

**EXPLANATORY MEMORANDUM TO**  
**THE OCCUPATIONAL PENSION SCHEMES (LEVY CEILING –**  
**EARNINGS PERCENTAGE INCREASE) ORDER 2008**

**2008 No. 217**

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**

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 2008.

**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 requires 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, by affirmative Order, preventing the Pension Protection Fund from raising the levy above a set maximum. The first ceiling was set, with approval from HM Treasury, in April 2006 at £775m by The Occupational Pension Schemes (Levy Ceiling) Order 2006/742. The current ceiling of £804.45m, that came into effect on 1 April 2007, was set by the Occupational Pension Schemes (Levy Ceiling) Order 2007/1012.

4.3 The ceiling must be uprated annually (by affirmative Order) in line with the general level of earnings in Great Britain, as determined by the Secretary of State (see section 178(3)(a)). The legislation requires the ceiling to uprate 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 (see section 178(8)).
- 4.5 The Secretary of State has reviewed the increases in the general level of earnings for the latest review period, so that the ceiling can be updated for 2008/09. 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 31<sup>st</sup> July 2007, the general level of earnings in Great Britain increased by 3.6%. This Order specifies that figure in accordance with section 178(6) of the Act.
- 4.7 The 3.6% 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**

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 under-funded 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 takes over all assets of the scheme. The PPF also receives funding from the returns of the investment of the pension protection levy and the assets of the schemes it takes over.
- 7.3 The Secretary of State is not required to consult SSAC as this Order has 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 2007 (S.I.2007/ 1012).

7.5 DWP will have copies of the instrument and be in a position to explain it to members of the public. This Order will be referred to when the affirmative Order to uprate the ceiling (which uses the figure prescribed in this Order) is debated in both Houses in the Spring.

## **8. Impact**

8.1 This Order amends an existing regulatory regime to provide for increasing a statutory fee by a pre-determined formula. A full Impact Assessment is not necessary for such legislation.

8.2 There is no impact on the public sector.

## **9. Contact**

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