EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL PENSION SCHEMES (LEVIES) (AMENDMENT) REGULATIONS 2015

2015 No. 84

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. Purpose of the instrument

These Regulations substitute new amounts to be used in calculating the Pension Protection Fund (PPF) administration levy in each of the years 2015/16, 2016/17 and for 2017/18 and onwards. This levy is paid by those pension schemes eligible for the protection provided by the PPF, and contributes towards some of the administration costs of the Board of the PPF.

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

None.

4. Legislative Context

4.1 These Regulations amend regulation 6(2) of the Occupational Pension Schemes (Levies) Regulations 2005 (S.I. 2005/842) ("the 2005 Regulations") (http://lawvolumes.dwp.gov.uk/docs/a5-6671.pdf) to specify the amounts to be used in calculating the payment due from eligible occupational pension schemes in respect of the PPF administration levy in each of the years 2015/16, 2016/17 and for 2017/18 and onwards.

4.2 The PPF administration levy meets some of the administration costs of the PPF, and the levy rates are reviewed annually to ensure that sufficient funding is being raised by this levy to meet these costs. The most recent review found that funding raised by the levy was moving from a surplus to a deficit (estimated at over £5 million for 2014/15) which would continue to rise by approximately £5 million per annum if the levy rates remained unchanged. Changes to the PPF administration levy rates are therefore needed to eliminate the current and developing deficit and these Regulations increase those rates in order to deliver the outcome over time.

5. Territorial Extent and Application

These Regulations extend and apply to Great Britain. Corresponding provisions are being made in Northern Ireland.

6. European Convention on Human Rights

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

7. Policy Background

• What is being done and why

7.1 The PPF was established by the Pensions Act 2004 (http://lawvolumes.dwp.gov.uk/docs/a5-3201.pdf) in order to protect the members of eligible defined benefit occupational pension schemes. It does this by paying compensation where an employer has a qualifying insolvency event and there are insufficient assets in the scheme to pay benefits at PPF compensation levels.

7.2 The PPF administration levy meets some of the running costs of the PPF, and the rates used to calculate the amount payable by eligible pension schemes have remained unchanged since 2012/13 (when they were reduced by approximately 26%).

7.3 Having reviewed the PPF administration levy, including the PPF's current and planned administration costs recoverable via this levy, it is estimated that a levy deficit of £5.1 million will exist at the end of 2014/15, and that this deficit would increase by approximately £5 million in each subsequent year if remedial action is not taken.

7.4 The policy approach is to eliminate the current and developing deficit over a period of time, thereby avoiding the need for a very significant increase in the levy rates for 2015/16, whilst providing eligible pension schemes with time to plan for future increases.

7.5 These Regulations meet that approach by increasing the current PPF administration levy rates by 15% in 2015/16, with a further 15% increase in both 2016/17 and 2017/18 (see regulations 3, 4 and 5). It is estimated that these changes will eliminate the deficit in 2021/22, although movements in the PPF's administration costs over the next 7 years may alter this estimate.

7.6 Regulations 1 and 2 provide for the dates when these amendments to the 2005 Regulations will come into force, and when the existing rates and the rates for 2015/16 and 2016/17 (as set out in regulations 3 and 4) expire. Regulation 2 also revokes earlier amendments to the 2005 Regulations which have been superseded by subsequent amendments.

• Consolidation

7.7 Informal consolidated text of instruments is available to the public free of charge via 'The Law Relating to Social Security' (Blue Volumes) on the DWP website at http://lawvolumes.dwp.gov.uk/the-law-relating-to-social-security/ or the National Archive website legislation.gov.uk . An explanation as to which instruments are maintained on each site is available here."

8. Consultation outcome

8.1 The Secretary of State has consulted on a draft of these Regulations, including with the Board of the PPF (as required by section 117(4) of the Pensions Act 2004) (see link to this Act in paragraph 7.1).

8.2 The consultation period started on 14 November 2014 and closed on 9 January 2015 (www.gov.uk/government/consultations/the-occupational-pension-schemes-levies-amendment-regulations-2015).

8.3 Nine consultation responses were received. Of these, one considered the draft Regulations from a legal perspective only and one preferred another option noted in the consultation (option 1: no increase in these levy rates). The remaining seven supported the proposed approach although one suggested a longer period to recover the deficit, and another questioned whether the administration levy should be incorporated into the larger PPF levy, noting the pros and cons.

8.4 One supporting respondent was, however, critical of the explanation provided in the consultation document as to how the deficit in the PPF administration budget funded by this levy had arisen, seeking further information on this, why the deficit is estimated to continue to rise without intervention, and how this levy might change in the longer term. The Government's response to the consultation (which can be accessed via the link in paragraph 8.2 above) responds to these comments (see section headed 'Other issues raised in response to the consultation' on page 6).

8.5 Having considered the responses to the consultation, the Government decided to proceed with its proposed approach as set out in the consultation document.

9. Guidance

The administration of this levy is undertaken by the Pensions Regulator. Information and guidance can be found at the following link:
http://www.thepensionsregulator.gov.uk/trustees/levy.aspx

10. Impact

These Regulations amend the existing PPF administration regime but impose negligible associated administration costs on business and civil society organisations. A full impact assessment is not necessary for such legislation.

11. Regulating small business

The impact of this legislation on small businesses is the same as for all businesses (as above).

12. Monitoring & review

In line with DWP's overall stewardship approach to its arm's length public bodies, DWP scrutinises and approves the annual business plans and operating budgets of the PPF, and the Chief Executive of the PPF has Accounting Officer responsibility. The PPF must submit its annual reports and accounts, which are scrutinised by the National Audit Office before the Secretary of State lays them before Parliament. DWP will continue to review the PPF administration levy rates on a yearly basis.

13. Contact

Mark Aldridge or Paul Bovey at the Department for Work and Pensions (Tel: 020 7449 7401 or 020 7449 7284, e-mail: mailto:pensions.ppfadministrationlevyconsultation@dwp.gsi.gov.uk) can answer any queries regarding this instrument.

Ex Memo 27 Jan 15