

**EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES (LEVIES) (AMENDMENT)
REGULATIONS 2008**

2008 No. 910

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 amend the Occupational Pension Schemes (Levies) Regulations 2005 (“the Levies Regulations”), which impose levies on eligible defined-benefit occupational pension schemes. The amending Regulations substitute new amounts to be used to calculate the Pension Protection Fund (PPF) administration levy for the financial year ending on 31st March 2009 (“2008/09 levy year”) and onwards. The PPF administration levy is collected by the Pensions Regulator on behalf of the Secretary of State.
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 of the PPF (“the Board”). The Board is a statutory public corporation, at arms’ length from Government, set up to provide statutory 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 To meet the expenses of the Board regulations may be made under section 117(1) of the Act to provide for an administration levy. These regulations substitute new amounts to be used to calculate the administration levy for the financial year ending on 31st March 2009 and onwards.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to Great Britain. Corresponding provisions are being made for Northern Ireland.
6. **European Convention on Human Rights**

Mike O'Brien, Minister of State for Pensions Reform has made the following statement regarding Human Rights:

In my view the provisions of the Occupational Pension Schemes (Levies) (Amendment) Regulations 2008 are compatible with the Convention rights.

7. Policy Background

- 7.1 The administration levy funds the day-to-day administration of the PPF and is calculated based on the number of members in an eligible defined-benefit occupational pension scheme. The PPF administration levy is collected by the Pensions Regulator on behalf of the Secretary of State.
- 7.2 The proposed 2008/09 levy rates have been set to recoup an estimate of £22 million. The 2007/08 levy rates were set at rate to recoup an estimate of £20 million.
- 7.3 The increase in the PPF administration levy reflects the increased running costs of the PPF as the organisation grows into its role, and as a growing number of schemes complete the assessment process and transfer into the PPF itself. For example, it is estimated that 80 schemes will enter the PPF in 2008/09 compared with the estimate of 65 schemes in 2007/08. As at 1 February 2008 16 schemes had transferred into the PPF with 8308 members either receiving PPF compensation or due to receive it in the future.
- 7.4 The Government intends to bring new Regulations into force soon that would mean expenditure in respect of the following would no longer be met through the PPF administration levy but instead it would be met from the PPF fund:
- (a) creating and maintaining records of persons entitled to compensation under section 162 of the Act;
 - (b) maintaining a payroll for the payment of such compensation; and
 - (c) verification of data required for the creation and maintenance of such records and payroll.
- 7.5 The rates for the 2008/09 levy year have been calculated to take account of that change.

Consultation

- 7.6 In accordance with sections 117(4) and 317(1) of the Act, the Secretary of State has consulted, respectively, the Board and such persons as he considers appropriate.
- 7.7 The consultation period started on 6 December 2007 and closed on 31 January 2008. The length of the consultation struck a reasonable balance between time for respondents to contribute, and the need to

have administration levy regulations for the 2008/09 levy year in place as soon as possible. Cabinet Office provides guidance on the appropriate length of consultation periods. Taking account of all these factors, Ministers decided that a consultation period of eight weeks was appropriate.

- 7.8 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. Just over half of the respondents (8) said that they were concerned that the increase in levy rates would put greater cost burdens on pension schemes. Two respondents commented on the degree of scrutiny to which the PPF's resource costs are subjected by DWP. 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.
- 7.9 A full response to the consultation is published on the DWP website - <http://www.dwp.gov.uk/consultations/2007/>.

Guidance

- 7.10 DWP will be in a position to explain the provisions of these Regulations to members of the public. Guidance on the PPF administration levy can also be found on the PPF website at: <http://www.pensionprotectionfund.org.uk/index/main-functions/the-levies.htm>

Consolidation

- 7.11 The rates prescribed in the Regulations will apply to all future years, unless amended further. This means that amending regulations will not be brought forward in future unless the levy requires changes. Consolidation is not relevant in this instance.

8. Impact

- 8.1 A full impact assessment has not been published for this instrument as it has only a negligible impact on the private and voluntary sectors.
- 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 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