

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES (LEVY CEILING) ORDER 2008
2008 No. 911

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 This Order specifies the amount of the levy ceiling for the financial year beginning on 1st April 2008.
 - 2.2 It also revokes the 2007 levy ceiling Order, which relates to the financial year beginning on 1st April 2007.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Section 175 of the Pensions Act 2004 (“the Act”) requires the Pension Protection Fund (“PPF”) to set a levy for defined benefit occupational pension schemes (and the defined benefit element of hybrid schemes) to fund the compensation it will pay to scheme members if their employer becomes insolvent and the scheme is underfunded to a certain level.
 - 4.2 Section 178 of the Act requires the Secretary of State for Work and Pensions to set a levy ceiling, by affirmative Order, preventing the PPF from raising the levy above a set maximum.
 - 4.3 The ceiling is updated annually by affirmative Order in line with the general level of earnings obtaining in Great Britain (unless there is no increase in the general level of earnings). The Secretary of State reviewed the general level of earnings under section 178(5) of the Act. He concluded that earnings in Great Britain had risen by 3.6% during the year to 31st July 2007. In accordance with section 178(6) of the Act, he therefore prescribed that percentage in the Occupational Pension Schemes (Levy Ceiling – Earnings Percentage Increase) Order 2008 (S.I. 2008/217).
 - 4.4 The ceiling is updated in line with earnings as this is the closest approximation to the increase in a scheme’s liabilities where compensation payable is linked to a member’s earnings.

4.5 This Order specifies the levy ceiling figure to be imposed on the pension protection levy for the financial year beginning on 1st April 2008 as £833,410,200. In accordance with section 178(3)(a) of the Act, this amount was calculated by increasing the levy ceiling for the financial year beginning on 1st April 2007 by 3.6%.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

Mike O'Brien, Minister of State for Pensions Reform, has made the following statement regarding Human Rights:

In my view the provisions of the Occupational Pension Schemes (Levy Ceiling) Order 2008 are compatible with the Convention rights.

7. Policy Background

7.1 The PPF 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 insolvency event and the scheme is underfunded to a certain level.

7.2 The PPF 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 responsibility for all assets of the scheme.

Consultation

7.3 The Pensions Act 2004 imposes no requirement on the Secretary of State to consult before he makes this Order. DWP are not required to consult SSAC as this Order has no impact on DWP benefits.

Guidance

7.4 DWP and the PPF will be in a position to explain the provisions of this Order to members of the public.

Consolidation

7.5 The levy ceiling is updated annually by affirmative Order in line with the general level of earnings obtaining in Great Britain. Consolidation is therefore not relevant in this instance.

8. Impact

8.1 This Order amends an existing regulatory regime by a pre-determined formula. A full Impact Assessment is not necessary for such legislation.

8.2 There is no impact on the public sector.

9. Contact

Jimmie Yardley at the Department for Work and Pensions, tel: 020 7962 8125 or e-mail: jimmie.yardley1@dwp.gsi.gov.uk can answer any queries regarding the instrument.