

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES (PENSION PROTECTION
LEVIES)(TRANSITIONAL PERIOD AND MODIFICATION FOR MULTI-
EMPLOYER SCHEMES) REGULATIONS 2006

2006 No. 566

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 These regulations provide for a transitional period of one year, beginning from April 1st 2006.
 - 2.2 The regulations modify section 175 of the Pensions Act 2004 to provide that, in relation to multi-employer schemes, the risk based levy is to be assessed during the transitional period by reference to the insolvency risk of a) the combined probability of insolvency of all employers in the scheme or b) the employer with the most members.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 There are no matters of special interest.
4. **Legislative Background**
 - 4.1 Section 180 of the Pensions Act 2004 makes provision for a transitional period during which the Pension Protection Fund may make modifications to certain provisions of the Act for a prescribed period of time.
 - 4.2 The Pension Protection Fund will charge a risk based levy on all schemes. This requires the Pension Protection Fund to assess the insolvency risk of multi-employer schemes – that is, assess the combined probability of insolvency of all employers in the scheme. At present, the scheme returns provide some information in this respect but not sufficient for the Pension Protection Fund to properly assess these schemes. For this reason modifications are required for the transitional period to provide that if the Pension Protection Fund cannot assess the combined insolvency risk of all the employers, then they will use the insolvency risk of the largest employer.
 - 4.3 The Pensions Regulator is changing the scheme return form, at the request of the Pension Protection Fund, in order to provide a mandatory requirement for multi-employer schemes to provide details on every employer in the scheme for the 2006 scheme return. These

scheme returns will be used by the Pension Protection Fund to calculate the 2007/08 levy.

- 4.4 However, in order that the Pension Protection Fund may still charge a risk based levy for multi-employer schemes for 2006/7, temporary modification of the provisions concerning the assessment of insolvency risk for these schemes is necessary.
- 4.5 Therefore, these regulations provide for a transitional period of 12 months from 1st April 2006. During this period, if the Pension Protection Fund do not have sufficient information to assess the risk in relation to all employers when calculating the levy for multi-employer schemes for 2006/7, then Pension Protection Fund will take account of the probability of insolvency of the employer with the most members in a multi-employer scheme.

5. Extent

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister for Pensions Reform, Stephen Timms, has made the following statement regarding Human Rights:

In my view the provisions of The Occupational Pension Schemes (Pension Protection Levies) (Transitional Period and Modification for Multi-employer Schemes) Regulations 2006 are compatible with the Convention rights.

7. Policy background

- 7.1 The Pension Protection Fund has been set up to provide a statutory form of compensation for members of defined benefit occupational pension schemes, where the employer has a qualifying insolvent event and the assets in the scheme would not provide pension at Pension Protection Fund compensation levels.
- 7.2 The Pension Protection Fund is funded through an annual levy charged to all qualifying defined benefit occupational pension schemes. In addition when the PPF assumes responsibility for a scheme it assumes all assets of the scheme.
- 7.3 During the Pension Protection Fund July – October consultation period on the risk-based levy calculation it became clear that there would be complications surrounding the assessment of multi-employer schemes (see section 4 above).
- 7.4 As a result of the information received from the Pension Protection

Fund consultation, these regulations provide that, for a period of 12 months, if all employers of a multi-employer scheme voluntarily provide the Pension Protection Fund with full information on every employer within the scheme then the Pension Protection Fund will calculate the risk based levy in relation to the probability risk of insolvency across all of the employers but the Pension Protection Fund will only charge a risk based levy where this approach results in a lower risk based levy charge. If this approach does not result in a lower risk based levy then the Pension Protection Fund will calculate the risk based levy based on the probability risk of insolvency only of the employer with the most scheme members. This is because we do not want to penalise those schemes which provide full information on every employer to the PPF on a voluntary basis.

- 7.5 There is no formal requirement to consult on these regulations as they come into force within six months of the commencement of the powers. Policy was developed in the light of information received by the Pension Protection Fund through their consultation on the risk-based levy calculation. The consultation ended in October, and the resulting timetable necessary to bring the regulations into force by April prevented any opportunity to undertake consultation on these regulations. DWP are not required to consult SSAC as these regulations have no impact on DWP benefits.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 There is no impact on the public sector.

9. Contact

Clare Judkins at the Department for Work and Pensions Tel: 0207 712 2734 or e-mail: Clare.Judkins@dwp.gsi.gov.uk can answer any queries regarding the instrument.