Department for Work & Pensions

The Occupational Pension Schemes (Levies) (Amendment) Regulations 2015

Government response

February 2015

Contents

Introduction

1. This consultation ran from 14 November 2014 to 9 January 2015 (consultation document can be viewed at:- https://www.gov.uk/government/consultations/the-occupational-pension-schemes-levies-amendment-regulations-2015) and sought views on the draft Occupational Pension Schemes (Levies) (Amendment) Regulations 2015 which would make changes to the rates of the Pension Protection Fund (PPF) administration levy in each of the three years 2015/16, 2016/17 and 2017/18.

2. Annex A lists the 9 respondents to the consultation, and the Government is very grateful to them for providing their comments and advice on the draft regulations.

3. This document notes why it is considered necessary to increase the PPF administration 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.

4. Accordingly, regulations (the Occupational Pension Schemes (Levies) (Amendment) Regulations 2015) (S.I. 2015 No. 2015/84) have been made and laid in both Houses of Parliament.

Background

5. The PPF was established by the Pensions Act 2004 ("the Act") in order to protect the members of eligible defined benefit occupational pension schemes (and the defined benefit element of hybrid schemes) by paying compensation where an employer has a qualifying insolvency event and there are insufficient assets in the scheme to pay benefits at PPF compensation levels.

6. Some of the administration costs of the PPF are met by the Department for Work and Pensions (DWP). These costs are recoverable via the administration levy which is payable by those pension schemes eligible for the protection provided by the PPF, as provided for by section 117 of the Act.

7. The rates of the PPF administration levy are set out in regulation 6(2) of the Occupational Pension Schemes (Levies) Regulations 2005 (S.I. 2005 No. 842) ("the 2005 Regulations"), which are regularly reviewed. The levy is collected annually by the Pensions Regulator on behalf of the Secretary of State.

8. Having reviewed the funds that are likely to be raised by this levy under the current PPF administration levy rates, and considered the PPF's current and planned administrative costs recoverable via this levy, we estimate that a levy deficit of £5.1m will exist at the end of 2014/15. We anticipate that this deficit would increase by approximately £5m in each subsequent year if remedial action is not taken.

9. As advised in the consultation document, we considered 4 options for the future PPF administration levy rates in order to eliminate the current and developing deficit.

10. The consultation advised that the Government's recommended option was option 4, and provided a draft of the regulations which would make the legal changes needed to deliver this option. This option provided for a 15% increase in the PPF administration levy rates in 2015/16, followed by a further 15% increase in both 2016/17 and 2017/18.

11. This approach was preferred as it would recover the deficit over a number of years (the current estimate is seven, on the basis of the PPF's assumed administration costs); would limit the immediate impact of the increase in the levy rates; and would provide eligible schemes with time to plan for the further increases in 2016/17 and 2017/18.

The draft regulations

Regulation 1 – Citation and commencement

12. The consultation noted that Regulation 1 sets out the formal name of the regulations and specifies the different dates on which different regulations are proposed to come into force. Regulations 1, 2 and 3 would come into force on 1 April 2015; regulation 4 on 1 April 2016, and regulation 5 on 1 April 2017.

Regulation 2 – Interpretation, revocation and expiry

13. The consultation advised that Regulation 2 provided that, for the purpose of these regulations, the references made to "the 2005 Regulations" is to the Occupational Pension Schemes (Levies) Regulations 2005.

14. The regulation revokes (with effect from 1 April 2015) regulation 3 of the Occupational and Personal Pension Schemes (Levies – Amendment) Regulations 2012 (S.I. 2012 No. 539), which sets out the current administration levy rates, and earlier provisions which have been superseded by later amendments and which have ceased to have effect.

15. It also provided that regulation 3 of these regulations (which sets out the PPF administration levy rates for 2015/16) ceases to have effect on 1 April 2016, when regulation 4 of these regulations comes into force (levy rates for

2016/17), and that regulation 4 ceases to have effect on 1 April 2017, when regulation 5 (levy rates for 2017/18 onwards) comes into force.

Regulation 3 – Amendment of the 2005 Regulations with effect from 1 April 2015

16. This regulation amends regulation 6(2) of the 2005 Regulations to provide for the amounts payable by eligible schemes, in respect of the PPF administration levy, for the financial year 2015/16. The rates are 15% higher than the rates payable in each of the three years 2012/13 to 2014/15.

Regulation 4 – Amendment of the 2005 Regulations with effect from 1 April 2016

17. This regulation amends regulation 6(2) of the 2005 Regulations to provide the rates of the PPF administration levy payable by eligible schemes in 2016/17. These rates are 15% higher than the rates payable in 2015/16.

Regulation 5 – Amendment of the 2005 Regulations with effect from 1 April 2017

18. This regulation makes the final amendment to the 2005 Regulations, and provides the rates of the PPF administration levy payable in 2017/18 and subsequent years. These rates are 15% higher than the rates payable in 2016/17.

Summary of the consultation responses received

19. The consultation noted that the Government welcomed comments on the proposed changes to the PPF administration 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 the consultation? If yes, which one and why?
- **Question 3** – Would you like to propose any alternative options to those noted in the consultation which would eliminate the PPF administration funding gap and accumulating deficit? If so, please provide details.
- **Question 4** – Do you have any comments on the content of the draft regulations?

20. Nine responses were received to this consultation (of which one only considered the draft regulations from a legal perspective). Of the remaining

eight, seven supported the proposed approach (option 4) as set out in the consultation although one suggested a refinement to this approach, by extending further the time taken to eliminate the deficit (suggesting perhaps a five year smoothing period and a ten year recovery period) in order to reduce further the increase in the PPF administration levy rates.

21. A second respondent, whilst supporting the proposed approach, questioned whether the administration levy should be incorporated into the PPF levy, although noting that this approach would require amendments to the primary legislation.

22. One respondent, whilst partially supporting the preferred option (on the grounds that it appeared to give certainly up to 2021/22 compared with the other options) advised that it supported Option 1 in the consultation (no increase in levy rates) advising that the PPF should reduce the deficit by finding ways to be more efficient.

23. No comments were received on the content of the draft regulations (Question 4).

Consultation with the Board of the PPF

24. We also consulted with the Board of the PPF (as required by section 117(4) of the Act), who advised that it had no comments on the proposed changes.

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25. Given the supporting nature of most of the consultation comments, the Government decided to proceed with its proposed approach (Option 4 in the consultation) without amendment.

Other issues raised in response to the consultation

26. One respondent, whilst favouring the proposed approach, was critical of the consultation as they felt that it failed to adequately explain why the current administration levy deficit had occurred. They asked for an explanation of why this deficit had arisen and will continue to increase without intervention, and how the administration levy might be changed in the longer term.

27. The PPF’s administration costs are predominantly funded from two sources. The Protection Fund (formed of pension scheme assets transferred to the PPF, income from the Pension Protection Levy, and investment returns) covers costs directly related to the operation and size of the fund (principally fees associated with investment management and the costs of administering compensation payments).

28. The PPF's remaining administration costs (e.g. some staff costs and overheads such as IT and estates) are funded by DWP, and it is these costs that are recoverable via the administration levy. They are a small proportion of the PPF's overall costs, representing around 15% of the PPF's total administrative expenditure.

29. In their annual strategic plan the PPF make publicly available their annual cost forecasts by funding source over a three year period. Actual expenditure is reported in the PPF's Annual Report and Accounts. Costs recoverable by the administration levy have inevitably increased as the PPF continues to grow in size and complexity with the number of members increasing substantially year on year.

30. The deficit has arisen because the amount raised by the administration levy has not matched changes in these costs. The Department operates a long standing smoothing arrangement in order to remove the need for frequent changes in the administration levy rates.

31. In 2012/13 the levy rates were reduced by approximately 26% and these rates remained unchanged through to 2014/15. It would have been possible to raise the levy rates sooner to prevent a deficit from arising. However, it was decided to utilise the surplus that existed in order to hold rates constant for as long as possible. The effect of this is that a small surplus at 31 March 2014 is expected to be replaced with a deficit of £5.1m at 31 March 2015, and it is estimated that this deficit will increase by £5m per annum if there is no change to the current levy rates.

32. This respondent also noted the PPF's move to a new insolvency provider and sought an explicit illustration of how this (and other larger projects that may emerge) is contributing to the deficit. The PPF's annual strategic plan provides forecasts for each of their key cost areas. The 2014/15 plan shows changes in costs for "levy risk scoring services" as a consequence of the move to a new insolvency provider.

33. However, as explained above the link between PPF administration costs and administration levy rates (and so the deficit) is not absolute. The Department's annual review of the administration levy rate takes into account three factors: (i) the portion of the PPF's administration costs funded by DWP; (ii) administration levy receipts; and (iii) any surplus or deficit that may have accrued over time.

34. Accordingly, it is not possible to provide a robust indication of how the rates may move in the longer term. The operational budgets of Arm's Length Bodies such as the PPF are set annually, following discussions between the body and the DWP. When agreeing budgets DWP considers the implications for administration levy payers of the body's delivery plans for the relevant year.

Next steps

35. The Government would like to thank all the organisations who have offered their views and advice in response to this consultation. Having considered these comments the Government decided to proceed with the proposed approach as set out in the consultation document and has made and laid regulations before Parliament (The Occupational Pension Schemes (Levies) (Amendment) Regulations 2015 (S.I. 2015 No. 2015/84) which amend the 2005 Regulations as set out in the draft regulations attached to the consultation document.

These regulations are available on the UK Legislation website:

http://www.legislation.gov.uk/uksi

This document is available on the Gov.uk website:

https://www.gov.uk/government/consultations/the-occupational-pension-schemes-levies-amendment-regulations-2015

Annex A: List of those who responded to the consultation

Association of Pension Lawyers

Association of School and College Leaders

Hymans Robertson LLP

Jaguar Land Rover

National Association of Pension Funds

Pennon Group plc

Society of Pension Professionals

Superannuation Arrangements of the University of London

Towers Watson