Department for Work & Pensions

The Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2017

Government response

March 2017

Introduction

1. This consultation ran from 24 November 2016 to 18 January 2017. The consultation document can be viewed at:

   https://www.gov.uk/government/consultations/the-occupational-and-personal-pension-schemes-general-levy-amendment-regulations-2017

   The consultation sought views on the draft Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2017, which would make changes to the rates of the General Levy ("the levy") on pensions schemes for the year 2017/18 onwards.

2. The Annex lists the 19 respondents to the consultation, and the Government is grateful to them for providing their comments and advice on the draft regulations.

3. This document notes why it is considered necessary to restructure the levy rates and explains the purpose of the draft regulations consulted on. It provides a summary of the responses received to the consultation and the Government's responses to the comments made and advises that, following consideration of these comments, the Government decided to proceed with the recommended approach as set out in the consultation document.

4. Accordingly, regulations (The Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2017 (S.I. 2017 No. 203) have been made and laid in both Houses of Parliament.

Background

5. The levy, imposed on occupational and personal pension schemes, recovers the core funding provided by the Department for Work and Pensions (DWP) for three public bodies delivering elements of the pensions protection regime. These bodies are the Pensions Regulator ("TPR"), the Pensions Advisory Service and the Pensions Ombudsman.

6. The levy rates are set in regulations (The Occupational and Personal Pension Schemes (General Levy) Regulations 2005 (S.I. 2005 No. 626). The levy is collected annually by TPR on behalf of the Secretary of State.

7. Having reviewed the funds that are likely to be raised by this levy under the current levy rates, and considered the current and planned administration costs of the three public bodies noted in paragraph 5 above, we estimate that a levy surplus of approximately £13m will exist by the end of 2016/17. This surplus may erode over time if the spending of the bodies begins to increase, but the process could take a considerable time.

8. As advised in the consultation document, we therefore considered options for future levy rates in order to eliminate the deficit.

9. The consultation document advised that the Government's recommended option was option 3, and provided a draft of the regulations that would make the legal changes needed to deliver this option. This option provided for the introduction of a new levy rate for pension schemes with 500,000 members or more, set at a level 25% lower than the current levy rate applying to schemes with 10,000 members or more. The levy rates for schemes with fewer than 500,000 members would remain unchanged. This would maintain for such schemes the freeze in the levy rates that has been in place from 2013/14 following a reduction in the levy rates of 13% for the preceding year.

10. Option 3 was preferred as it would recognise that the portion of the levy paid by the largest pension schemes is inappropriately high but would not place an additional burden on smaller pension schemes.

The draft regulations

Regulation 1 – Citation and commencement

11. This is a general regulation which gives the title of the regulations and specifies the date on which the regulations are proposed to come into force.

12. It is proposed that the regulations will come into force on 1st April 2017.

Regulation 2 – Amendment of the 2005 Regulations with effect from 1st April 2017

13. This regulation amends regulations 6(2) and 7(2) of the Occupational and Personal Pension Schemes (General Levy) Regulations 2005 ("the 2005 Regulations") to provide for the amounts payable by eligible schemes, in respect of the levy, for the financial year 2017/18. The rate for schemes with 500,000 members or more is 25% less than the rates payable for schemes with 10,000-499,999 members. The rates for schemes with fewer than 500,000 members are not altered by these regulations.

Regulation 3 – Revocations

14. This regulation revokes the Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2008 and the Occupational and Personal Pensions Scheme (Levies – Amendment) Regulations 2012. These regulations are amendments to the 2005 Regulations (as amended).

Summary of the consultation responses received

15. The consultation noted that the Government welcomed comments on the proposed changes to the levy rates as set out in the draft regulations and asked 4 questions:

    - **Question 1** - do you support the proposed approach?

    - **Question 2** - would you prefer the Government to take forward one of the other options noted in this consultation? If yes, which one and why?

    - **Question 3** - would you like to propose any alternative options to those noted in this consultation which would eliminate the levy surplus that has accumulated? If so, please provide details.

    - **Question 4** - do you have any comments on the content of the draft regulations?

16. **19 responses** to the consultation were received. Of these:

    - **10** supported the proposed approach as set out in the consultation document;

    - **5** supported an option involving a reduction in the levy rates for all schemes; and

    - **4** either supported or did not support the proposed approach but went on to suggest alternative options or refinements to that approach.

    A more detailed summary of the responses received is in paragraphs 17-22 below.

17. The 10 respondents who supported the proposed approach argued that it would correct an imbalance in the structure of the levy without disadvantaging pension schemes with less than 500,000 members relative to their current position. The proposed approach would also better reflect a changing pensions marketplace and would incentivise scale. Two respondents noted that if TPR adopts a more interventionist stance in the future, the levy surplus could instead be used to help fund a greater number of interventions. One respondent suggested that at a future point there could be a case for a more fundamental review of the way the levy is calculated.

18. The 5 respondents who supported the option involving a reduction in the levy rates for all schemes argued that it would be fairer to reduce the levy rates for all schemes rather than target the largest schemes in this respect. Some respondents also argued that existing levy structure remained defensible and should not be altered in favour of the largest schemes. It is a matter of judgement as to how levy burden should be shared across pension schemes

and how a levy surplus should be eliminated. The Government accepts that some respondents do not believe the preferred approach to be the fairest one, but continues to take the view that targeting the largest schemes in the manner proposed is the most pressing priority on this occasion.

19. One respondent suggested that the proposed approach would constitute State Aid in favour of largest schemes on the basis that it was anti-competitive and constituted a tax exemption. The Government does not believe State Aid rules would be violated by the proposed approach. The largest schemes would not receive an exemption as they would still be paying a substantial charge, which will always be greater than that paid by smaller schemes. Furthermore, the principle that larger schemes are subject to lower levy rates per member than smaller schemes is a well-established one. The preferred approach would merely extend this principle, by increasing the number of levy rate bands from 6 to 7.

20. One respondent added that the scope for streamlining the bodies covered by the levy should be investigated. This issue is discussed in the following paragraph.

21. As indicated in paragraph 16 above, there were 4 respondents whose responses included alternative options or refinements to the proposed approach:

- one respondent supported the proposed approach but suggested that an additional levy rate band should be created for schemes with 50,000-499,999 members;

- one respondent supported continuation of the freeze in the levy rates for schemes with 2-9,999 members but argued that four levy rate bands should operate in the case of schemes with 10,000, 25,000, 50,000 and 100,000 members or more;

- one respondent supported a reduction in the levy rates for all schemes but added that the Government could consider introducing three levy rate bands for schemes with 50,000, 100,000 and 500,000 members or more.

The Government was not attracted to the alternative options noted above as they would all have limited its scope to apply a 25% reduction to the levy rate applicable to schemes with 500,000 members or more. (A 25% reduction would broadly correspond to the fall in the current levy rate bands as scheme size increases.)

Of the 4 responses discussed in this paragraph, one respondent suggested the delivery of cost savings, both in general and through mergers between the bodies listed in paragraph 5 above. The same respondent also suggested an approach analogous to a levy that has been proposed on employers participating in the NHS pension scheme.

The Government regularly reviews the spending of its Arm's Length Bodies to ensure that they are providing value for money. It also regularly reviews whether there is a continuing need for those bodies and any scope for merging them is routinely considered in that context. There are no mergers currently envisaged that would significantly alter the level of funding recoverable by the levy. The Government, in a separate consultation that has now concluded, sought views on the creation of a single financial guidance body to replace the Money Advice Service, the Pensions Advisory Service and Pension Wise. If the Government decides to create a single guidance body, such a development would, if it received Parliamentary approval, inform consideration of the levy rates in future. The impact of such a development on the levy rates could be expected to be moderate.

The proposed NHS pension scheme levy would be based on a percentage of the earnings of NHS pension scheme members. It would not be possible for TPR to administer the levy on this basis as it does not collect data on the earnings of pension scheme members.

22. There were no substantive comments on the draft regulations that were attached to the consultation document. A small number of respondents said, for the sake of completeness, that the draft regulations should be amended to give effect to options that those respondents preferred.

Government response

23. Having considered the responses received, the Government decided to proceed with its proposed approach (Option 3 in the consultation document) without amendment.

Conclusion

24. The Government would like to thank all the organisations that have offered their views and advice in response to this consultation exercise. The regulations (The Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2017 (S.I. 2017 No. 203)) which amend the 2005 Regulations as set out in the draft regulations attached to the consultation document have been made and laid before both Houses of Parliament.

These regulations are available on the UK Legislation website:
www.legislation.gov.uk/id/uksi/2017/203

This document is available on the GOV.UK:
www.gov.uk/government/consultations/the-occupational-and-personal-pension-schemes-general-levy-amendment-regulations-2017

Annex: list of those who responded to this consultation

A J Bell

Ascot Lloyd Benefit Solutions

Aviva

B&CE

David Black & Son Ltd

Economic & Research Group, University of St Andrews Economic Society

K Kelleher

Mercer Ltd

NEST (National Employment Savings Trust)

NHS Pension Scheme, Scheme Advisory Board

Now: Pensions

PLSA (Pensions & Lifetime Savings Association)

SAUL (Superannuation Arrangements of the University of London)

Smart Pension

Society of Pensions Professionals

Standard Life

The 100 Group Pensions Committee

Transport for London Pension Fund

Zurich Insurance plc