

# **GOVERNMENT RESPONSE TO THE CONSULTATION ON DRAFT REGULATIONS**

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

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

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

March 2008

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# Introduction

1. Between 6 December 2007 and 31 January 2008, the Department for Work and Pensions (DWP) undertook a consultation exercise on the draft Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008, the draft Occupational Pension Schemes (Levies) (Amendment) Regulations 2008, and the draft Pension Protection Fund (Payments to meet Risk-based Administration Costs) Regulations 2008. The draft regulations were sent to the organisations in Annex A and made available on DWP's website.
2. DWP received fourteen responses to the consultation. A list of respondents is in Annex B. DWP is grateful for the contributions to the development of these regulations, which will shortly be laid before Parliament and soon after will come into force, subject to Parliamentary approval.
3. The drafts of the regulations that were sent out for consultation have been amended to incorporate minor technical amendments. No other amendments have been made.
4. This document sets out the main points made by respondents about the draft regulations and provides the Government's response. Comments on the regulations should not however be taken as an authoritative interpretation of the law. Such an interpretation can only be provided by a court.
5. The final regulations and accompanying explanatory memoranda will be available on the Office of Public Sector Information's website at <http://www.opsi.gov.uk/si/si-2008-index>
6. This document is available on the DWP website at <http://www.dwp.gov.uk/publications/dwp/2007/Consultation-on-pension-levies-related-regulations.pdf>
7. A paper copy of this document can be obtained from:

Nick Skates, Department for Work and Pensions  
3<sup>rd</sup> floor, The Adelphi  
1-11 John Adam Street  
London WC2N 6HT  
Email: [nick.skates@dwp.gsi.gov.uk](mailto:nick.skates@dwp.gsi.gov.uk)

## Responses to the consultation and the Government's response

8. The comments of those who responded to the consultation exercise with the Government's response follow. The Government has combined its response to respondents' comments on the draft Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008 and the Occupational Pension Schemes (Levies) (Amendment) Regulations 2008 due to the similar nature of the comments and responses. Specific responses to these regulations are provided where appropriate.

### **Responses to the draft Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008 and the draft Occupational Pension Schemes (Levies) (Amendment) Regulations 2008**

Several respondents commented that the increase in the rates prescribed in both sets of regulations is in excess of inflation and will increase the costs of running pension schemes which have already seen substantial increases in regulatory levies in recent years.

#### The PPF Administration Levy

9. The PPF administration budget has increased as the PPF has grown into its role and the PPF has sought to balance costs against industry expectations. The Government believes that the PPF administration levy for 2008/09 has been set at a rate which strikes a fair balance between the burden on levy payers and the ability of the PPF to carry out its statutory duties.
10. PPF Administration Levy collection is estimated against the numbers of pension schemes and pension schemes' member data. Recent improvements in scheme data and changes in pension scheme membership have reduced the number of eligible schemes paying the PPF Administration Levy. For example, last year, the Administration Levy rates were set to raise £20 million, to recover estimated PPF administration costs (£16.2 million) and the final proportion of PPF set-up costs. However, this improvement in scheme data has reduced levy collection estimates to around £19 million.
11. In addition, an in-year increase in PPF administration costs in 2007/08 of £1.5million has led to an anticipated deficit of around £2.7 million that requires carrying forward to 2008/09. The additional costs are largely due to additional recruitment of permanent staff supporting schemes entering assessment and additional money to pay for the work involved with a scheme completing the compensation process.

12. The 2008/09 levy represents the costs of funding the infrastructure of the PPF and, in particular, its assessment operations. These costs are driven by the number of schemes going through a PPF assessment process (which ultimately derives from the levels of corporate insolvencies) and by the number of members receiving PPF compensation (which will grow consistently as schemes are accepted into the PPF).
13. As at the beginning of February 2008, 16 schemes (with 8353 members) have transitioned into PPF compensation, a further 11 have also completed the PPF assessment period due to being rescued or funded above PPF levels. A further 202 schemes with 122,266 members are currently in the PPF assessment period; a significant 'pipeline' of schemes currently being worked with while they are assessed for entry to the PPF. The PPF aim of passing schemes through the assessment period in two years represents a challenging target but compares more than favourably with the time traditionally taken to wind up pension schemes.
14. The 2007/08 PPF Administration levy included the 3rd and final instalment of the recovery of DWP's set-up costs for the PPF including depreciation. In future years PPF administration levies will no longer be inflated by these recoverable amounts.

#### The General Levy

15. The rates for the General Levy have been frozen for the last three years and the increase in rates prescribed in the draft Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008 will be the first increase since the Pensions Regulator was set up in 2005.
16. The policy of not considering General Levy increases for the first three years of the Regulator's existence was agreed with explicit understanding that a deficit would build. This future anticipated cost was considered acceptable at the time as it allowed the Regulator to bed down and evaluate its steady state operating costs without creating excessive Levy burdens on eligible pension schemes. However, it was always recognised that at some time in the future this deficit would require addressing.
17. The General Levy rates for 2008/09 covers the cost of several organisations - the Pensions Regulator, the Pensions Ombudsman and the Pensions Advisory Service - which play a vital role in ensuring that scheme members' interests are safeguarded and that members get good, impartial advice. The General Levy is set at a rate that ensures they have the necessary resources to carry out their tasks.
18. Poor quality scheme data in the first three years of operation has also led to a larger levy collection deficit than was originally anticipated. This data includes

over-estimates in collected levy due to errors in pension scheme and member numbers and collection problems. These could not have been foreseen until levy collection had begun.

19. The Government will continue to review the rates of the levies imposed on schemes and work with those bodies it sponsors to ensure that levy payers continue to receive value for money.

Several respondents queried the inconsistency of the prescribed rates, with specific regard to the interrelationship between the minimum amount of levy payable and the amount of levy payable per member, in the Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008.

20. The rates prescribed within the tables in the above regulations have been revised to remove inconsistencies highlighted by respondents. These inconsistencies were caused by a rounding error and we apologise for any inconvenience this might have caused. The revised rates are provided below and are included in the regulations as laid before Parliament.

21. The table to be substituted in regulation 6(2) of the Occupational and Personal Pension Schemes (General Levy) Regulations 2005 is:

Number of members on the reference day	Amount of levy calculated by reference to number of members (M)	Minimum amount of levy
2 to 11		£33
12 to 99	£3.35 x M	
100 to 999	£2.42 x M	£340
1,000 to 4,999	£1.88 x M	£2,420
5,000 to 9,999	£1.43 x M	£9,400
10,000 or more	£1.00 x M	£14,300.

22. The table to be substituted in regulation 7(2) of the Occupational and Personal Pension Schemes (General Levy) Regulations 2005 is:

Number of members on the reference day	Amount of levy calculated by reference to number of members (M)	Minimum amount of levy
2 to 11		£14
12 to 99	£1.34 x M	
100 to 999	£0.94 x M	£140
1,000 to 4,999	£0.81 x M	£940
5,000 to 9,999	£0.54 x M	£4,050
10,000 or more	£0.41 x M	£5,400.

Several respondents asked what budgetary controls and overall costs controls were in place with regard to the general levy and the PPF administration levy. For example, one respondent commented:

“Whilst the consultation provides summary details of the reasons for the increases, no explanation is provided of the process of management and scrutiny of additional costs undertaken at either the PPF or the Pensions Regulator to ensure that these are kept to a minimum required.”

23. Whilst each body has responsibility to manage their own internal operations, the PPF, the Pensions Regulator, the Pensions Ombudsman and the Pensions Advisory Service are all accountable to DWP to ensure that their operations fulfil expectations. The Boards of the bodies therefore actively manage their operational risks as well as risks to their statutory responsibilities.

24. DWP scrutinises and approves the annual business plans and operating budgets of the Pensions Regulator, the Pensions Ombudsman, the Pensions Advisory Service and the Pension Protection Fund in line with current Government guidance. In addition, in their role as Stewards to the bodies, DWP holds quarterly accountability reviews with the bodies' Chief Executives to discuss performance against target and management of resources against budgets. The Chief Executives also have an accounting officer responsibility to the DWP. Each body must submit Annual Reports and accounts which are scrutinised by the National Audit Office before the Secretary of State lays them before Parliament.

One respondent commented that levy payers did not have any input into the governance of the bodies funded by the general levy and the PPF administration levy.

25. The governance structures of the Regulator and the PPF are laid down by the Pensions Act 2004. This includes a majority of the Boards being made up of Non-Executive Members. During 2007/08 two further Non-Executive Board Members were appointed to the Board of the PPF as a result of an open appointments process.

One respondent questioned the value of the monthly PPF 7800 Index.

26. The index is collated by the PPF on a monthly basis as it serves a valuable measurement of the risks to which the PPF is exposed and their volatility. As this information is collated by the PPF to enable it to carry out its function, the additional cost of publication on the internet is negligible. The PPF believes that by making material like this available it is actively demonstrating its commitment to acting in a transparent manner.

Several respondents commented that as defined-benefit occupational pension schemes close the numbers of schemes that attract PPF levies would reduce, placing greater costs on the remaining schemes eligible for PPF levies. Respondents also queried at what point would DWP consider it unfair to redistribute among remaining schemes.

27. Inevitably the costs of any new organisation will be difficult to forecast, and since its launch in 2005, the Government is satisfied that the PPF has maintained a tight control of its expenditures and adjusted to emerging new demands on its resources. The Government is also confident in the PPF's ability to fairly allocate levies among the schemes eligible to make PPF payments.

28. The Government is acting to ensure that well run schemes do not subsidise poorly run ones by ensuring scheme risk is thoroughly and accurately assessed prior to schemes being billed by the PPF.

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

The move to transfer risk-based administration costs to the Pension Protection Fund itself was welcomed by respondents. However greater transparency relating to these, and other, PPF costs was requested.

29. The Government acknowledges respondents' concerns over the transparency of PPF costs. To remove such doubts, discussions will be held between the DWP and the PPF to provide a structure to clearly present how much the PPF costs are, and a breakdown of how they have been produced.

30. The PPF will ensure that risk-based administration costs paid out of the Fund are disclosed in their Annual Report and Accounts for 2008/09 and onwards.

31. These draft regulations have since been renamed as the Pension Protection Fund (Prescribed Payments) Regulations 2008.

## **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 - List of respondents**

The Actuarial Profession  
Association of Pension Lawyers  
Cape Pension Trustees Ltd  
The Co-operative  
Hewitt  
Insolvency Service  
Lloyds TSB  
National Association of Pension Funds  
National Audit Office  
Northumbrian Water Pension Trustees Ltd  
Royal Mail Pension Trustees Ltd  
Society of Pension Consultants  
Standard Life  
Watson Wyatt