EXPLANATORY MEMORANDUM TO THE

PENSION PROTECTION FUND (VALUATION) REGULATIONS 2005

2005 No.672

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 (PPF) is a body corporate established by section 107 of the Pensions Act 2004 (c.35) ("the Act") to provide compensation for members of eligible occupational pension schemes in the event of the insolvency of the scheme's sponsoring employer, or following an application by the trustees or managers of the scheme, where the pension scheme is underfunded at a certain level.

2.2 These regulations detail the way in which the scheme valuations under sections 143 and 179 of the Act are to be carried out.

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

3.1 None

4. Legislative Background

4.1 These Regulations are made under the powers in sections 143 (3), (4), (5) and (11) and 179 (1), (2) and (3). This is the first use of this power.

4.2 These Regulations will come into force on 6th April in line with other PPF regulations.

5. Extent

5.1 This instrument applies to England, Wales and Scotland under section 323(1).

6. European Convention on Human Rights

6.1 In the view of Malcolm Wicks MP, the Minister of State for Pensions, the provisions of the Regulations are compatible with the Convention rights.

7. Policy Background

7.1 The Pensions Act establishes the PPF, which will pay compensation to members of eligible schemes where the sponsoring employer is insolvent, or where the trustees or managers make an application to the Board, and the scheme has insufficient assets to pay benefits at a level at least equal to the amount of compensation the PPF would provide.

7.2 A valuation under section 143 of the Act is a valuation carried out as at the assessment date to determine whether or not the Board will assume responsibility for a scheme. If the scheme does not have sufficient assets to pay members the level of compensation that the PPF would provide, the Board of the PPF will assume responsibility for the scheme, taking over its assets and liabilities. If it is found that the scheme does have sufficient assets to pay the PPF level of compensation the Board of the PPF will not assume responsibility for the scheme, and it must be wound up outside the PPF.

7.3 A valuation under section 179 of the Act is a valuation of an eligible scheme carried out every three years in order to establish its assets and liabilities. This is in order that the risk-based pension protection levies (within the meaning of section 175 of the Act) may be calculated.

7.4 The Regulations detail the time periods during which valuations are to be carried out, and when they should be provided to the Board.

7.5 The Regulations also detail how the assets and protected liabilities of a scheme are to be valued for each of the two different valuations. The Regulations detail the way in which certain notices issued by the Regulator and debts from the employer to the scheme are to be counted as assets of the scheme for a valuation under section 143.

7.6 The application of these Regulations to multi-employer schemes is also provided for.

7.7 No formal consultation process has been undertaken for these Regulations.

8. Impact

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

8.2 There is no impact on the public sector.

8.3 There is no need to refer to SSAC as the Pension Protection Fund is a Non-Departmental Public Body and does not provide Social Security Benefits.

9. Contact

9.1 Sarah Ormerod at the Department for Work and Pensions, tel: 020 7712 2757 or email: Sarah.Ormerod@dwp.gsi.gov.uk can answer any queries regarding this instrument.