

**EXPLANATORY MEMORANDUM TO  
THE PENSION PROTECTION FUND (PRESCRIBED PAYMENTS)  
REGULATIONS 2008**

**2008 No. 664**

**1.** This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These regulations make provision for the Board of the Pension Protection Fund (“the Board”) to make payments from the Pension Protection Fund (“the Fund”) to cover certain expenditure incurred by the Board in respect of risk-based administration costs.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative background**

4.1 The Pensions Act 2004 (“the Act”) established the Board. The Board is a statutory public corporation, at arms’ length from Government, set up to provide compensation for members of eligible defined-benefit occupational pension schemes, where the employer has a qualifying insolvency event and the scheme is underfunded to a certain level.

4.2 Section 173(3) of the Act lists the sums and property that are to be paid or transferred out of the Fund. Paragraph (k) allows Regulations to prescribe other such sums.

4.3 Regulation 2, made under paragraph (k), lists certain expenditure incurred by the Board in respect of risk-based administration costs which, from 1 April 2008, will be paid out of the Fund.

**5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain and Northern Ireland. Section 323(2)(b)(i) of the Act provides that section 173 extends to Northern Ireland.

**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 sums prescribed in regulation 2 are currently met from the Pension Protection Fund's administration levy (see section 117 of the Act), which funds the day-to-day administration of the PPF. The administration levy is calculated and payable based on the number of members in an eligible pension scheme. However, schemes that are more likely to enter the Fund are more likely to cause the Board to incur certain administrative costs – those listed in regulation 2.
- 7.2 Payment of these sums from the Fund, which consists of contributions levied under section 175 of the Act (Pension Protection levies), and raising funds to cover these costs through the Pension Protection Levy would mean that schemes that were more likely to enter the Fund paid a proportionate share of the compensation administration costs. This is fairer to eligible schemes.
- 7.3 The administration levy rates for the 2008/09 levy year have been calculated to take account of these regulations.

### *Consultation*

- 7.4 These regulations were consulted on, as one part of a package of regulations, between 6 December 2007 and 31 January 2008. The length of the consultation struck a reasonable balance between time for respondents to contribute, and the need to have these regulations in force for the 2008/9 financial year. Cabinet Office provides guidance on the appropriate length of consultation periods. Taking account of all these factors, the Secretary of State decided that a consultation period of eight weeks was appropriate.
- 7.5 A list of those consulted is provided at Annex A to this memorandum. The draft Regulations were also available on the DWP website. 14 responses were received to the consultation. 5 respondents commented on these regulations, two of whom welcomed the regulations (the other three respondents did not state a preference either way). 2 respondents commented on the transparency of the sums prescribed in regulation 2. The Board will ensure that those sums paid out of the Fund are disclosed in their Annual Report and Accounts for 2008/09 and onwards. 1 respondent commented on the definition of some of the terms. The Secretary of State considered all the consultation responses, made appropriate changes and has decided on the final version of the Regulations as those laid before Parliament.
- 7.6 A full response to the consultation is published on the DWP website - <http://www.dwp.gov.uk/consultations/2007/>.

### *Guidance*

- 7.7 DWP will be in a position to explain the provisions of these Regulations to members of the public. No additional guidance will be produced.

### *Consolidation*

- 7.8 The Department will consider consolidating these Regulations with other regulations made under section 173(3)(k) should an appropriate opportunity arise.

## **8. Impact**

- 8.1 A full Impact Assessment has not been produced for this instrument as it has only a negligible impact on the costs of business, charities or the voluntary sector.

- 8.2 There is no impact on the public sector.

## **9. Contact**

Nick Skates at the Department for Work and Pensions, tel: 020 7962 8872 or e-mail: [Nick.Skates@dwp.gsi.gov.uk](mailto:Nick.Skates@dwp.gsi.gov.uk) can answer any queries regarding the instrument.

## **Annex A**

### **List of those consulted**

Aon Consulting  
Association of British Insurers  
Association of Consulting Actuaries  
Association of Corporate Trustees  
Association of Independent Financial Advisers  
Association of Pension Lawyers  
Association of Pensioner Trustees  
Auditing Practices Board  
Better Regulation Executive  
British Chambers of Commerce  
Confederation of British Industry  
Consumers Association  
Council on Tribunals  
Department for Social Development (Northern Ireland)  
Engineers Employers Federation  
Faculty and Institute of Actuaries  
Federation of Small Businesses  
Financial Ombudsman Service  
Financial Services Authority  
Gissings & Co  
HM Treasury (MOCOP)  
HM Revenue and Customs  
Industry Wide Pension Schemes Group  
Insolvency Service  
Institute of Chartered Accountants in England and Wales  
Institute of Chartered Accountants in Scotland  
Institute of Directors  
Investment Managers' Association  
KPMG  
Law Society of England and Wales  
Law Society of Scotland  
Legal & General  
National Association of Pension Funds  
National Audit Office  
National Consumer Council  
Occupational Pension Schemes Joint Working Group  
Occupational Pensioners' Alliance  
Occupational Pensions Defence Union  
Office of Fair Trading  
Pension Protection Fund  
Pension Protection Fund Ombudsman  
Pensions Advisory Service  
Pensions Management Institute  
Pensions Ombudsman  
Pensions Regulator  
Pensions Research Accountants' Group

Scottish Executive  
Small Business Service  
Society of Pension Consultants  
Trades Union Congress  
Welsh Assembly  
William Mercer