

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES (LEVY CEILING –
EARNINGS PERCENTAGE INCREASE) ORDER 2006

2006 No. 3105

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before the Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This Order specifies, for the purposes of section 178 of the Pensions Act 2004 (c.35) (“the Act”), the increase in the general level of earnings during the latest review period, for the purposes of uprating the levy ceiling for the financial year beginning on 1st April 2007.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Section 175 of the Act provides for the Pension Protection Fund to charge a levy to defined benefit occupational pension schemes (and the defined benefit element of hybrid schemes) to fund the compensation it will pay to scheme members if their employer becomes insolvent and the scheme is underfunded to a certain level.
 - 4.2 Section 178 of the Act requires the Secretary of State for Work and Pensions to set a levy ceiling with approval from HM Treasury, by affirmative Order, preventing the Pension Protection Fund from raising the levy above a set maximum. The first ceiling was set in April 2006 at £775m by The Occupational Pensions Schemes Levy Ceiling Order 2006/742.
 - 4.3 The ceiling must now be uprated annually (by affirmative Order) in line with the general level of earnings in Great Britain, as determined by the Secretary of State. The ceiling uprates in line with earnings as this is the closest approximation to the increase in a scheme’s liabilities where compensation payable is linked to a member’s earnings.
 - 4.4 The ceiling can only be raised above the level of earnings at the request of the Board, and with the approval of HM Treasury.

- 4.5 This Order reviews the increases in the general level of earnings for the latest review period, so that the ceiling can be updated for 2007/08. The dates for the review period were set by the Pension Protection Fund (Levy Ceiling) Regulations 2006/2692.
- 4.6 The Secretary of State found that during the 12 months ending with 31st July 2006, the general level of earnings in Great Britain increased by 3.8%.
- 4.7 The 3.8% figure was obtained through the Office of National Statistics, and is not seasonally adjusted, and does include bonuses. This is to maintain consistency with the types of figure used to update the Pension Protection Fund Compensation Cap.

5. Extent

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The Pension Protection Fund has been set up to provide a statutory form of compensation for members of defined benefit occupational pension schemes, where the employer has a qualifying insolvent event and the scheme is underfunded to a certain level.
- 7.2 The PPF is funded through an annual levy charged to all qualifying defined benefit occupational pension schemes. In addition when the PPF assumes responsibility for a scheme it assumes all assets of the scheme.
- 7.3 There is no formal requirement to consult on an Order made within 6 months of the relevant powers commencing. DWP are not required to consult SSAC as these Regulations have no impact on DWP benefits.
- 7.4 This instrument does not amend any previous instruments, although it is related in part to the Occupational Pension Schemes (Levy Ceiling) Order 2006 (S.I.2006/ 742).
- 7.5 Guidance on the Regulations will be put on the DWP website “What’s New” section when they come into force. The PPF will also have copies of the instrument and be in a position to explain them to members of the public. These Regulations will also be referred to when the affirmative Order to update the ceiling (which uses the dates

prescribed in these Regulations) is debated in both Houses in the spring.

8. Impact

8.1 A Regulatory Impact Assessment of the impact on business, charities and the voluntary sector, of the provisions of this Order has not been carried out for this Order, as it has no impact on business, charities or the voluntary sector.

8.2 There is no impact on the public sector.

9. Contact

Any enquiries about the contents of this memorandum should be addressed to: Anne Packer, Pensions Protection and Stewardship Division, Department for Work and Pensions or Email: Anne.Packer1@dw.p.gsi.gov.uk , telephone: 020 7962 8104.