EXPLANATORY MEMORANDUM TO

THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES (GENERAL LEVY) (AMENDMENT) REGULATIONS 2021

2021 No. 214

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations give effect to a new structure, and to new rates, that will be used to calculate the General Levy ("the levy") payable by occupational pension schemes and personal pension schemes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

4.3 Corresponding provisions are being made in Northern Ireland.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 These Regulations amend the Occupational and Personal Pension Schemes (General Levy) Regulations 2005 (S.I. 2005/626) ("the 2005 Regulations") https://www.legislation.gov.uk/uksi/2005/626/contents which prescribe the rates of the levy.

6.2 Regulation 2 amends regulations 6 and 7 of the 2005 Regulations to specify new levy rates to be used in calculating the levy payable in respect of three types of occupational pension scheme and in respect of personal pension schemes. New rates apply for each of the three financial years which start with the one beginning on 1 April 2021.

6.3 Regulation 3 revokes the Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2017 https://www.legislation.gov.uk/uksi/2017/203/contents/made which implemented the previous increase.

7. Policy background

What is being done and why?

7.1 The Pensions Regulator (TPR) was established by the Pensions Act 2004 (http://www.legislation.gov.uk/ukpga/2004/35/contents) and protects members of work-based pension schemes. The Pensions Ombudsman (TPO) was established by the Social Security Act 1990 (http://www.legislation.gov.uk/ukpga/1990/27/contents); his functions, which are to determine complaints and disputes about the way pension schemes are run, are specified by the Pension Schemes Act 1993 (http://www.legislation.gov.uk/ukpga/1993/48/contents/enacted). The Money and Pensions Service (MaPS) provides guidance and access to the information people need to make effective financial decisions over their lifetime, see (http://www.legislation.gov.uk/ukpga/2018/10/contents/enacted) and (https://www.legislation.gov.uk/uksi/2019/383/regulation/2/made).

7.2 The levy recovers the core running costs of TPR and all TPO's running costs. For MaPS, it recovers the running costs of general pensions guidance and elements of the pensions dashboard. The levy rates were last increased in 2008/09. The rates were then reduced by 13% in 2012/13 and have remained at the same level for most pension schemes since then. A new, lower, levy rate for schemes with 500,000 members or more was introduced in 2017/18.

7.3 The levy rates are reviewed annually to ensure that an appropriate amount is being raised to meet the costs that are being incurred. The most recent review found that the levy is in deficit, largely because there has been growth in the levy-funded bodies due to significant changes in the pensions industry and the regulatory landscape. The deficit would continue to increase in the absence of corrective action. A change to the levy rates is needed to begin to recover the deficit and meet the forecasted expenditure of the levy-funded bodies.

7.4 These Regulations help achieve the policy intent set out above by introducing changes to the levy rates applicable from April 2021, 2022 and 2023. At the same time, the structure of the levy is being altered to increase fairness between scheme types. The preferred option would allow for a more extensive realignment in the levy rates to recognise that the supervisory regime directs more operational effort towards some scheme types than others. It would result in four sets of levy rates. Creation of this levy structure would allow it to reflect more fully the differing levels of supervisory attention devoted by the regime as against scheme type and would provide scope for subsequent realignments should those become necessary to reflect changes in the pensions landscape that may occur over time. At the same time, the collective approach that underpins the current levy system, together with the inherent simplicity and operability of a levy system based on the number of members in each scheme would be preserved.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

Informal consolidated text of instruments is available to the public free of charge via the National Archives' website – see www.legislation.gov.uk.

10. Consultation outcome

10.1 The consultation period lasted for 6 weeks and ran from 16 December 2020 to 27 January 2021.

10.2 The purpose of the consultation was to seek views on DWP's proposal to raise the rates of the levy from April 2021, 2022 and 2023 and on options for change in levy structure. The consultation was expected to be primarily of interest to those affected by the levy including occupational pension scheme trustees, personal pension providers and sponsoring employers of pension schemes.

10.3 A consultation period lasting 6 weeks was considered appropriate, as the primary audience for the consultation exercise was felt to be sufficiently expert not to need a longer period in which to respond.

10.4 23 formal consultation responses were received. Of these:

- **18** supported the preferred approach as set out in the consultation document (Option 1: 4 sets of levy rates covering Defined Benefit (DB) pension schemes, Defined Contribution (DC) pension schemes other than Master Trusts, Master Trusts and Personal Pension schemes);

- **1** respondent supported Option 2 (3 sets of levy rates covering occupational schemes other than Master Trusts, Master Trusts and Personal Pension schemes);

- **1** supported Option 3 (retain existing levy structure with 2 sets of levy rates, covering occupational schemes and Personal Pension schemes);

- **1** argued for a reduction of 50% in the existing levy rates;

- **1** made observations about the levy but did not express a preference for Option 1, 2 or 3;

- **1** sought further information about the use of resources by the pensions bodies before commenting on the options consulted upon.

10.5 The 18 respondents who preferred Option 1 argued that it would be fairer than the present structure and would produce a result more representative of the manner in which supervisory costs are incurred against different scheme types.

10.6 Having considered the responses, the Government has decided to pursue Option 1 - introduce separate levy rate bands for DB pension schemes, DC pension schemes, Master Trusts and Personal Pension schemes from 1 April 2021 and increase rates from this date and from the same date in the two subsequent years. This will commence mitigating action in respect of the levy deficit as soon as is possible.

10.7 A Government response to the consultation was published on 4 March 2021.

11. Guidance

11.1 The administration of this levy is undertaken by TPR. Information and guidance can be found at the following link: (https://www.thepensionsregulator.gov.uk/en/trustees/submit-reports-payments-and-requests-to-us/levy) which will be updated to reflect the new levy rates from 1 April 2021.

12. Impact

12.1 There is no impact on business, charities or voluntary bodies.

12.2 A Regulatory Impact Assessment has not been published for this instrument because this levy measure and its impact is excluded from the definition of a regulatory provision in the Small Business, Enterprise and Employment Act 2015. https://www.legislation.gov.uk/ukpga/2015/26/contents/enacted Therefore, it does not need to be reported on or verified under the Business Impact Target reporting requirements. Any increases in the levy do not count towards the Equivalent Annual Net Direct Cost to Business (EANDCB). (http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted). However, the estimated impacts of the increased levy payments are summarised below.

12.3 The estimated cost to private sector schemes is approximately £38.4m in 2021/22, £50.8m in 2022/23 and £57.8m in 2023/24. The total estimated cost to private sector schemes over the three-year period is £146.9m.

12.4 The estimated cost to public sector schemes is approximately £12.7m in 2021/22, £21.4m in 2022/23 and £25.4m in 2023/24. The total estimated cost to public sector schemes over the three-year period is £59.5m.

13. Regulating small business

13.1 As explained above, this instrument is not a regulatory provision. However, the estimated cost of the increased levy to private sector schemes is discussed below.

13.2 The estimated cost of the increased levy to private sector schemes may cover some small and micro business where they operate a pension scheme. Assessing the impact of the regulations on this group is difficult, as it is not necessarily the case that small and micro pension schemes correspond to small and micro businesses. For example, many large firms may run executive pension plans with only a few members. Similarly, small employers may enter their staff in larger Master Trust schemes. As there is currently no robust evidence to link pension scheme size to employer size, it is difficult to accurately assess the impact on small and micro businesses.

14. Monitoring & review

14.1 In line with the DWP's overall approach to the stewardship of its Arm's Length Bodies, DWP scrutinises and approves the corporate and business plans and operating budgets of TPR, TPO and MaPS. These bodies must submit annual reports and accounts, which are scrutinised by the National Audit Office before the Secretary of

State lays them before Parliament. DWP will continue to review the levy rates on an annual basis.

15. Contact

15.1 Mark Aldridge at the Department for Work and Pensions can be contacted using the email address: GeneralLevy.Consultation2020@dwp.gov.uk with any queries regarding this instrument.

15.2 Jackie Oatway, Deputy Director for Private Pensions and Arm's Length Bodies Partnership, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister for Pensions and Financial Inclusion at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.