

**Pensions Client Directorate**

**Pensions - Consultation on  
Draft Regulations**

The Occupational Pension Schemes  
(Levies) (Amendment) Regulations 2008

The Occupational and Personal Pension  
Schemes (General Levy) (Amendment)  
Regulations 2008

The Pension Protection Fund (Payments  
to meet Risk-based Administration Costs)  
Regulations 2008

December 2007

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## Preface

We are seeking views on the enclosed drafts of the Occupational Pension Schemes (Levies) (Amendment) Regulations 2008; the Occupational Pension and Personal Schemes (General Levy) (Amendment) Regulations 2008; and the Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008. The intention is that the regulations will come into force in April 2008.

The consultation is primarily aimed at employers, pension scheme administrators, trustees and managers. Comments are also welcomed from the wider public.

This document is available on the Department's website at:  
<http://www.dwp.gov.uk/consultations/2007/index.asp>

## How to respond

The consultation exercise will run from 6 December 2007 to 31 January 2008. Any replies received after that date may not be taken into account. Please send your response by 31 January 2008 to:

Nick Skates  
Department for Work and Pensions  
The Adelphi (3rd Floor)  
1-11 John Adam Street  
London  
WC2N 6HT  
Tel: 020 7962 8872  
e-mail: [PPF-Regulations-Consultation@dwp.gsi.gov.uk](mailto:PPF-Regulations-Consultation@dwp.gsi.gov.uk)

## Consultation arrangements

A list of those being consulted is attached at **Annex A**. If you have any suggestions of others who may wish to be involved in this process please contact us.

This consultation arrangement is in line with the Cabinet Office's Code of Practice on Consultation.

It would be very helpful when responding to indicate whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear whom the organisation represents and, where applicable, how the views of members were assembled.

The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received in response to this consultation along with a response from Government.

A summary of responses will be published following the consultation. The summary of responses will be available on the Department's website and paper copies will be available on request.

Please note that due to formatting issues that footnotes throughout these sets of draft regulations run continuously. Regulation numbers have also been similarly affected by formatting issues.

### **Freedom of Information**

According to the requirements of the Freedom of Information Act 2000, all information contained in the response, including personal information may be subject to publication or disclosure. By providing personal information for the purposes of the public consultation exercise, it is understood that a Respondent consents to its disclosure and publication. If this is not the case, the Respondent should limit any personal information which is provided, or remove it completely. If a Respondent requests that the information given in response to the consultation be kept confidential, this will only be possible if it is consistent with Freedom of Information Act obligations and general law on this issue. The contact point if you want to discuss this is:

Charles Cushing  
Freedom of Information  
Department for Work and Pensions  
2nd Floor  
Adelphi  
1-11 John Adam Street  
London  
WC2N 6HT

More information about the Freedom of Information Act can be found on the website of the Department for Constitutional Affairs:  
<http://www.dca.gov.uk/foi/guidance/exguide/index.htm>.

**Feedback**

A summary of responses will be published following the consultation. The Government will aim to publish this summary within three months of the consultation closing. The summary of responses will be available on the Department's website: <http://www.dwp.gov.uk/consultations/2007/index.asp>. If you have any comments, suggestions or complaints about the way in which this consultation exercise has been conducted please contact the Departmental Consultation Co-ordinator:

Roger Pugh  
Department for Work and Pensions Consultation Co-ordinator  
2<sup>nd</sup> Floor, Britannia House  
2 Ferensway  
HULL  
HU2 8NF  
*Telephone: 01482 609571*  
*Fax: 01482 609658*  
*e-mail: [roger.pugh@dwp.gsi.gov.uk](mailto:roger.pugh@dwp.gsi.gov.uk)*

## **Commentary on the draft Occupational Pension Schemes (Levies) (Amendment) Regulations 2008**

The following summary explains the purpose of each of the provisions:

**Regulation 1** This is a general regulation about citation, commencement and interpretation. It gives the title of the regulations and specifies the date they are proposed to come into force.

**Regulation 2** This regulation amends regulation 6(2) of the Occupational Pension Schemes (Levies) Regulations 2005 (S.I. 2005/842) to provide for the amount payable, in respect of the Pension Protection Fund (PPF) Administration Levy, for each financial year ending on or after 31st March 2009.

There is an increase in the PPF Administration Levy rates in the region of between 17% and 20%. The reasons for the increase are provided below:

During 2007/08, improved scheme data and changes in pension scheme membership meant that there were fewer schemes eligible to pay the PPF Administration Levy than had previously been estimated. This resulted in a reduced annual levy collection. Current estimates are that around £19 million will now be collected for 2007/08, rather than the £20 million originally forecast.

In addition, PPF administration costs rose in 2007/08 by £1.5million to £17.7 million. This was largely due to the additional recruitment of permanent staff to support schemes entering assessment and the transition of pension schemes into compensation. These two issues have led to an anticipated PPF budget deficit of £2.7 million.

The PPF estimates that their resource costs for 2008/09 will be £19.9 million. The main reasons for the increase in costs are as follows:

- Including in the accounts, for the first time, the full year costs of additional permanent and interim professional staff, for example, actuaries and legal staff recruited to work on scheme assessment.
- Recruitment of additional Fund Managers to develop portfolio analysis work and to model the impact of their financial risk management and asset and liability management functions.
- In 2007/08 PPF underestimated the work involved in a scheme completing the assessment process and asked for additional grant in aid funding to pay for project staff.

The PPF Administration Levy has therefore been set to collect £22.6m in 2008/9, to cover running costs of £19.9m and to recover the £2.7m deficit from 2007/08.

In contrast to previous regulations, these amendments will apply to all future years unless amended further. This means that regulations will not be brought forward in future unless the levy required changes.

The Department's intention for the draft Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008 (see Annex D) to come into force on 1 April will mean that those costs prescribed in regulation 2 of those regulations will, from 1 April 2008, no longer be met by the PPF Administration Levy.

These costs would be charged to the pension fund rather than the sponsoring employer if the PPF were a pension fund, and therefore the Department considers that it is appropriate to meet these costs from the Pension Protection Fund. This change will allow closer scrutiny of the overhead costs of the PPF (for example, those resulting from setting and collecting the pension protection levy), as the administration budget will not be inflated by these volume-related costs, which can be expected to rise in future years as more schemes enter the PPF.

## **Commentary on the draft Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008**

The following summary explains the purpose of each of the provisions:

**Regulation 1** This is a general regulation about citation, commencement and interpretation. It gives the title of the regulations and specifies the date they are proposed to come into force.

**Regulation 2** sets out amendments to regulations 6 and 7 of the Occupational and Personal Pension Schemes (General Levy) Regulations (S.I. 2005/626) and specifies the new minimum amounts of general levy for occupational pension schemes and personal pension schemes.

The new rates for the General Levy will meet the running costs of the Pensions Regulator, the Pensions Advisory Service, and the Pensions Ombudsman and recover the deficit that has built up over the last three years.

The principle underlying payment of the General Levy is that the cost of regulating occupational pension schemes should be borne by the schemes themselves.

The General Levy has therefore been set to collect £42m in 2008/9, to cover running costs of £35.6m and to clear over three years a deficit carried forward of £20.8m. The total of £35.6m comprises running costs of £29.8m for the Pensions Regulator, £3.1m for the Pensions Advisory Service, and £2.7m for the Pensions Ombudsman.

It is estimated that from 1 April next year, levy receipts in 2008/9 will total £42m (£35m from occupational pension schemes and £7m from personal pension schemes).

## **Commentary on the draft Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008**

The following summary explains the purpose of each of the provisions:

**Regulation 1** This is a general regulation about citation, commencement and interpretation. It gives the title of the regulations and specifies the date they are proposed to come into force.

**Regulation 2** This regulation makes provision for the Board of the Pension Protection Fund to make payments from the Pension Protection Fund to cover expenditure incurred by the Board in respect of:

- (a) creating and maintaining records of persons entitled to compensation under section 162 of the Pensions Act 2004;
- (b) maintaining a payroll for the payment of such compensation;
- (c) verification of data required for the creation and maintenance of such records and payroll.

The Department's intention for the draft Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008 to come into force on 1 April will mean that those costs prescribed in regulation 2 will, from 1 April 2008, no longer be met by the PPF Administration Levy.

These costs would be charged to the pension fund rather than the sponsoring employer if the PPF were a pension fund, and therefore the Department considers that it is appropriate to meet these costs from the Pension Protection Fund. This change will allow closer scrutiny of the overhead costs of the PPF (for example, those resulting from setting and collecting the pension protection levy), as the administration budget will not be inflated by these volume-related costs, which can be expected to rise in future years as more schemes enter the PPF.

## **Impact assessment**

The draft Occupational Pension Schemes (Levies) (Amendment) Regulations 2008 and draft Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008 amend existing levy regimes but impose no associated administrative costs on business, charities and the voluntary sector. A full Impact Assessment is not necessary for such legislation.

A full impact assessment has not been produced for the draft Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008 as the instrument has only negligible impact on the costs of business, charities or the voluntary sector.

## **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

**ANNEX B –  
the draft Occupational Pension Schemes (Levies (Amendment)  
Regulations 2008**

*Draft laid before Parliament under section 316(2)(a) of the Pensions Act 2004, for approval by resolution of each House of Parliament.*

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STATUTORY INSTRUMENTS

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**2008 No.**

**PENSIONS**

**Occupational Pension Schemes (Levies) (Amendment) Regulations 2008**

*Made* - - - -

*Laid before Parliament*

*Coming into force* - - - *before 1/4/2008*

These Regulations are made in exercise of the powers conferred by sections 117(1) and (3), 315(2) and (5) and 318(1) of the Pensions Act 2004<sup>(1)</sup>.

(In accordance with section 117(4) of that Act, the Secretary of State for Work and Pensions has consulted the Board of the Pension Protection Fund.)

(In accordance with section 317(1) of that Act, the Secretary of State for Work and Pensions has consulted with such persons as he considers appropriate.)

(In accordance with section 316(2)(a) of that Act, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.)

Accordingly the Secretary of State for Work and Pensions makes the following Regulations:

**Citation, commencement and interpretation**

1—a) These Regulations may be cited as the Occupational Pension Schemes (Levies) (Amendment) Regulations 2008 and shall come into force on (before 1/4/2008).

(2) In these Regulations “the Levies Regulations” means the Occupational Pension Schemes (Levies) Regulations 2005<sup>(2)</sup>.

**Amendment of the Levies Regulations**

2. In the Levies Regulations for regulation 6(2) (the amount payable)<sup>(3)</sup>, substitute—

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<sup>(1)</sup> 2004 c.35.

<sup>(2)</sup> S.I. 2005/842 as amended by S.I. 2006/935 and 2007/994

<sup>(3)</sup> Regulation 6(2) was substituted by S.I. 2007/994.

“(2) This is the table for the administration levy for each financial year ending on or after 31st March 2009—

<i>Column 1</i> <i>Number of members on the reference day</i>	<i>Column 2</i> <i>Amount of levy calculated by reference to number of members (M)</i>	<i>Column 3</i> <i>Minimum amount of levy</i>
2-11		£42
12-99	£4.33 x M	
100-999	£3.12 x M	£430
1,000-4,999	£2.43 x M	£3120
5,000-9,999	£1.84 x M	£12,150
10,000+	£1.29 x M	£18,400”

Signed by authority of the Secretary of State for Work and Pensions.

Date Minister of State,  
Department for Work and Pensions

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments to the Occupational Pension Schemes (Levies) Regulations 2005 (S.I. 2005/842) (“the Levies Regulations”).

Regulation 2 prescribes that the levy rates contained in regulation 6 to the Levies Regulations shall apply for each financial year ending on or after 31st March 2009 and sets those rates.

There is an increase in the levy rates in the region of between 17% and 20%. The increases are based on a change in the scheme membership profile, the Pension Protection Fund's estimated increased resource costs for 2008/09, and the recovery of a £2.7million deficit from 2007/08.

These Regulations have only a negligible impact on the cost of business, charities or the voluntary sector. Publication of a full Regulatory Impact Assessment is not necessary for such legislation.

**ANNEX C –**  
**the draft Occupational and Personal Pension Schemes (General Levy)**  
**(Amendment) Regulations 2008**

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S T A T U T O R Y   I N S T R U M E N T S

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**2008 No.**

**PENSIONS**

**The Occupational and Personal Pension Schemes (General Levy)**  
**(Amendment) Regulations 2008**

*Made* - - - -

*Laid before Parliament*

*Coming into force* - - - - *6th April 2008*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 175, 181(1) and 182(2) and (3) of the Pension Schemes Act 1993<sup>(4)</sup>.

In accordance with section 185(1) of that Act<sup>(5)</sup> he has consulted with such persons as he considers appropriate

**Citation, commencement and interpretation**

1—b) These Regulations may be cited as the Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008 and shall come into force on 1st April 2008.

(1) In these Regulations “the Principal Regulations” mean the Occupational and Personal Pension Schemes (General Levy) Regulations 2005<sup>(6)</sup>.

**Amendment of the Principal Regulations**

2—c) For regulation 6(2) of the Principal Regulations (amount of the general levy: occupational pension schemes), substitute—

“(2) This is the table—

<i>Number of members on reference day</i>	<i>Amount of levy calculated by reference to number of members (M)</i>	<i>Minimum amount of levy</i>
2 to 11		£33.00

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<sup>(4)</sup> 1993 c.48. Section 175 was substituted by section 165 of the Pensions Act 2004 (c.35), section 181(1) is cited for the meaning there given to “prescribe” and “regulations”. Section 182 was amended by section 151 and 177 of, and paragraph 78 of Schedule 5 and Schedule 7 to the Pensions Act 1995 (c.26).

<sup>(5)</sup> Section 185(1) was amended by section 122, 151 and 177 of, and paragraph 46 of Schedule 3, paragraph 80 of Schedule 5 and Schedule 7 to, the Pensions Act 1995, section 81 of and paragraphs 20 and 23 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c.30) and section 48(1) of, and paragraph 32 of Schedule 8 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) and S.I. 2001/3649.

<sup>(6)</sup> S.I. 2005/626 as amended.

12 to 99	£3.25 x M	
100 to 999	£2.40 x M	£340
1,000 to 4,999	£1.90 x M	£2,420
5,000 to 9,999	£1.45 x M	£9,400
10,000 or more	£1.00 x M	£14,300”

(2) For regulation 7(2) of the Principal Regulations (amount of the general levy: personal pension schemes), substitute—

“(2) This is the table—

<i>Number of members on reference day</i>	<i>Amount of levy calculated by reference to number of members (M)</i>	<i>Minimum amount of levy</i>
2 to 11		£14.00
12 to 99	£1.35 x M	
100 to 999	£0.95 x M	£140
1,000 to 4,999	£0.75 x M	£970
5,000 to 9,999	£0.60 x M	£3,800
10,000 or more	£0.40 x M	£5,700”

Signed by authority of the Secretary of State for Work and Pensions.

Address  
Date

*Name*  
Minister of State,  
Department for Work and Pensions

### EXPLANATORY NOTE

*(This note is not part of the Regulation)*

These Regulations amend the Occupational and Personal Pension Schemes (General Levy) Regulations 2005 (S.I. 2005/626) to increase the levy payable by Occupational and Personal Pension Schemes that go towards funding the Pensions Regulator

These regulations amend existing levy regimes but impose no associated administrative costs on business, charities and the voluntary sector. A full Impact Assessment is not necessary for such legislation.

## **ANNEX D –**

# **the draft Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008**

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## STATUTORY INSTRUMENTS

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**2008 No.**

## **PENSIONS**

### **Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008**

*Made* - - - -

*Laid before Parliament*

*Coming into force* - - -

*1st April 2008*

The Secretary of State for Work and Pensions makes these Regulations in exercise of the powers conferred by sections 173(3)(k), 315(2) and (4) and 318(1) of the Pensions Act 2004<sup>(7)</sup>.

In accordance with section 317(1) of that Act he has consulted such persons as he considers appropriate<sup>(8)</sup>.

#### **Citation, commencement and interpretation**

**3.—d)** These Regulations may be cited as the Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008 and shall come into force on 1st April 2008.

(1) In these Regulations—

“the Act” means the Pensions Act 2004;

“the Fund” means the Pension Protection Fund.

#### **Payments to meet certain costs**

**4.** The Board may pay out of the Fund any sum required to meet expenditure by the Board incurred in respect of—

- (a) creating and maintaining records of persons entitled to compensation under section 162 of the Pensions Act 2004;
- (b) maintaining a payroll for the payment of such compensation;
- (c) verification of data required for the creation and maintenance of such records and payroll.

Signed by authority of the Secretary of State for Work and Pensions.

Address

Minister of State,

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<sup>(7)</sup> 2004 c.35. Section 318(1) is cited for the meaning there given to the terms "prescribed" and "regulations".

<sup>(8)</sup> See section 317(1) of the Pensions Act 2004 which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations by virtue of the provisions of that Act (other than Part 8).

Date

Department for Work and Pensions

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for the Board of the Pension Protection Fund ("the Board") to make payments from the Pension Protection Fund ("the Fund") to cover any expenditure incurred by the Board in respect of risk-based administration costs.

Risk-based administration costs are those costs listed in regulation 2 of these regulations. These costs were previously met by the Administration Levy under section 117 of the Pensions Act 2004 (c.35).

A full regulatory impact assessment has not been produced for this instrument as it has only negligible impact on the costs of business, charities or the voluntary sector.