

2005 No. 669

PENSIONS

The Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005

<i>Made</i> - - - -	<i>10th March 2005</i>
<i>Laid before Parliament</i>	<i>16th 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 207, 315(2), (4) and (5) and 318(1) of the Pensions Act 2004(a), and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(b), by this instrument, which contains regulations made before the end of the period of six months beginning with the coming into force of the provisions of the Act by virtue of which they are made(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005 and shall come into force on 6th April 2005.

(2) In these Regulations—

“the Act” means the Pensions Act 2004;

▶ “the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began; ◀

▶ “employer”, in relation to—

- (a) an occupational pension scheme which is not a multi-employer scheme; or
- (b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it; ◀

Defn. of “the assessment date” inserted by reg. 4(2)(e) of S.I. 2005/2113 as from 19.8.05.
Defn. of “employer” substituted by reg. 5(2)(b) of S.I. 2005/2113 as from 19.8.05.

-
- (a) 2004 c. 35. Part 2 of the Pensions Act 2004 is modified in its application to partially guaranteed schemes by the Pension Protection Fund (Partially Guaranteed Schemes) Regulations 2005 (S.I. 2005/277), in its application to hybrid schemes by the Pension Protection Fund (Hybrid Schemes) (Modification) Regulations 2005 (S.I. 2005/449), and in its application to multi-employer schemes by the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005 (S.I. 2005/441). Section 318(1) is cited because of the meaning there given to “modifications”, “prescribed” and “regulations”.
 - (b) 1992 c. 53. Schedule 1 to that Act is amended by paragraph 8 of Schedule 12 to the Pensions Act 2004.
 - (c) See section 317(2)(c) 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.

Reg. 1

Defn. of "employer" substituted by reg. 6(2)(b) of S.I. 2005/2113 as from 19.8.05.

► "employer", in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under section 75 of the Pensions Act 1995(a) (deficiencies in the assets) became due from that employer and the full amount of the debt has been paid before the assessment date;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
 - (cc) the reduced amount has been paid in full before the assessment date;
 - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
 - (i) condition A is that a debt under section 75 of the Pensions Act 1995 became due from that employer and the full amount of the debt has been paid;
 - (ii) condition B is that—
 - (aa) such a debt became due;
 - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
 - (cc) the reduced amount has been paid in full;
 - (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
 - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due; ◀

"interested person", unless the context otherwise requires, means, in relation to a reviewable matter specified in any paragraph in column 1 of the Schedule, the person prescribed in relation to that matter in the corresponding paragraph in column 2 or, as the case may be, a representative of that person appointed under regulation 28.

Defns. of "non-segregated scheme" & "segregated scheme" inserted by regs. 7(2)(c) & 8(2)(c) of S.I. 2005/2113 as from 19.8.05.

► "non-segregated scheme" means a multi-employer scheme which is not a segregated scheme;

"segregated scheme" means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer's or that member's section; and

(a) Section 75 was amended by section 271 of the Pensions Act 2004.

- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section;◀

Duty to give a review decision

2. The Board must give a review decision on any reviewable matter on the written application of an interested person.

Time for making an application for a review decision

3.—(1) Subject to paragraph (2), any application for a review decision on any reviewable matter must be made—

- (a) in the case of an application concerning ►¹the issue of a determination under section 143(2)(a) or◀ the approval of a valuation under section 144(2)(a) of the Act (approval of valuation), by sending it to the Board before the end of a period of ►²28 days◀ beginning with the date on which the trustees or managers of the scheme provide ►¹a summary of the determination or◀ a summary of the valuation to members of the scheme in accordance with regulations made under section 203(1)(b)(ii) (provision of information to members of schemes etc);
- (b) in the case of an application concerning the determination of a person's entitlement to compensation under section 162 of the Act (the pension compensation provisions), at any time after the determination is made;
- (c) in all other cases, by sending it to the Board before the end of a period of 28 days beginning with the date on which the Board issues the determination, direction or other decision in respect of the reviewable matter.

¹Words in reg. 3(1)(a) & (da) inserted by reg. 4(2)(a) & (b) of S.I. 2012/3083 as from 24.1.13.

²Words substituted in reg. 3(1)(a) by reg. 2 of S.I. 2013/627 as from 30.4.13.

(2) Subject to paragraph (3) where the circumstances of a case are such that, in the opinion of the Board, it is reasonable for an application to be made after the end of the period specified in paragraph (1)(a) or (c), the Board must give a review decision if the application is made within such further period as the Board considers to be reasonable.

(3) Paragraph (2) shall not apply to—

- (a) the issue of a notice under section 122 (insolvency practitioner's duty to issue notices confirming status of scheme) by virtue of section 124 (Board's duty where there is a failure to comply with section 122);
- (b) the issue of a determination notice under section 123(4) (approval of notices issued under section 122);
- (c) the issue of—
 - (i) a scheme failure notice under section 130(2) (Board's duty where application or notification received under section 129); or
 - (ii) a withdrawal notice under section 130(3);
- (d) the issue of a notice under section 136(2) (power to validate contraventions under section 135);
- ¹(da) the issue of—
 - (i) a determination under section 143(2)(a) (whether condition in section 127(2)(a) or 128(2)(a) satisfied); or
 - (iii) a notice under section 143(2A) (whether Board will make determination or obtain an actuarial valuation);◀
- (e) the approval of the valuation under section 144(2)(a) (approval of valuation);
- (f) the issue of a withdrawal notice under section 146(2)(a) (schemes which become eligible schemes);
- (g) the issue of a withdrawal notice under section 147(2)(a) (new schemes created to replace existing schemes);
- (h) the issue of a withdrawal notice under section 148(3) or (4) (withdrawal following issue of section 122(4) notice);

¹Words in para. (i) deleted and para. (k) inserted in reg. 3(3) by reg. (4)(2) of S.I. 2006/685 as from 6.4.06.

²Words in reg. 3(3)(j) omitted & para. (3)(ja) inserted by reg. 4(2)(c) & (d) of S.I. 2012/3083 as from 23.1.13.

- (i) the issue of a determination notice under section 152(3) (duty to assume responsibility following reconsideration); ¹◀
- (j) the issue of a determination notice under section 153(6) (closed schemes) ¹; ²◀
- ▶²(ja) the issue of—
 - (i) a determination under section 158(3)(a) (whether condition in section 158(1) satisfied);
 - (ii) a notice under section 158(3A) (whether Board will make a determination or obtain an actuarial valuation); or ◀
- (k) the issue of a validation notice under paragraph (5) of regulation 2 of the Pension Protection Fund (Entry Rules) Regulations 2005(a) (schemes which are not eligible schemes) ◀

Matters to be addressed or included in an application for a review decision

- 4.—(1) An application for a review decision on any reviewable matter must include
- (a) the name and address of the interested person making the application;
 - (b) the date on which any—
 - (i) determination;
 - (ii) direction; or
 - (iii) other decision,
 was issued by the Board;
 - (c) the grounds on which the application is made;
 - (d) in the case of a representative, the name and address of the person represented by him.
- (2) An application must be signed and dated by the interested person.

Notice of an application for a review decision

5. On receipt of an application made under regulation 3 the Board must, if it is of the opinion that an interested person other than the person making the application may be materially affected by the review decision, notify that person—
- (a) that an application has been received; and
 - (b) of the grounds on which the application has been made.

Review decisions other than on an application

- 6.—(1) The Board may give a review decision in respect of a reviewable matter otherwise than on an application.
- (2) Paragraph (1) does not apply to any reviewable matter specified in subparagraphs (a) to (j) of regulation 3(3) in respect of which there has been any determination, direction, or other decision which has become binding by virtue of or under the Act.

Notice of reviews other than on application

- 7.—(1) Where the Board decides to give a review decision in respect of a reviewable matter under regulation 6(1) it must notify any interested person.
- (2) For the purposes of paragraph (1) an interested person means a person who, in the opinion of the Board, may be materially affected by the review decision or, as the case may be, the representative of that person appointed under regulation 28.

Provision of written representations to the Board

- 8.—(1) Subject to paragraph (2)—
- (a) an interested person notified by the Board under regulation 5 of an application for a review decision on any reviewable matter; or
 - (b) an interested person notified under regulation 7(1),

(a) S.I. 2005/590, amended by S.I. 2005/993 and 2153.

may make written representations to the Board in respect of that matter.

(2) Any representations made under paragraph (1) must be received by the Board by such time as the Board may reasonably require.

Matters to be considered in giving a review decision

9.—(1) In giving a review decision under regulation 2 the Board must take into account—

- (a) any information or documentation provided by the interested person making the application;
- (b) any representations made by an interested person in accordance with regulation 8(1)(a);
- (c) any other matters that appear to it to be relevant, including any relevant change of circumstances since the determination, direction or other decision was made or the failure occurred.

(2) In giving a review decision under regulation 6(1) the Board must take into account—

- (a) any representations made by an interested person in accordance with regulation 8(1)(b);
- (b) any other matters that appear to it to be relevant, including any relevant change of circumstances since the determination, direction or other decision was made or the failure occurred.

Time for giving review decision

10.—(1) Subject to paragraph (2) the Board must give a review decision under regulation 2 before the end of a period of 28 days beginning with—

- (a) the date on which it receives the application for a review decision; or
- (b) the last date by which any documents or information that the Board has required a person to provide in accordance with a notice given under section 191 of the Act (notices requiring provision of information) are to have been provided,

whichever is the later.

(2) If the Board is not able to give a review decision before the end of the period specified in paragraph (1) it must send an interim reply to—

- (a) the interested person making the application; and
- (b) any interested person notified of the application under regulation 5,

setting out the reasons for the delay and the expected date for issuing the review decision.

(3) Subject to paragraph (4) the Board must give a review decision under regulation 6(1) before the end of a period of 28 days beginning with—

- (a) the date on which the Board notified any interested person that it had decided to give a review decision in respect of a reviewable matter otherwise than on an application; or
- (b) the last date by which any documents or information that the Board has required a person to provide in accordance with a notice given under section 191 of the Act (notices requiring provision of information) are to have been provided,

whichever is the later.

(4) If the Board is not able to give a review decision before the end of the period specified in paragraph (3) it must send an interim reply to any person notified of the decision under regulation 7(1) setting out the reasons for the delay and the expected date for issuing the review decision.

Powers on giving a review decision

11. In giving a review decision under regulation 2 or 6(1) the Board may—

- (a) vary or revoke the determination, direction or other decision already made by the Board in respect of the reviewable matter;
- (b) substitute a different determination, direction or decision;
- (c) provide for such variations, revocations or substitutions, or any determinations, directions or other decisions made as a result of the review decision, to be treated as if they were made at such time (which may be a time prior to the making of the review decision) as the Board considers appropriate;
- (d) provide for any notice varied, substituted, issued or given by the Board as a result of the review decision to be treated as if it were issued or given at such time (which may be a time prior to the making of the review decision) as the Board considers appropriate;
- (e) deal with the matters arising on the review decision as if they had arisen on the original determination, direction or decision;
- (f) pay such compensation as the Board considers appropriate to such persons as it may determine;
- (g) make savings and transitional provision.

Matters to be included in a review decision

12. A review decision given under regulation 2 or 6(1) must be given in writing and must include—

- (a) reasons for the decision;
- (b) an explanation as to whether and, if so, to what extent that decision—
 - (i) varies or revokes a determination, direction, or other decision already made by the Board in respect of the reviewable matter;
 - (ii) substitutes a different determination, direction or decision; or
 - (iii) varies or substitutes a notice issued or given by the Board;
- (c) references to any relevant legislation;
- (d) a statement that if a person notified of the review decision under regulation 13(1) or (3) is dissatisfied with it he may refer the matter to the Reconsideration Committee for a reconsideration decision;
- (e) the address at which the Reconsideration Committee may be contacted.

Notice of a review decision

13.—(1) The Board must send a copy of a review decision given under regulation 2 to the interested persons specified in paragraph (2).

(2) The interested persons specified for the purposes of paragraph (1) are—

- (a) the interested person who made the application for a review under regulation 2;
- (b) any other interested person notified of the application by the Board in accordance with regulation 5.

(3) The Board must send a copy of a review decision given under regulation 6(1) to a person notified in accordance with regulation 7(1) of the Board's decision to give a review decision in respect of a reviewable matter otherwise than on application.

(4) The Board must also send a copy of the review decision given under regulations 2 or 6(1) to the Regulator if the Regulator was entitled to notification of the determination, direction or other decision in respect of which the review decision has been given by virtue of or under the Act.

Duty to give a reconsideration decision

14.—(1) Where the Board has given a review decision the Reconsideration Committee must reconsider the reviewable matter and give a reconsideration decision on the written application of an interested person.

(2) For the purposes of paragraph (1) an interested person means a person sent a copy of the review decision in accordance with regulation 13(1) or (3).

Time for making an application to reconsider

15.—(1) Subject to paragraph (2) an application to reconsider a reviewable matter and give a reconsideration decision must be made by sending it to the Reconsideration Committee within 28 days of the date of issue of the review decision.

(2) Subject to paragraph (3), where the circumstances of the case are such that, in the opinion of the Reconsideration Committee, it is reasonable for an application to be made after the end of the period specified in paragraph (1), the Reconsideration Committee must give a reconsideration decision if the application is made within such further period as the Reconsideration Committee considers to be reasonable.

(3) Paragraph (2) shall not apply to—

- (a) the issue of a notice under section 122 (insolvency practitioner's duty to issue notices confirming status of scheme) by virtue of section 124 (Board's duty where there is a failure to comply with section 122);
- (b) the issue of a determination notice under section 123(4) (approval of notices issued under section 122);
- (c) the issue of—
 - (i) a scheme failure notice under section 130(2) (Board's duty where application or notification received under section 129); or
 - (ii) a withdrawal notice under section 130(3);
- (d) the issue of a notice under section 136(2) (power to validate contraventions under section 135);
- ▶¹(da) the issue of—
 - (i) a determination under section 143(2)(a) (whether condition in section 127(2)(a) or 128(2)(a) satisfied); or
 - (ii) a notice under section 143(2A) (whether Board will make a determination or obtain an actuarial valuation);◀
- (e) the approval of the valuation under section 144(2)(a) (approval of valuation);
- (f) the issue of a withdrawal notice under section 146(2)(a) (schemes which become eligible schemes);
- (g) the issue of a withdrawal notice under section 147(2)(a) (new schemes created to replace existing schemes);
- (h) the issue of a withdrawal notice under section 148(3) or (4) (withdrawal following issue of section 122(4) notice);
- (i) the issue of a determination notice under section 152(3) (duty to assume responsibility following reconsideration); ▶¹◀
- (j) the issue of a determination notice under section 153(6) (closed schemes). ▶¹; or
- (k) the issue of—
 - (i) a determination under section 158(3)(a) (whether condition in section 158(1) satisfied); or
 - (ii) a notice under section 158(3A) (whether Board will make a determination or obtain an actuarial valuation)◀

¹Words in reg. 15(3)(da), (i), (j) & (k) inserted or omitted by reg. 4(3)(a)-(c) of S.I. 2012/3083 as from 24.1.13.

Matters to be addressed or included in an application to reconsider a reviewable matter

16.—(1) An application to reconsider a reviewable matter and give a reconsideration decision must include—

- (a) the name and address of the interested person making the application;
- (b) the date on which any—
 - (i) determination;
 - (ii) direction; or
 - (iii) other decision, was issued by the Board;
- (c) the date of the review decision in respect of the reviewable matter;
- (d) the grounds on which the application is made;
- (e) in the case of a representative, the name and address of the person represented by him.

(2) An application must be signed and dated by the interested person making the application.

Notice of an application to reconsider

17. On receipt of an application made under regulation 15 the Reconsideration Committee must, if it is of the opinion that an interested person other than the person making the application may be materially affected by the reconsideration decision, notify that person—

- (a) that an application has been received; and
- (b) of the grounds on which the application has been made.

Reconsideration decisions other than on an application

18.—(1) The Reconsideration Committee may reconsider a reviewable matter and give a reconsideration decision otherwise than on an application.

(2) Paragraph (1) does not apply to any reviewable matter specified in subparagraphs (a) to (j) of regulation 15(3) in respect of which there has been a determination, direction or other decision which has become binding by virtue of or under the Act.

Notice of decision to reconsider other than on an application

19.—(1) Where the Board decides ¹that the Reconsideration Committee should ¹reconsider a reviewable matter and give a reconsideration decision under regulation 18(1) it must notify ¹the Reconsideration Committee ¹

¹(2) Where the Reconsideration Committee decides to reconsider a reviewable matter otherwise than on an application it must notify the Board and any interested person.

(3) For the purposes of paragraph (2) an interested person means a person who, in the opinion of the Board, may be materially affected by the reconsideration decision or, as the case may be, a representative of that person appointed under regulation 28. ¹

Provision of written representation

20.—(1) Subject to paragraph (2)—

- (a) an interested person notified of an application for reconsideration of a reviewable matter under regulation 17; or

¹Words in reg. 19(1) substituted & 19(2) & (3) substituted by reg. 6(a) & (b) of S.I. 2005/993 as from 1.4.05.

(b) an interested person notified of the Reconsideration Committee's decision to reconsider a reviewable matter and give a reconsideration decision under ¹regulation 19(2)◀,

¹Words in reg. 20(1)(b) substituted by reg. 6(c) of S.I. 2005/993 as from 1.4.05.

may make written representations to the Reconsideration Committee in respect of that matter.

(2) Any representations made under paragraph (1) must be received by the Reconsideration Committee by such time as it may reasonably require.

Matters to be considered in giving a reconsideration decision

21.—(1) In giving a reconsideration decision under regulation 14(1) the Reconsideration Committee must take into account—

- (a) any information or documentation provided by the interested person making the application;
- (b) any representations made by an interested person in accordance with regulation 20(1)(a);
- (c) any other matters that appear to it to be relevant, including any relevant change of circumstances since the determination, direction or other decision was made or the failure occurred.

(2) In giving a reconsideration decision under regulation 18(1) the Reconsideration Committee must take into account—

- (a) any representations made by an interested person in accordance with regulation 20(1)(b);
- (b) any other matters that appear to it to be relevant, including any relevant change of circumstances since the determination, direction or other decision was made or the failure occurred.

Time for giving a reconsideration decision

22.—(1) Subject to paragraph (2) the Reconsideration Committee must give a reconsideration decision under regulation 14(1) before the end of a period of 28 days beginning with the date on which—

- (a) it receives an application to reconsider a reviewable matter and give a reconsideration decision in accordance with regulation 14(1); or
- (b) the last date by which any documents or information that the Reconsideration Committee has required a person to provide in accordance with a notice given under section 191 of the Act are to have been provided,

whichever is the later.

(2) If the Reconsideration Committee is not able to give a reconsideration decision before the end of the period specified in paragraph (1) it must send an interim reply to—

- (a) the interested person who made the application;
- (b) any person notified of the application in accordance with regulation 17,

setting out the reasons for the delay and the expected date for issuing the review decision.

(3) Subject to paragraph (4) the Reconsideration Committee must give a reconsideration decision in respect of a reviewable matter under regulation 18(1) before the end of a period of 28 days beginning with—

- (a) the date on which ²the Reconsideration Committee◀ notified any interested person under ²regulation 19(2)◀ that it had decided to give a ²reconsideration decision◀ in respect of a reviewable matter otherwise than on an application; or

²Words in reg. 22(3)(a) substituted by reg. 6(d) of S.I. 2005/993 as from 1.4.05.

PENSION PROTECTION FUND (**REVIEW AND RECONSIDERATION OF REVIEWABLE MATTERS**) REGULATIONS 2005

- (b) the last date by which any documents or information that the Board has required a person to provide in accordance with a notice given under section 191 of the Act (notices requiring provision of information) are to have been provided,

whichever is the later.

(4) If the Reconsideration Committee is not able to give a reconsideration decision under regulation 18(1) before the end of the period specified in paragraph (3) it must send an interim reply to any person notified of the decision to reconsider the reviewable matter and give a reconsideration decision setting out the reasons for the delay and the expected date for issuing the review decision.

Powers on giving a reconsideration decision

23. In giving a reconsideration decision under regulation 14(1) or 18(1) the Reconsideration Committee may—

- (a) vary or revoke a determination, direction or other decision already made by the Board in respect of the reviewable matter;
- (b) substitute a different determination, direction or decision;
- (c) provide for such variations, revocations or substitutions, or any determinations, directions or other decisions made as a result of the review decision or reconsideration decision, to be treated as if they were made at such time (which may be prior to the making of the review decision or reconsideration decision) as the Board considers appropriate;
- (d) provide for any notice varied, substituted, issued or given by the Board as a result of the reconsideration decision, to be treated as if it were issued or given at such time (which may be a time prior to the making of the reconsideration decision) as the Board considers appropriate;
- (e) deal with the matters arising on the reconsideration decision as if they had arisen on the original determination, direction or decision;
- (f) pay such compensation as the Board considers appropriate to such persons as it may determine; and
- (g) make savings and transitional provision.

Matters to be included in a reconsideration decision

24. A reconsideration decision given under regulation 14(1) or 18(1) must be given in writing and must include—

- (a) reasons for the decision;
- (b) an explanation as to whether and, if so, to what extent that decision—
 - (i) varies or revokes a determination, direction or other decision already made by the Board in respect of the reviewable matter;
 - (ii) substitutes a different determination, direction or decision;
 - (iii) varies or substitutes a notice issued or given by the Board;
- (c) references to any relevant legislation;
- (d) a statement that if a person notified of the reconsideration decision under regulation 25 is dissatisfied with it he may refer the matter to the PPF Ombudsman;
- (e) the address at which the PPF Ombudsman may be contacted.

Notice of a reconsideration decision

25.—(1) The Reconsideration Committee must send a copy of a reconsideration decision given under regulation 14(1) to the interested persons specified in paragraph (2).

- (2) The interested persons specified for the purposes of paragraph (1) are—

- (a) the interested person who made the application for reconsideration of the reviewable matter under regulation 14(1);
- (b) any other interested person notified of the application under regulation 17.

(3) The Reconsideration Committee must send a copy of a reconsideration decision given under regulation 18(1) to the interested persons notified in accordance with ►regulation 19(2)◄ of the Reconsideration Committee's decision to reconsider the reviewable matter and give a reconsideration decision otherwise than on an application.

¹Words in reg. 25(3) substituted by reg. 6(e) of S.I. 2005/993 as from 1.4.05.

(4) The Reconsideration Committee must also send a copy of a reconsideration decision given under regulations 14(1) or 18(1) to the Regulator if the Regulator was entitled to notification of the determination, direction or other decision in respect of which the reconsideration decision has been given by virtue of or under the Act.

Independence of the Reconsideration Committee

26. Where the Board establishes a Reconsideration Committee for the purposes of section 207(1)(b) of the Act, paragraph 15 of Schedule 5 to the Act (the Board of the Pension Protection Fund-Committees) applies as if after sub-paragraph (5) there were inserted—

“(6) A Reconsideration Committee (or any sub-committee established by the Reconsideration Committee under sub-paragraph (2)) established by the Board for the purposes of section 207(1)(b) must not include any person concerned in the reviewable matter in respect of which the reconsideration decision is to be made.”.

Meetings of the Reconsideration Committee

27. A member of the ►²Administrative Justice and Tribunals Council◄ or of the Scottish Committee of the ►²Administrative Justice and Tribunals Council◄ may attend any meeting of the Reconsideration Committee but shall not take part in the reconsideration of a reviewable matter or a reconsideration decision.

²Words substituted in reg. 27 by art. 288 of S.I. 2008/2683 as from 3.11.08.

Representation

28.—(1) An interested person may by sending written notice to the Board appoint a person to act as his representative for the purposes of these Regulations.

- (2) Where an interested person—
 - (a) dies;
 - (b) is a minor; or
 - (c) is otherwise incapable of acting for himself,

the Board may allow a person to represent him.

(3) For the purposes of paragraphs (1) and (2) an interested person includes a person who is an interested person for the purposes of regulation 7 or 19 of these Regulations.

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

Malcolm Wicks
Minister of State,
Department for Work and Pensions

10th March 2005

SCHEDULE

Regulation 1(2)

<i>Provision of Schedule 9 to the Act which specifies the reviewable matter</i>	<i>Interested Person</i>
1. Paragraphs 1 and 2	1. (a) the trustees or managers of the scheme; (b) the insolvency practitioner or the former insolvency practitioner who issued the section 122 notice; (c) any insolvency practitioner in relation to the employer (who does not fall within ¹ sub-paragraph (b)); and (d) if there is no insolvency practitioner in relation to the employer, the employer.
2. Paragraph 3	2. (a) the trustees or managers of the scheme; (b) the insolvency practitioner or former insolvency practitioner mentioned in section 124(1); (c) any insolvency practitioner in relation to the employer (who does not fall within ¹ sub-paragraph (b)); and (d) if there is no insolvency practitioner in relation to the employer, the employer.
3. Paragraph 3A(a)	3. (a) the trustees or managers of the scheme; (b) the actuary in relation to the scheme; and (c) any person appointed to act as an insolvency practitioner in relation to the scheme.
² 3A. Paragraph 3B(b)	3A. (a) the insolvency practitioner; and (b) the trustees or managers of the scheme. (b)
4. Paragraph 4	4. (a) the trustees or managers of the scheme; and (b) the employer.
5. Paragraph 5	5. A relevant person as defined by section 134(3)(a) or any regulations made under that section.
6. Paragraph 6	6. (a) the trustees or managers of the scheme; and (b) any person directly affected by the determination.

¹Words in paras. 1(c) & 2(c) of col. 2 substituted by reg. 6(f) of S.I. 2005/993 as from 1.4.05.

²Para. 3A inserted by reg. 4(3)(a) of S.I. 2006/685 as from 6.4.06.

(a) Para. 3A is inserted by reg. 4 of S.I. 2005/600.

(b) Para. 3B is inserted by regulation 2 of these Regulations.

<i>Provision of Schedule 9 to the Act which specifies the reviewable matter</i>	<i>Interested Person</i>
7. Paragraph 7	7. The trustees or managers of the eligible scheme in respect of which the trustees or managers have made an application under section 139(2).
▶ ¹ 7A. Paragraph 7A(a)	7A. The member in respect of whom a determination under section 141(2) is made◀
▶ ² 7B. Paragraphs 7B and 7C	7B. The trustees or managers of the scheme.
7C. Paragraph 7D	7C. (a) the trustees or managers of the scheme; and (b) the members of that scheme or, where a member has died, any person entitled to present payment of a pension by reason of rights under the scheme in respect of a deceased member.◀
8. ▶ ² ◀	
9. Paragraph 9(b)	9. (a) the trustees or managers of the eligible scheme in respect of which the Board has obtained a valuation under section 143; and (b) the members of that scheme or, where a member has died, any person entitled to present payment of a pension by reason of rights under the scheme in respect of a deceased member.
10. Paragraph 10	10. (a) in respect of a withdrawal notice under section 146, the trustees or managers of the eligible scheme or the employer in relation to that scheme; (b) in respect of a withdrawal notice under section 147, the trustees or managers of the new scheme or the employer in relation to that scheme.

¹Para. 7A inserted by reg. 13 of S.I. 2005/2113 as from 19.8.05.

²Paras. 7B, 7C, inserted & 8 omitted by reg. 4(4)(a) & (b) of S.I. 2012/3083 as from 24.1.13.

(a) Paragraph 7A is inserted by regulation 3 of these Regulations.
(b) See regulation 3(b) of the Pension Protection Fund. (renewable matters) Regulation 2005 (S.I. 2005/600) which modifies paragraph (9) in relation to partially guaranteed schedules.

PENSION PROTECTION FUND (REVIEW AND RECONSIDERATION OF REVIEWABLE MATTERS) REGULATIONS 2005

<i>Provision of Schedule 9 to the Act which specifies the reviewable matter</i>	<i>Interested Person</i>
11. Paragraph 11	11. (a) the trustees or managers of the eligible scheme; and (b) the employer. ⁴
12. Paragraphs 12, 13 and 14	12. The trustees or managers of the eligible scheme.
¹ 12A. Paragraphs 14A, 14B and 14C	12A. The trustees or managers of the scheme.◀
13. Paragraph 15	13. The trustees or managers of the eligible scheme or the employer in relation to that scheme.
14. Paragraph 15A(a)	14. The trustees or managers of the eligible scheme.
15. Paragraph 15B(b)	15. The trustees or managers of the eligible scheme in respect of which the Board has obtained a valuation under section 160(4A).
16. Paragraph 16	16. The person entitled to compensation under section 162.
² 16A. Paragraph 16A	16A. The person in respect of whom the determination is made.
16B. Paragraph 16B(c)	16B. The member, or the person in respect of a member, to whom section 163(4)(a) of the Act refers.◀
³ 16C. Paragraphs 16C, 16D, 16E ▶ ⁴ ◀ 16F ▶ ⁴ , 16G, 16H and 16I◀.	Any person directly affected by the decision.◀
17. Paragraph 17	17. The member of the eligible scheme or the person concerned under section 163(4)(b).

¹Para. 12A inserted by reg. 4(4)(c) of S.I. 2012/3083 as from 24.1.13.

²Paras. 16A & 16B inserted into Sch. by reg. 4(3)(b) of S.I. 2006/685 as from 6.4.06.

³Para. 16C inserted into Sch. by reg. 36(1)-(2) of S.I. 2011/731 as from 6.4.11.

⁴Words in para. 16C of Sch. omitted & inserted by reg. 61(a)(b) of S.I. 2014/1711 as from 24.7.14.

(a) See regulation 3(c) of (S.I. 2005/600) which modifies Sch. 9 in relation to partially guaranteed schemes.

(b) See regulation 3(c) of (S.I. 2005/600) which modifies Sch. 9 in relation to partially guaranteed schemes.

(c) Paragraphs 16A and 16B are inserted by regulation 2 of these Regulations.

<i>Provision of Schedule 9 to the Act which specifies the reviewable matter</i>	<i>Interested Person</i>
18. Paragraph 17A(a)	18. The person entitled to payment under section 166(2).
▶ ¹ 18A. Paragraph 17B(b)	18A. The person to whom regulation 16(1) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 refers.◀
19. Paragraphs 18 and 19	19. (a) the trustees or managers of the scheme; and (b) any other person prescribed in regulations made under section 181(2)(b).
▶ ² 19A. Paragraph 19A	19A. The trustees or managers of the scheme in respect of which the trustees or managers have made an application for the grant of a waiver under regulation 3 of the Pension Protection Fund (Waiver of Pension Protection Levy and Consequential Amendments) Regulations 2007 (S.I. 2007/771) (waiver of payment of the pension protection levy).◀
▶ ³ 19B. Paragraph 19B	19B. The trustees or managers of the scheme in respect of which the Board has made, or failed to make, a determination to waive interest under regulation 19A(7) or (8) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 (interest for late payment of the pension protection levy).◀
▶ ⁴ 20. Paragraph 20	20. (a) the trustees or managers of the scheme in respect of which an application has been made under section 182(1)(d); or (b) any other person prescribed in regulations made under section 182(5)(a), if the application under section 182(1)(d) was made by that person.

¹Para. 18A inserted into Sch. by reg. 4(3)(c) of S.I. 2006/685 as from 6.4.06.

²Para. 19A inserted by reg. 9 of S.I. 2007/771 as from 30.3.07.

³Para. 19B inserted by reg. 3(a) & (b) of S.I. 2010/560 as from 1.4.10.

⁴Paras. 20-29 inserted into the Sch. by reg. 22 of S.I. 2005/2184 as from 1.9.05.

(a) Paragraph 17A to Sch. 9 is inserted by reg. 4 of S.I. 2005/600.

(b) Paragraph 17B is inserted by regulation 2 of these Regulations.

<i>Provision of Schedule 9 to the Act which specifies the reviewable matter</i>	<i>Interested Person</i>
21. Paragraph 21	<p>21. (a) the trustees or managers of the scheme in respect of which an application has been made under section 182(1)(d); or</p> <p>(b) any other person prescribed in regulations made under section 182(5)(a), if the application under section 182(1)(d) was made by that person.</p>
22. Paragraph 22	<p>22. (a) the trustees or managers of the scheme in respect of which an application has been made under section 182(1)(d); or</p> <p>(b) any other person prescribed in regulations made under section 182(5)(a), if the application under section 182(1)(d) was made by that person.</p>
23. Paragraph 23	<p>23. (a) the trustees or managers of the scheme in respect of which an application has been made under section 182(1)(d); or</p> <p>(b) any other person prescribed in regulations made under section 182(5)(a), if the application under section 182(1)(d) was made by that person.</p>
24. Paragraph 24	<p>24. (a) the trustees or managers of the scheme in respect of which an application has been made under section 182(1)(d); or</p> <p>(b) any other person prescribed in regulations made under section 182(5)(a), if the application under section 182(1)(d) was made by that person.</p>

<i>Provision of Schedule 9 to the Act which specifies the reviewable matter</i>	<i>Interested Person</i>
25. Paragraph 25	25. (a) the trustees or managers of the scheme in respect of which an application has been made under section 182(1)(d); or (b) any other person prescribed in regulations made under section 182(5)(a), if the application under section 182(1)(d) was made by that person.
26. Paragraph 26	26. (a) the trustees or managers of the scheme in respect of which an application has been made under section 182(1)(d); or (b) any other person prescribed in regulations made under section 182(5)(a), if the application under section 182(1)(d) was made by that person.
27. Paragraph 29	27. Any of the persons specified in section 189(3) or by regulations made under that section.
28. Paragraph 30	28. Any of the persons specified in section 189(3) or by regulations made under that section.
29. Paragraph 31	29. Any of the persons specified in section 82(1) of the Pensions Act 1995. ◀

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the review and reconsideration by the PPF Board of the reviewable matters specified in Schedule 9 to the Pensions Act 2004 (c. 35) (“the Act”).

The Board of the Pension Protection Fund is established by section 107 of the Act to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer and where the pension scheme is underfunded at a certain level.

Regulation 1 provides for citation, commencement and interpretation and, in particular, defines for the purposes of these Regulations the interested persons who may apply for a review decision on a reviewable matter.

Regulation 2 provides that the Board must give a review decision on any reviewable matter on the written application of an interested person.

Regulation 3 prescribes the period within which an application for a review decision must be made. It also provides for the circumstances in which the Board must give a review decision following an application made outside that period.

Regulation 4 sets out the matters to be addressed or included in an application for a review decision on any reviewable matter.

Regulation 5 provides for the Board to notify certain persons who may be materially affected by the review decision that an application has been received and of the grounds on which it has been made.

Regulation 6 provides that the Board may give a review decision otherwise than on an application on certain reviewable matters.

Regulation 7 provides that where the Board decides to give a review decision otherwise than on an application it must notify certain persons.

Regulation 8 provides that interested persons may make written representations to the Board by such time as the Board may require.

Regulation 9 sets out the matters to be considered by the Board in giving a review decision under regulation 2 or 6(1).

Regulation 10 provides for the period within which the Board must give a review decision. It also provides for an interim reply to be given setting out the reasons for any delay and the expected date for issuing the decision. Similar provision is made in respect of a review decision made otherwise than on an application.

Regulation 11 sets out the powers that the Board has in giving a review decision under regulation 2 or 6(1), including a power to vary, revoke or substitute a determination to pay compensation and to make saving and transitional provision.

Regulation 12 provides for a review decision to be given in writing and for the matters to be included in the decision.

Regulation 13 provides that the Board must send a copy of a review decision to certain persons.

Regulation 14 provides that where the Board has given a review decision and an interested person makes an application for the reviewable matter to be reconsidered the Reconsideration Committee must give a reconsideration decision.

Regulation 15 provides that an application for reconsideration must be made in writing and must be made by sending it to the Reconsideration Committee within 28

days of the date of issue of the review decision. It also provides for the circumstances in which the Reconsideration Committee may accept an application made outside that period and give a reconsideration decision.

Regulation 16 sets out the matters to be addressed or included in an application for a reconsideration decision.

Regulation 17 provides for the Reconsideration Committee to notify certain persons that an application has been received and of the grounds on which it has been made.

Regulation 18 provides that the Reconsideration Committee may give a reconsideration decision otherwise than on an application on certain reviewable matters.

Regulation 19 provides that where the Reconsideration Committee decides to give a reconsideration decision otherwise than on an application it must notify certain persons.

Regulation 20 provides that an interested person may make written representations to the Reconsideration Committee by such time as the Reconsideration Committee may require.

Regulation 21 sets out the matters to be considered by the Reconsideration Committee in giving a reconsideration decision under regulation 14(1) or 18(1).

Regulation 22 provides for the period within which the Reconsideration Committee must give a reconsideration decision. It also provides for an interim reply to be given setting out the reasons for any delay and the expected date for issuing the decision. Similar provision is also made in respect of a reconsideration decision made otherwise than on an application.

Regulation 23 sets out the powers that the Reconsideration Committee has in giving a reconsideration decision under regulation 14(1) or 18(1).

Regulation 24 sets out the procedure for reaching and giving reconsideration decision.

Regulation 25 provides that the Reconsideration Committee must send a copy of a reconsideration decision to certain persons.

Regulation 26 modifies paragraph 15 of Schedule 5 to the Act to provide that a Reconsideration Committee (or any sub-committee established by it) must not include any person concerned with the reviewable matter in respect of which a reconsideration decision is to be made.

Regulation 27 provides that a member of the Council on Tribunals or the Scottish Committee of the Council on Tribunals may attend a meeting of the Reconsideration Committee but may not take part in the reconsideration or the reconsideration decision.

Regulation 28 provides for the appointment of a representative.

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 Act 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. However, these Regulations have been made following consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992 (c. 53).

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

