ombudsman and Deputy PPF Ombudsman.

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.

8.2 The instrument has no impact on the public sector.

9. Contact

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