



Pensions Act 2004

2004 CHAPTER 35

PART 1

THE PENSIONS REGULATOR

Exercise of regulatory functions

99 Compulsory review

- (1) In a case where the special procedure applies, the Regulator must review the determination to exercise the regulatory function.
- (2) The review must be determined as soon as reasonably practicable.
- (3) The Regulator's powers on a review under this section include power to—
 - (a) confirm, vary or revoke the determination,
 - (b) confirm, vary or revoke any order, notice or direction made, issued or given as a result of the determination,
 - (c) substitute a different determination, order, notice or direction,
 - (d) deal with the matters arising on the review as if they had arisen on the original determination, and
 - (e) make savings and transitional provision.
- (4) When the Regulator has completed a review under this section a notice of its determination on the review must be given to such persons as appear to it to be directly affected by its determination on the review.
- (5) If the final notice contains a determination to exercise a different regulatory function to the function which was the subject-matter of the determination notice, then the final notice may not be given unless—
 - (a) such persons as appear to the Regulator to be directly affected by the exercise of the regulatory function have been given an opportunity to make representations, and

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- (b) the Regulator has considered any such representations before it makes its determination on the review.
- (6) Subsection (5) does not apply if the regulatory function is listed in section 97(5) and the Regulator determines to exercise it immediately on the basis that it is necessary to do so because there is, or the Regulator considers it likely that if the function were not exercised immediately there would be, an immediate risk to—
- (a) the interests of members under an occupational or personal pension scheme, or
 - (b) the assets of such a scheme.
- (7) The determination which is the subject-matter of a final notice may be referred to the Tribunal ^{F1}... by—
- (a) any person to whom the final notice is given as required under subsection (4), and
 - (b) any other person who appears to the Tribunal to be directly affected by the determination.
- (8) Where that determination is a determination to exercise a different regulatory function to the function which was the subject-matter of the determination notice, the Regulator must not exercise the regulatory function—
- (a) during the period within which the determination may be referred to the Tribunal ^{F2}..., and
 - (b) if the determination is so referred, until the reference, and any appeal against the Tribunal’s determination, has been finally disposed of.
- (9) Subsection (8) does not apply where—
- (a) the regulatory function in question is a function listed in section 96(6) (functions which may be exercised immediately under the standard procedure), or
 - (b) the regulatory function in question is a function listed in section 97(5) (functions which may be exercised immediately under the special procedure) and the Regulator determines to exercise it immediately on the basis described in subsection (6).
- (10) The functions of the Regulator under this section are exercisable on behalf of the Regulator by the Determinations Panel (and are not otherwise exercisable by or on behalf of the Regulator).
- (11) The Panel must determine the procedure that it proposes to follow in relation to the exercise of those functions.
- (12) Section 94 (publication of Regulator’s procedure) applies in relation to the procedure determined under subsection (11) as it applies to the procedure determined under section 93 (procedure in relation to the regulatory functions).
- [^{F3}(13) In this section “the Tribunal”, in relation to any reference under subsection (7), means—
- (a) the First-tier Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the First-tier Tribunal is to hear the reference;
 - (b) the Upper Tribunal, in any other case.]

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Textual Amendments

- F1** Words in s. 99(7) omitted (6.4.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(2\)\(e\)](#), [Sch. 2 para. 76\(a\)](#) (with [Sch. 5](#))
- F2** Words in s. 99(8)(a) omitted (6.4.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(2\)\(e\)](#), [Sch. 2 para. 76\(b\)](#) (with [Sch. 5](#))
- F3** S. 99(13) inserted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), [art. 1\(2\)\(e\)](#), [Sch. 2 para. 76\(c\)](#) (with [Sch. 5](#))
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Commencement Information

- I1** S. 99 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(5A) inserted by [2014 c. 19 s. 52\(2\)](#)
- s. 18(6) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 18(8) words inserted by [2014 c. 19 s. 52\(3\)](#)
- s. 23(1A) inserted by [2015 c. 8 Sch. 2 para. 26\(3\)](#)
- s. 23(10A) inserted by [2015 c. 8 Sch. 2 para. 26\(5\)](#)
- s. 38(1)-(1B) substituted for s. 38(1) by [2015 c. 8 Sch. 2 para. 27](#)
- s. 38(7)(da) inserted by [2021 c. 1 s. 104\(2\)](#)
- s. 43(1)-(1B) substituted for s. 43(1) by [2015 c. 8 Sch. 2 para. 28\(2\)](#)
- s. 52(1)-(1B) substituted for s. 52(1) by [2015 c. 8 Sch. 2 para. 29](#)
- s. 80(1)(a)(iib) inserted by [2021 c. 1 s. 109\(3\)](#)
- s. 102(2)(a) words in s. 102(2) renumbered as s. 102(2)(a) by [2008 c. 30 s. 44\(5\)\(a\)](#)
- s. 102(2)(b) inserted by [2008 c. 30 s. 44\(5\)\(b\)](#)
- s. 103(1A) inserted by [2008 c. 30 s. 44\(6\)](#)
- s. 117A inserted by [2008 c. 30 Sch. 10 para. 3](#)
- s. 126(1)-(1B) substituted for s. 126(1) by [2015 c. 8 Sch. 2 para. 31](#)
- s. 188(1)(ba) inserted by [2008 c. 30 Sch. 10 para. 6](#)
- s. 189A inserted by [2008 c. 30 Sch. 10 para. 7](#)
- s. 209(9) added by [2008 c. 30 Sch. 10 para. 8](#)
- s. 291(4)(f) and word inserted by [2021 c. 1 Sch. 3 para. 19\(b\)](#)
- s. 318(3)(a)(viii)-(x) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(a\)](#)
- s. 318(3)(b)(vi)-(viii) inserted by [2015 c. 8 Sch. 2 para. 38\(3\)\(b\)](#)
- Sch. 4 para. 7(5)(b) inserted by [2008 c. 30 s. 44\(8\)\(b\)](#)
- Sch. 4 para. 13(3) inserted by [2008 c. 30 s. 44\(9\)\(b\)](#)
- Sch. 4 para. 7(5)(a) words in Sch. 4 para. 7(5) renumbered as Sch. 4 para. 7(5)(a) by [2008 c. 30 s. 44\(8\)\(a\)](#)
- Sch. 7 para. 21(2)(c)-(cc) substituted for Sch. 7 para. 21(2)(b)(c) by [2008 c. 30 Sch. 8 para. 11](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 para. 10 (3.1.2012) omitted without ever being in force by virtue of 2011 c. 19, Sch. 4 para. 20; S.I. 2011/3034 art. 3(i)(iv))