EXPLANATORY MEMORANDUM TO

THE PENSION PROTECTION FUND (VALUATION OF THE ASSETS AND LIABILITIES OF THE PENSION PROTECTION FUND) REGULATIONS 2006

2006 No. 597

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

2.1 The Board of the Pension Protection Fund ("the Board") is a body corporate established by section 107 of the Pensions Act 2004 (c.35) ("the Act").

2.2 The Board is required to prepare a statement of accounts in respect of each financial year which contains an actuarial valuation of the Pension Protection Fund.

2.3 This instrument provides for the manner that a valuation of the assets of the Pension Protection Fund is to be undertaken and also for the qualifications required for a person to be appointed as an actuary to the Pension Protection Fund.

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

3.1 None.

4. Legislative Background

4.1 The Act received Royal Assent in November 2004. Section 107 establishes the Board, which is an executive non departmental public body, at arms' length from the Government. Subsection (1) (a) of section 110 of the Act establishes that the Board will hold and manage a fund to be known as the Pension Protection Fund.

4.2 In section 173 of the Act–

4.2.1 subsection (1), provides for the assets that make up the Pension Protection Fund, and

4.2.2 subsection (3), provides for the liabilities for which the Pension Protection Fund is responsible.

4.3 In Schedule 5 to the Act–

4.3.1 paragraph 22(1) requires that the Board will keep proper accounts and proper records in relation to the accounts and prepare in respect of each financial year a statement of accounts, and

4.3.2 paragraph 22(2)(a) states that each statement of accounts must contain an actuarial valuation of the Pension Protection Fund.

4.4 In accordance with paragraph 22(4) of Schedule 5 to the Act, this instrument prescribes–

4.4.1 the qualifications or experience of the person who will prepare the actuarial valuation of the Pension Protection Fund, and

4.4.2 the manner in which the assets and liabilities and their amount or value are determined, calculated and verified by the appointed actuary.

4.5 This is the first use of the powers given under paragraph 22(4) of Schedule 5 to the Act.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

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 Board will charge annual levies on eligible schemes called the Pension Protection Levies. It will also take over the assets of schemes which come in to the Pension Protection Fund. These will together make up the Pension Protection Fund, and represent the sole resource for providing Pension Protection compensation, meaning that the general taxpayer will not be responsible for providing this compensation.

7.2 The maintenance of the Pension Protection Fund is a function of the Board, but will remain under parliamentary scrutiny through the annual publication of a statement of accounts which will include the actuarial

valuation of Pension Protection Fund assets, as provided for in this instrument.

7.3 This instrument is intended broadly to reflect the provisions in the Pension Protection Fund (Valuation) Regulations 2005 for assessing levels of scheme under-funding, since the responsibilities of the Pension Protection Fund replace those of pension schemes.

7.4 There is no formal requirement to consult as the provisions come into force within 6 months of the enactment of the provisions in the Act. However, to reflect our commitment to openness there has been an eight week public consultation on these Regulations, available on the DWP website and circulated to a range of key organisations (**Annex A**). Some minor amendments were included in line with the comments received in this consultation.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The cost impact of these Regulations on the public sector is nil.

9. Contact

Jacob Soper at the Department for Work and Pensions Tel: 0207 962 8645 or e-mail: jacob.soper@dwp.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX A TO EXPLANATORY MEMORANDUM

Association of British Insurers
Association of Consulting Actuaries
Association of Pension Lawyers
Association of Pensioner Trustees
Auditing Practices Board
Better Regulation Executive
British Chamber of Commerce
Confederation of British Industry
Consumers Association
Council on Tribunals
Engineering Employers Federation
Federation of Small Businesses
Financial Services Authority
HM Treasury (MOCOP)
HM Revenue and Customs
Industry Wide Pension Schemes Group
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants in Scotland
Institute of Directors
Investment Managers' Association
NAPF
National Consumers Council
Office of Fair Trading
Pensions Ombudsman
Pension Protection Fund Ombudsman
Policy and Legal Division DHSS Northern Ireland
Small Business Service
The Association of Corporate Trustees
The Faculty and Institute of Actuaries
The Law Society of England and Wales
The Law Society of Scotland
The Pensions Management Institute
The Pensions Protection Fund
The Pensions Regulator
The Scottish Executive
The Society of Pension Consultants
The Welsh Assembly
TPAS (the Pensions Advisory Service)
Trades Union Congress