

# **THE PENSION PROTECTION FUND**

## **The Draft Occupational Pension Schemes (Levies) (Amendment) Regulations 2007**

**Government response to the consultation**

**February 2007**

**DWP** Department for  
Work and Pensions

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## Introduction

1. Between 13 September 2006 and 5 December 2006, the Department for Work and Pensions (DWP) undertook a consultation exercise on the draft Occupational Pension Schemes (Levies) (Amendment) Regulations 2007, which amend the Occupational Pension Schemes (Levies) Regulations 2005 (SI 2005/842) (“the Levies Regulations”). The draft regulations were sent to the organisations in Annex A and made available on the DWP’s website.
2. DWP received nine 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 will come into force soon after.
3. The draft of the regulations that was sent out for consultation has been amended to incorporate minor technical amendments. No other amendments have been made.
4. This document sets out the main points made 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 draft regulations require the approval by both Houses of Parliament before they come into force.
6. The final regulations will be available on the Office of Public Sector Information’s website at <http://www.opsi.gov.uk/si/si-2007-index.htm>
7. This document is available on the DWP website at <http://www.dwp.gov.uk/consultations/2006/>
8. A paper copy of this document can be obtained from:

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## Background on the Pension Protection Fund

9. The Pension Protection Fund (PPF) provides a statutory level of compensation to members of eligible defined benefit and hybrid occupational pension schemes when an employer becomes insolvent, there is no possibility of a scheme rescue and there are insufficient assets in the scheme to pay benefits at PPF compensation levels.
10. The PPF is funded by means of levies charged to all eligible schemes (i.e. schemes which can claim PPF compensation) and any assets remaining in schemes which transfer to the PPF at the end of an assessment period. There are four main levies:
  - The administration levy
  - The scheme-based levy
  - The risk-based levy
  - The Pension Protection Fund Ombudsman levy.
11. In general terms where an employer has an insolvency event and the pension scheme has insufficient funds to pay PPF compensation levels (“protected liabilities”) the scheme enters an assessment period. During this period a valuation is undertaken to determine the amount of assets in the scheme against members’ protected liabilities. Benefits payable by the trustees during the assessment period are restricted to PPF compensation levels.
12. At the end of the assessment period if the valuation shows that the scheme assets are insufficient to pay protected liabilities and a scheme rescue is not possible the scheme enters the PPF. The property, rights and liabilities transfer to the Board of the PPF (the Board) and the trustees or managers are discharged of their responsibilities towards the scheme, and the scheme is treated as if it were wound up. The Board is then responsible for providing compensation out of the PPF in accordance with the compensation provisions.
13. At the end of the assessment period if the valuation shows that assets are sufficient to pay at least protected liabilities the PPF has no further involvement with the scheme and the scheme is required to wind up outside of the PPF.

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

14. Two of the nine responses did not comment on the draft regulations. The other respondents commented mainly on regulation 3, which introduces rates for the administration levy for the financial year ending 31 March 2008.

15. The comments of those who responded to the consultation exercise with the Government's response follow.

### Regulation 2

16. Respondents welcomed the removal of references to the Pension Protection Fund Ombudsman's levy from the Levies Regulations. Respondents specifically welcomed the Government's confirmation that it expected the 2007/08 PPFO levy to be small and that in the interests of cost effectiveness this levy will be recouped in future years.

### Regulation 3

17. The majority of respondents commented that the Government had not provided any justification for the increase in the administration levy for 2007/08.

### Government response

18. *For the first two years of the PPF being operational (2005/06 and 2006/07), the levy was set at a rate to recoup £15 million per annum. The proposed 2007/08 levy rate has been set at a rate to recoup an estimate of £20 million per annum.*

*The increase in the administration levy represents effective financial management and is based on a number of factors:*

- (i) The PPF estimate that running costs will increase from £12.4 million in 2006/07 to £14.2 million for 2007/08. Added to this is a depreciation figure of £1.1 million.*
- (ii) The amount of costs to the DWP of setting up the PPF. These costs amount to £2.2 million per annum, together with depreciation of £0.9 million on fixed assets purchased by DWP as part of the PPF set-up, to be recovered over a three year period.*
- (iii) A shortfall from the proposed administration levy collection in 2005/06 and 2006/07.*

19. The majority of respondents noted that they would welcome an indication of the projected administration levy in future years.

**Government response**

20. *The 2007/08 Administration levy includes the 3rd and final instalment of the recovery of DWP set-up costs, including depreciation, and so administration levies in future years will no longer be inflated by these recoverable amounts. Future levies will therefore represent the costs of funding the infrastructure of the PPF and, in particular, its assessment and compensation 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).*

21. Some respondents commented that the ability of companies to increase prices in general are restricted by market concerns and that the same principles should apply to the PPF.

**Government response**

22. *The Government believes that the administration levy for 2007/08 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 duty to provide pension protection to eligible scheme members.*

**Regulation 4**

23. Some respondents sought clarity on the rationale for not waiving the administration levy, while the pension protection levy is waived, if the scheme is an authorised scheme under section 153 (closed schemes) of the Pensions Act 2004.

**Government response**

24. *Closed schemes, under section 153 of the Pensions Act 2004, should still be required to pay the administration and PPFO levies because the PPF will have a high level of involvement in such schemes' future investment policies and there is potential for maladministration complaints.*

## **Annex A – List of those consulted**

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 Ombudsman Service  
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 Association of Pension Funds)  
National Consumers Council  
Occupational Pension Schemes Joint Working Group  
Office of Fair Trading  
Pensions Ombudsman  
Pension Protection Fund Ombudsman  
Policy and Legal Division DSD Northern Ireland  
Small Business Service  
The Association of Corporate Trustees  
The Faculty and Institute of Actuaries  
The Insolvency Service  
The Law Society of England and Wales  
The Law Society of Scotland  
The Pension Protection Fund  
The Pensions Management Institute  
The Pensions Regulator  
The Scottish Executive  
The Society of Pension Consultants  
The Welsh Assembly  
TPAS (the Pensions Advisory Service)  
Trades Union Congress

## Annex B - List of respondents

<b>Name</b>	<b>Organisation</b>
Richard Barlow	Electricity Supply Pension Scheme
Nigel Biggs	Unilever
David Everett	Association of Consulting Actuaries
Graham Everness	Watson Wyatt Limited
Robert Inglis	The Actuarial Profession
Mayer, Brown, Rowe & Maw	Mayer, Brown, Rowe & Maw LLP
John Mortimer	The Society of Pension Consultants
Vincent O'Brien	Cape PLC
Ruston Smith	Tesco