EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES (GENERAL LEVY) (AMENDMENT) REGULATIONS 2024

2024 No. 274

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Paul Maynard MP, Minister for Pensions at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Jenan Hasan, Senior Civil Servant Pay Band 1, for the Arm's-Length Bodies Partnership Division at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alison Humberstone at the Department for Work and Pensions, email alison.humberstone1@dwp.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations give effect to new rates that will be used to calculate the General Levy (the levy). The levy is payable by the trustees of registrable occupational and personal pension schemes. Three of the Department for Work and Pensions' arm's-length bodies are funded by the levy. The levy recovers the full running costs of: The Pensions Ombudsman; the costs of the regulatory work of The Pensions Regulator; and the running costs for general pensions guidance and a proportion of the pensions dashboard programme, of the Money and Pensions Service.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain wide.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is across Great Britain.

5. Policy Context

What is being done and why?

5.1 The levy in its current form was first introduced in 2005 to meet the costs of the levy funded bodies. The levy rates are reviewed annually to ensure that an appropriate amount is being raised to meet the costs that are being incurred by the bodies. Each review considers, amongst other things, anticipated levy receipts; the agreed spending plans of the bodies, normally over a forward period of three years; and any surplus or deficit in the levy that may have accumulated.

5.2 Until 2018 the levy was in credit, but a deficit emerged as the bodies' workloads and therefore expenditure increased. A planned increase to levy rates in 2019 was not taken forward at the time of exiting the European Union. Regulations were introduced in 2020 to increase levy rates[1] but the government took the decision to revoke them in response to the Covid pandemic. As a result, the levy deficit has grown.

5.3 The levy rates were last increased in April 2021, covering the period 1 April 2021 to 31 March 2024.[2] This was part of a recovery programme designed to eliminate the deficit by 2030/2031.

5.4 The levy was reviewed by the Department for Work and Pensions in 2023. In conducting the review, the department considered the current levy position, the strategies, and corporate plans of the levy-funded bodies, and the amount of levy expected to be raised from eligible pension schemes over the period from 1 April 2024 to 31 March 2031, if levy rates remain unchanged.

5.5 The review found that the levy was in deficit by approximately £125 million at the end of 2022/2023, and without further intervention it was estimated that the deficit would rise to circa £200 million by 2030/2031. The department is aware that there are several external factors that may affect projections, such as the projected growth in Defined Contribution[3] scheme membership and consolidation of pension schemes. The department will therefore adjust its projections as part of yearly reviews. In a growing pensions market, led by the successful introduction of Automatic Enrolment,[4] it is vital to ensure that levy income is sufficient to maintain the strengthened regulatory regime and information, guidance and support framework provided by the levy-funded bodies.

5.6 The policy intent of the levy legislation is that the cost of the pensions regulation and support regime should be met by pension schemes and be cost neutral for the government and the taxpayer. Other key objectives are that the levy framework should be straightforward for schemes to understand and easy to operate. A fundamental feature of the levy is that it operates based on a collective approach to funding; the levy a scheme pays is not related to the time that The Pensions Regulators spends on that specific Scheme or scheme type but is based on scheme type and membership numbers.

5.7 These Regulations help achieve the policy intent by increasing levy rates by an additional 6.5 per cent in each fiscal year, starting 1 April 2024 and ending 31 March 2027.

[1] https://assets.publishing.service.gov.uk/media/5e5fc053e90e077e32dd8089/government-response-occupational-and-personal-pension-schemes-general-levy-review-2019.pdf
[2] https://assets.publishing.service.gov.uk/media/6045fd198fa8f577bd7cb72e/government-response-the-occupational-and-personal-pension-schemes-general-levy-regulations-review-2020.pdf
[3] Defined Contribution (DC) pension contributions are made by employees and employers, and invested to create a pension pot at retirement, the value of which can go up or down depending on how the investments perform.
[4] https://www.gov.uk/government/publications/trends-in-the-defined-contribution-trust-based-pensions-market/trends-in-the-defined-contribution-trust-based-pensions-market

What was the previous policy, how is this different?

5.8 The previous levy rates were contained in The Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2021 ("the 2021 Regulations"),[5] which revoked The Occupational and Personal Pension Scheme (General Levy) Regulations 2017.[6]

5.9 The previous policy changes put in place four sets of levy rates based on different pension scheme types. The first set is for Defined Benefit[7] schemes, which pay the highest rates. The rates then fall progressively for Defined Contribution schemes, Master Trusts[8] and finally, Personal Pension schemes (pensions arranged by the individual). This reflected, broadly, the various levels of supervisory attention devoted by the regulatory regime against the scheme type. The structure also recognises that Master Trusts are required to be authorised by The Pensions Regulator and pay an authorisation fee before they can operate in the pensions market.

5.10 Each of these four sets of levy rates are then broken down into seven bands linked to scheme membership numbers. This ranges from the smallest band, comprising of 12 to 99 members, to the largest band, containing 500,000 or more members.

5.11 Each of the seven bands corresponds to a cost per member, whereby larger schemes pay a lower 'per member' rate than smaller schemes. For example, the smallest Defined Benefit scheme currently pays on average £6.75 per member per year, whereas the largest Defined Benefit scheme pays on average £1.52 per member per year.

5.12 The levy rate for micro-schemes and Small Self-Administered Schemes (both comprising of 2 to 11 members) is currently set at £44 per annum in total per scheme.

5.13 The proposed policy will raise the levy by 6.5 per cent across all scheme types and bands, for each of the financial years 2024/2025, 2025/2026 and 2026/2027.

6. Legislative and Legal Context

How has the law changed?

6.1 This Statutory Instrument amends the Occupational and Personal Pensions Scheme (General Levy) 2005 (the "2005 Regulations")[9].

6.2 The current levy rates are provided for in paragraphs 2 to 13 of the Schedule to the 2005 Regulations. Regulation 2(2) to (4) substitute paragraphs 2 to 4 of the Schedule, inserting the new rates that are to apply to defined benefit schemes and hybrid schemes. Regulation 2(5) to (7) substitute paragraphs 5 to 7 of the Schedule, inserting the new rates that are to apply to money purchase schemes. Regulation 2(8) to (10) substitute paragraphs 8 to 10 of the Schedule, inserting the new rates that are to apply to Master Trust schemes. Finally, regulation 2(11) to (13) substitute paragraphs 11 to 13 of the Schedule, inserting the new rates that are to apply to personal pension schemes.

---

[5] https://www.legislation.gov.uk/uksi/2021/214/regulation/2/made

[6] https://www.legislation.gov.uk/uksi/2017/203/contents/made

[7] A defined benefit or DB pension (also known as a final salary pension) is a special type of workplace pension. Instead of building up a pension pot over time, it provides you with a guaranteed annual income for life, based on your final or average salary.

[8] A Master Trust, as defined by the Pension Schemes Act 2017 (the Act) is an occupational pension scheme providing money-purchase benefits that is used (or intended to be used) by multiple unconnected employers and is not a relevant public service pension scheme.

[9] https://www.legislation.gov.uk/uksi/2005/626/contents

Why was this approach taken to change the law?

6.3 Legislation was required because the power to impose the levy must be exercised through the making of regulations. The 2005 Regulations make provision for the imposition and payment of the levy and set its rate. The policy intent was to only change the levy rate. The 2005 Regulations were therefore amended but only insofar as required to change the levy rate.

6.4 The Regulations do not revoke the 2021 Regulations, the previous statutory instrument that amended the 2005 Regulations and set the levy rates for the 2021/2022, 2022/2023 and 2023/2024 financial years. This is because the amendments made by regulation 2(2) and (3) of the 2021 Regulations to regulations 6 and 7 of the 2005 Regulations need to be retained, as does the insertion by the 2021 Regulations of paragraph 1 of the Schedule to the 2005 Regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 The levy rates were last increased in 2021 and covered the period 1 April 2021 to 31 March 2024. The levy was in deficit by approximately £125 million at the end of 2022/23. The legislation supports the increase to the levy to address this deficit.

7.2 An online public consultation[10] ran from 2 October 2023 to 13 November 2023. The consultation sought views on the three options outlined below, to change the rates of the levy from 1 April 2024, 2025, and 2026:

- **Option 1: Keep the rates at the same level as 2023/2024 for the next three years;**
- **Option 2: A 6.5 per cent per year rise for all scheme types; and,**
- **Option 3: Increase rates for all scheme types by 4 per cent per year and add an additional premium of £10,000 for small schemes (with membership under 10,000), excluding Defined Benefit schemes, from 2026/27.**

7.3 The consultation advised that the Government's preferred option was option 3.

7.4 There were 287 responses to the consultation. From the consultation responses, it was clear that option 3 was not the preferred approach. A common view was that the premium payment of £10,000, which was intended to encourage consolidation in the pensions market, would be extremely difficult for small schemes.

7.5 Option 2 was the preferred option of respondents to the consultation. Based on the current expenditure and receipts forecast, this option will progress the policy intent of eliminating the deficit by 2030/2031.

7.6 Option 1 was disregarded by all but three respondents, who argued that this was the most appropriate distribution of costs.

7.7 Having considered the consultation responses, the Government has decided to adopt option 2.

---

[10] https://www.gov.uk/government/consultations/the-occupational-and-personal-pension-schemes-general-levy-regulations-review-2023

7.8 The Government response The Occupational and Personal Pension Schemes (General Levy) Regulations review 2023 will be published on GOV.UK on the 4 March the same day as these regulations are laid in Parliament.

8. Applicable Guidance

8.1 There is no applicable guidance required for this legislation. The Pensions Regulator collects the levy on an annual basis on behalf of the Department for Work and Pensions and will invoice pensions schemes for the appropriate amount, as set out in the legislation.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument because this levy measure falls outside the definition of a regulatory provision as set out in section 2.3 of the Better Regulation Framework Guidance dated September 2023.[11]

Impact on businesses, charities, and voluntary bodies

9.2 There is no, or no significant, impact on business, charities, or voluntary bodies because the general levy is charged to the Pension Schemes for Defined Contribution Schemes, for Defined Benefit schemes there is negligible impact on employers.

9.3 The legislation does not impact small or micro businesses. applies to activities that are undertaken by small businesses. The impact on those businesses is negligible.

9.4 There is no, significant, impact on the public sector, because DWP pay the general levy for Public Sector Scheme.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The legislation does not include a statutory review clause.

10.2 The approach to monitoring this legislation is by annual review undertaken by the Department for Work and Pensions. Each review considers, amongst other things, anticipated levy receipts; the agreed spending plans of the arm's-length bodies, normally over a forward period of three years; and any surplus or deficit that may have accumulated.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

---

11 https://assets.publishing.service.gov.uk/media/65420ee8d36c91000d935b58/Better_Regulation_Framework_guidance.pdf