EXPLANATORY MEMORANDUM TO THE

PENSION PROTECTION FUND (TAX) (2005-06) REGULATIONS 2005

2005 No. 1907

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

These regulations set out how current tax law will apply to the Pension Protection Fund (PPF) for the tax year 2005-06.

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

The regulations will have effect only for 2005-06, and will have retrospective effect from 6 April 2005. (Further regulations will be necessary for the tax year 2006-07 onwards, because the tax law relating to pension schemes is changing radically with effect from 6 April 2006.)

4. Legislative Background

4.1. The powers to make these regulations are contained in section 102 of the Finance Act 2005.

4.2 Regulations under that section may "make provision for and in connection with the application of the relevant taxes" in relation to the Board of the Pension Protection Fund and the two funds under the Board's control, the Pension Protection Fund and the Fraud Compensation Fund.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

This is not applicable. These regulations are subject to annulment and do not amend primary legislation.

7. Policy Background

7.1. The PPF was legislated for in Part 2 of the Pensions Act 2004, and came into operation on 6 April 2005. Its purpose is to protect members of defined benefit occupational pension schemes whose sponsoring employers have become insolvent and are no longer able to fund the schemes. If certain conditions are met, the PPF will take over such schemes and pay compensation to the members (or their survivors) in lieu of the benefits they were due to receive from the schemes. The PPF is funded by statutory levies on schemes eligible for protection.

7.2 The pension schemes protected by the PPF enjoy a range of tax privileges, including tax exemption on their investment income and tax relief on contributions from members and employers. These privileges are designed to encourage people to save for their retirement. The Government wishes to put the PPF on the same tax footing as the schemes it protects, so that no tax consequences follow from the taking over of a scheme by the PPF.

7.3. Additionally, the Government wishes to exempt from tax any compensation payments made from the Fraud Compensation Fund. Such compensation will be payable to schemes in the event of fraud or misappropriation of scheme assets. As such losses will be from tax-relieved funds, it would be anomalous to charge tax on compensation paid to make up for the loss. Any tax charge would deplete the funds available to pay compensation and could result in higher levies on schemes.

8. Impact

The impact of these regulations on business will be minimal, and so no Regulatory Impact Assessment has been prepared. However, information about the impact of the PPF on business can be found in the Regulatory Impact Assessment for the Pensions Bill 2004 at www.dwp.gov.uk/resourcecentre/ria.

9. Contact

Mark Bravery at HM Revenue & Customs (tel: 020 7147 2860 or e-mail: mark.bravery@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.