

**EXPLANATORY MEMORANDUM TO
THE PENSION PROTECTION FUND (MULTI-EMPLOYER SCHEMES)
(MODIFICATION) REGULATIONS 2005**

2005 No.441

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 The Board of the Pension Protection Fund (“PPF”) is established by section 107 of the Pensions Act 2004 (c.35) (“the Act”) to provide compensation for members of eligible occupational pension schemes in the event of the insolvency of the scheme’s sponsoring employer and where the pension scheme is underfunded at a certain level.
 - 2.2 The PPF provisions in the Act are designed to work for schemes with a single sponsoring employer and which are not divided into two or more sections. However, there are a number of occupational pension schemes with more than one employer or with more than one section (“multi-employer schemes”) and, as they stand, the PPF provisions will not work appropriately for these schemes. These regulations modify the PPF provisions in Act so that they can be applied, in the most appropriate way, to multi-employer schemes or to sections of such schemes.
 - 2.3 The regulations also modify section 286 of the Act (which requires the Secretary of State to make provision by way of financial assistance to members of final salary schemes that are winding -up underfunded or that have already wound up underfunded, prior to the introduction of the PPF). The modification in relation to section 286 allows qualification criteria for the financial assistance scheme relating to employer insolvency to be applied to one, some or all employers participating in multi-employer schemes.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 The Pension Protection Fund (PPF) needs to be up and running as quickly as possible to provide protection for members of defined benefit pension schemes. Given the extent and detail of these regulations, it has been necessary to breach the 21 day rule in respect of the coming into force of some of the provisions in order to prevent any delay to the implementation of the PPF which would be detrimental to scheme members. The relevant provisions are listed in regulation 1(1)(a) of the Regulations. It is essential that they come into force on 9th March 2005 to ensure that they can be relied upon for the purposes of making other PPF regulations which must be in place by 1st and 6th April respectively without also having to breach the 21 day rule in relation to those regulations. The Department is aware of the

importance of observing the 21 day rule wherever possible and regrets that it has not been able to do so in this instance.

4. Legislative Background

4.1 This is the first use of the power under section 307(1)(b) of the Pensions Act 2004.

4.2 Certain provisions of these regulations are required from 9th March 2005 to ensure that that other regulations necessary for PPF go-live can be made under the modified regulation making powers created by these regulations and still be able to come into force as required on 1st and 6th April 2005.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy Background

7.1 The PPF provisions of the Pensions Act were designed for single employer schemes and were not intended to apply to schemes with more than one employer (multi-employer schemes) or more than one section. There are relatively straightforward textual problems e.g. the Act refers to “the employer in relation to the scheme” and there are more substantive issues e.g. PPF involvement with a scheme starts with the insolvency of the sponsoring employer, where there is more than one employer it is not clear what event should trigger PPF involvement. An additional complication is that, in a multi-employer scheme, it is not always appropriate to consider the scheme as a whole. For example, a multi-employer scheme can be divided into a number of separate sections which are effectively schemes in their own right and should be treated as such by the PPF.

7.2 These regulations, using the power in section 307 of the Act, modify the PPF provisions to resolve such issues and ensure that the PPF will work appropriately for multi-employer schemes or sections of such schemes. In order to do this effectively the regulations make separate provision for different types of multi-employer scheme amending, as appropriate, the rules governing entry to the PPF and the PPF assessment period. The regulations also modify the PPF levy provisions so that PPF Board can impose a risk based levy which accurately reflects the risk posed by a multi-employer scheme.

7.7 The regulations also modify provisions of the Act that deal with the Financial Assistance Scheme. Section 286 requires the Secretary of State to make provision by way of financial assistance to members of final salary schemes that are winding-up underfunded or that have already wound up

underfunded, prior to the introduction of the PPF. The modification to section 286 allows qualification criteria relating to employer insolvency to be applied to one, some or all employers participating in multi-employer schemes.

7.8 No consultation was undertaken in relation to these regulations.

8. **Impact**

8.1 A full 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**

8.1 David Shaw at the Department for Work and Pensions tel: 02079622464 or email: david.shaw@dwp.gsi.gov.uk can answer any queries regarding this instrument.

2 March 2005