EXPLANATORY MEMORANDUM TO

THE PENSION PROTECTION FUND AND OCCUPATIONAL PENSION SCHEMES (LEVY CEILING) ORDER 2024

2024 No. 101

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The Pension Protection Fund provides compensation to pension scheme members whose employer has become insolvent and whose scheme cannot secure its liabilities at least at the compensation levels paid by the Pension Protection Fund. It is funded partly by a levy collected from pension schemes. This Order increases the levy ceiling amount which can be collected in the 2024/25 financial year[1] by the Board of the Pension Protection Fund[2] ("the Board"). The levy ceiling is increased annually in line with growth in the general level of earnings and controls the maximum amount of levy the Board can charge pension schemes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

4.3 The Department for Communities in Northern Ireland will be introducing corresponding legislation.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 This Order sets out the levy ceiling that will apply from 1 April 2024. This is the maximum amount that the Board can charge eligible defined benefit schemes.

6.2 Under section 178(1) of the Pensions Act 2004[3] ("the 2004 Act"), the Secretary of State is required to make an Order to specify the levy ceiling before the beginning of

[1] 1 April – 31 March
[2] https://www.ppf.co.uk/
[3] https://www.legislation.gov.uk/ukpga/2004/35/section/178

each financial year. Section 178(3) of the 2004 Act specifies that the levy ceiling must be uprated in line with the general level of earnings in Great Britain unless there is no increase in the general level of earnings in the review period. Section 178(4) of the 2004 Act and regulation 3 of the Pension Protection Fund (Levy Ceiling) Regulations 2006[4] provide that the review period is the period of 12 months ending on 31 July each year.

6.3 This Order revokes last year's levy ceiling increase Order (S.I. 2023/117)[5].

7. Policy background

What is being done and why?

7.1 The Pension Protection Fund is funded by:

- the pension protection levy that is charged to eligible defined benefit occupational pension schemes;
- the remaining assets of schemes that enter the Pension Protection Fund;
- funds recovered from insolvent employers; and
- investment returns on the Pension Protection Fund's assets.

7.2 The pension protection levy is made up of a risk-based and scheme-based levy. The risk-based levy is required by law to be at least 80 per cent of the total levy. The scheme-based levy makes up the remaining 20 per cent. The scheme-based levy is calculated using the level of a scheme's liabilities, whilst the risk-based levy is calculated using the level of a scheme's underfunding and the likelihood of the insolvency of the scheme's sponsoring employer.

7.3 Each year the Board of the Pension Protection Fund ("the Board") is required to estimate the total amount of the pension protection levy it will collect. The levy ceiling prevents the Board from imposing a total levy in excess of the amount specified in the Order. The ceiling is set at a level that is sufficient to allow the Board to raise a levy that ensures the safe funding of the compensation it provides, while providing reassurance to schemes that the Board's estimate of the levy will not be above a certain amount in any one year.

7.4 In practice, the Board calculates how much it needs to raise in levy each year, and to date this amount has always been less than the levy ceiling. The Pension Protection Fund has announced that for the financial year ending 31 March 2025, it intends to collect an estimated £100 million[6], which is around 7.4 per cent of the levy ceiling of £1,349,215,811 set by this year's Order.

7.5 The growth in Average Weekly Earnings for the year ending 31 July 2023 has increased by 8.2 per cent[7]. Therefore, this instrument increases the level of the levy ceiling by 8.2 per cent to £1,349,215,811 for the financial year beginning on 1 April 2024.

[4] https://www.legislation.gov.uk/uksi/2006/2692/made
[5] https://www.legislation.gov.uk/uksi/2023/117/contents/made
[6] https://www.ppf.co.uk/press-releases/Levy_2024_2025
[7] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/averageweeklyearningsbysectorearn02/current

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 As this instrument does not amend other legislation, consolidation is not applicable. Informal consolidated text of instruments is available to the public free of charge via The National Archives[8].

10. Consultation outcome

10.1 Consultation was not considered necessary as this is a routine instrument which fulfils a statutory obligation to amend a levy in accordance with a pre-determined formula and represents no policy shift.

11. Guidance

11.1 No guidance is being issued on this instrument since it is based on existing legislation.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because this levy measure is out of scope from the definition of regulatory provisions as set out in paragraph 2.3 of the Better Regulation Framework Guidance[9] dated September 2023.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This Order is monitored by the Department for Work and Pensions and the Pension Protection Fund and is reviewed every 12 months.

15. Contact

15.1 Simran Dhillon at the Department for Work and Pensions. Email: Simran.dhillon@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Samantha Hainsworth, Deputy Director for Defined Benefit Pensions Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Paul Maynard, Minister for Pensions at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

[8] https://www.legislation.gov.uk/

[9] https://assets.publishing.service.gov.uk/media/65420ee8d36c91000d935b58/Better_Regulation_Framework_guidance.pdf