

2005 No. 616

PENSIONS

The Pension Protection Fund (Appointment of Ordinary Members) Regulations 2005

<i>Made</i> - -	<i>9th March 2005</i>
<i>Laid before Parliament</i>	<i>15th March 2005</i>
<i>Coming into force</i> - -	<i>6th April 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 315(2) and (4) and 318(1) of, and paragraph 2(3) of Schedule 5 to, the Pensions Act 2004(a), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which it is made(b), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pension Protection Fund (Appointment of Ordinary Members) Regulations 2005 and shall come into force on 6th April 2005.

Procedure for making relevant appointments

2.—(1) Subject to paragraph (2) below, in making any appointment by virtue of paragraph 2(2) of Schedule 5 to the Pensions Act 2004 (appointment of ordinary members) the Board must act in accordance with the procedure prescribed in the Schedule to these Regulations.

(2) Where a vacancy for an ordinary member arises unexpectedly and within three months of the completion of the appointment process for another ordinary member, and where the requirements are the same as they were for the earlier appointment, the Board may appoint another person thought suitable during the earlier appointment process without undertaking a new appointment process.

Signed by the authority of the Secretary of State for Work and Pensions.

9 March 2005

Malcolm Wicks
Minister of State,
Department for Work and Pensions

(a) 2004 c. 35. Section 318(1) is cited because of the meaning there given to “prescribed” and “regulations”.
(b) See section 317 of the Pensions Act 2004 which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations by virtue of the provisions of that Act (other than Part 8). This duty does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of that Act by virtue of which the regulations are made.

PROCEDURE FOR THE APPOINTMENT OF ORDINARY MEMBERS BY THE BOARD

1. Where the Board wishes to make an appointment of an ordinary member, the Board must publicise the vacancy in an effective and proportionate manner.
2. The Board must produce a role description and person specification tailored to the particular vacancy.
3. The role description must include a description of the office to be filled, the duration of the appointment, details of remuneration and expenses applicable to the office, the terms and conditions of the appointment, and a realistic indication of the time commitment likely to be required from the office holder.
4. The person specification must set out the qualities, experience, competencies and any professional qualifications sought.
5. The Board must send to any person who expresses an interest in applying for the vacancy an information pack which must, as a minimum, contain—
 - (a) an application form;
 - (b) the role description and person specification;
 - (c) a description of the functions of the Board;
 - (d) information on the appointment process including how long it will take;
 - (e) details of any provision for the reimbursement of expenses incurred by the applicant in relation to the appointment process;
 - (f) a contact name should the applicant have any questions about the process;
 - (g) a questionnaire to enable the Board to monitor equal opportunities issues; and
 - (h) the closing date for applications.
6. The application form must specify which information provided by the applicant will be placed in the public domain if he is successful.
7. The Board must comply with a reasonable request by an applicant for the information contained within the information packs to be provided in an alternative format. The Board may provide the information on audiotape, in Braille, in large print or in such other format as the Board reasonably considers to be appropriate.
8. The closing date for applications must be specified wherever the vacancy is publicised and must not be changed unless the Board considers that it is necessary, in which case the reasons must be documented.
9. The Board must ensure that a person who is not a member of the Board or on the staff of the Board and who is otherwise independent of the Board (“independent person”) oversees the appointment process, including the publicising of the vacancy and the issue of information packs, the short-listing and interview of applicants and final decision-making.
10. The Board may consider an applicant for appointment only if he has submitted an application by the closing date.
11. The Board must assess the suitability of each applicant and decide upon a short list by reference to the role description and person specification.
12. The Board may appoint an applicant only after he has been interviewed.

13. The Board must fully document its decisions relating to the short-listing of applicants and its decisions following interview, and the documentation must be held by the Board for at least two years.

14. Before short-listing, the Board must—

- (a) inform applicants of the standards of probity and corporate responsibility required of Board members;
- (b) ask applicants to disclose to the Board anything that might constitute a conflict of interest; and
- (c) ask applicants to take into account the statutory disqualifications which apply in respect of members of the House of Commons, members of the European Parliament, members of the Northern Ireland Assembly, members of the Scottish Parliament, and members of the Welsh Assembly^(a).

15. Before the Board appoints an applicant as an ordinary member it must—

- (a) explore and resolve to its satisfaction any questions of conflict of interest that arise in relation to the applicant; and
- (b) ensure that the independent person records his level of satisfaction with the process.

16. At the end of the appointment process the Board is not obliged to appoint one of the applicants, and may initiate a new appointment process if no applicant is considered by the Board to be suitable.

17. The Board must publicise any appointment of an ordinary member in a manner which the Board considers appropriate.

18. The Board must carry out all aspects of the appointment process in a manner that applies the principles of merit, equal opportunities, probity, openness and transparency, and proportionality, taking account of the description of these principles in The Commissioner for Public Appointments Code of Practice For Ministerial Appointments To Public Bodies published in December 2003^(b).

(a) See the terms of disqualification under the House of Commons Disqualification Act 1975 (c. 24) as amended by Schedule 5, paragraph 26 to the Pensions Act 2004; the European Parliamentary Elections Act 2002 (c. 24); the Northern Ireland Assembly Disqualification Act 1975 (c. 25) as amended by Schedule 5, paragraph 27 to the Pensions Act 2004; and Orders made under the Scotland Act 1998 (c. 46) and the Government of Wales Act 1998 (c. 38).

(b) The Code of Practice was published by the Office of the Commissioner for Public Appointments. Copies of the Code are available from the Office of the Commissioner for Public Appointments, 3rd floor, 35 Great Smith Street, London SW1P 3BQ, and can be accessed at the website www.ocpa.gov.uk.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure which the Board of the Pension Protection Fund (“the Board”) must follow in making any appointment of ordinary members to the Board. The Board was established by section 107 of the Pensions Act 2004 (c. 35).

Regulation 2 provides that the Board must act in accordance with the Schedule to these Regulations except where a vacancy arises unexpectedly and within three months of the completion of an appointment process for another ordinary member, in which case, if the requirements are the same, another person thought suitable during the earlier appointment process may be appointed to fill the new vacancy.

The Schedule sets out the detail of the procedure the Board must follow.

Paragraph 1 requires the Board, where it wishes to make an appointment of an ordinary member, to publicise the vacancy in an effective and proportionate manner.

Paragraphs 2 to 6 set out what information must be provided in the information pack sent out to any person who expresses an interest in applying for the vacancy.

Paragraph 7 requires the Board to provide the information pack in an alternative format where this is reasonably requested.

Paragraph 8 provides that the closing date for applications must be set out wherever the vacancy is publicised and is not to be changed unless the Board considers it to be necessary.

Paragraphs 9 and 15(b) provide that a person who is independent of the Board must oversee and record his level of satisfaction with the appointment process.

Paragraphs 10 to 15 and 17 set out requirements that the Board must follow in relation to short-listing, final selection of applicants and publication of any appointment.

Paragraph 16 provides that the Board is not obliged to appoint one of the applicants, and may initiate a new appointment process if no applicant is considered to be suitable.

Paragraph 18 requires the Board to carry out all aspects of the appointment process in a manner that applies certain principles, taking into account the description of these principles in The Commissioner for Public Appointments Code of Practice For Ministerial Appointments To Public Bodies published in December 2003.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the Pensions Act 2004 by virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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