This draft Statutory Instrument supersedes the draft Occupational Pension Schemes (Levies) Regulations 2005 laid on 2nd February 2005 and is being issued free of charge to all known recipients of that earlier draft.
Draft Regulations laid before Parliament under section 316(2)(a), (c) and (g) of the Pensions Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

PENSIONS

The Occupational Pension Schemes (Levies) Regulations 2005

Made - - - -	*2005*
Coming into force - -	*1st April 2005*

Whereas a draft of this instrument was laid before Parliament in accordance with section 316(2)(a), (c) and (g) of the Pensions Act 2004(**1**) and approved by resolution of each House of Parliament;

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 117(1), (3) and (7)(a), 126(1)(b), 174(1), (2), 181(5), (8)(a), 189(11)(a), 209(7) and (8), 315(2), (4) and (5) and 318(1) of the Pensions Act 2004(**2**) and of all other powers enabling him in that behalf, having consulted the Board(**3**), and with the approval of the Treasury(**4**), by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of that Act by virtue of which it is made(**5**), hereby makes the following Regulations:

PART 1

PRELIMINARY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Levies) Regulations 2005.

(**1**) 2004 c. 35.
(**2**) Section 318(1) is cited because of the meaning given by that section to "prescribed" and "regulations".
(**3**) *See* section 117(4) of the Pensions Act 2004.
(**4**) *See* section 174(3) of the Pensions Act 2004.
(**5**) *See* section 317 of the Pensions Act 2004 which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations by virtue of the provisions of that Act (other than Part 8). This duty does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of that Act by virtue of which the regulations are made.

(2) These Regulations come into force on 1st April 2005.

(3) These Regulations extend to England and Wales and Scotland.

Interpretation

2. In these Regulations—

"the 1993 Act" means the Pension Schemes Act 1993(**6**);

"the 1995 Act" means the Pensions Act 1995(**7**);

"the 2004 Act" means the Pensions Act 2004;

"active member", in relation to a scheme, has the meaning given by section 318 of the 2004 Act (but subject to regulation 10(7));

"the administration levy" means the levy imposed under section 117 of the 2004 Act by regulation 4(1);

"deferred member" has the meaning given by section 124(1) of the 1995 Act (but subject to regulation 10(7));

"eligible scheme" has the meaning given by section 126 of the 2004 Act (but subject to regulations 15 to 18);

"financial year" means a period of 12 months ending with 31st March;

"the initial levy" means the levy imposed under section 174 of the 2004 Act by regulation 9;

"the initial period" means the period provided for by regulation 8;

"life member", in relation to a scheme, means a person who is an active member but whose service under the scheme is only pensionable service by virtue of qualifying him for death benefits;

"member", in relation to a scheme, has the meaning given by section 318 of the 2004 Act (but subject to regulations 5(6) and 11(4));

"the PPF Ombudsman levy" means the levy imposed under section 209(7) of the 2004 Act by regulation 4(2);

"pension credit member" has the meaning given by section 124(1) of the 1995 Act(**8**);

"pension credit rights" has the meaning given by section 124(1) of the 1995 Act;

"pension protection levy" means a levy imposed in accordance with section 175 of the 2004 Act;

"pensionable service" has the meaning given by section 124(1) of the 1995 Act;

"pensioner member" has the meaning given by section 124(1) of the 1995 Act(**9**);

"registrable scheme" has the meaning given by section 59(2) of the 2004 Act and regulations made under that section;

"scheme year", in relation to a scheme, means—

(a) a year specified for the purpose of the scheme in any document comprising the scheme or, if none, a period of 12 months beginning on 1st April or on such other date as the trustees or managers select; or

(**6**) 1993 c.48.
(**7**) 1995 c.26.
(**8**) The definitions of "pension credit member" and "pension credit rights" were inserted by paragraph 61 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30).
(**9**) A relevant amendment of section 124(1) was made by paragraph 69(2) of Schedule 12 to the Pensions Act 2004.

(b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers—

(i) in connection with the commencement or termination of the scheme; or

(ii) in connection with a variation of the date on which the year or period referred to in paragraph (a) is to begin.

PART 2

ADMINISTRATION AND PPF OMBUDSMAN LEVIES

Meaning of "the levies" in Part 2

3. In this Part "the levies" means the administration levy and the PPF Ombudsman levy.

Liability for the levies

4.—(1) The trustees or managers of each eligible scheme are liable to pay a levy ("the administration levy") to the Secretary of State in respect of the scheme for the purpose of meeting—

(a) expenditure of the Secretary of State relating to the establishment of the Board;

(b) any expenditure of the Secretary of State under section 116 of the 2004 Act.

(2) The trustees or managers of each eligible scheme are liable to pay a levy ("the PPF Ombudsman levy") to the Secretary of State in respect of the scheme for the purpose of meeting expenditure of the Secretary of State under section 209(6) of the 2004 Act.

(3) Subject to paragraph (4), the levies are payable in respect of each financial year.

(4) The PPF Ombudsman levy is not payable in respect of the financial year ending with 31st March 2006.

(5) The levies in respect of a financial year are payable on the first day of that year, unless paragraph (6) applies.

(6) If a scheme is not an eligible scheme on that day but becomes such a scheme during the financial year, the levies are payable on the day after that on which that year ends.

The reference day

5.—(1) The amount of each of the levies payable for a financial year ("the levy year") in respect of a scheme is calculated by reference to the number of the scheme's members on the reference day.

(2) In the case of a scheme established on or before 31st March 2005, for the levy years beginning on 1st April 2005 and 1st April 2006, the reference day is 31st March 2005.

(3) In the case of a scheme established on or after 1st April 2005, for the levy years beginning on 1st April 2005 and 1st April 2006, the reference day is the date on which the scheme becomes a registrable scheme.

(4) For a levy year beginning on or after 1st April 2007 the general rule is that the reference day for a scheme is the last day of the scheme year which ended before the beginning of the previous levy year.

(5) But if the scheme was established too late to have such a scheme year, the reference day is the date on which the scheme becomes a registrable scheme.

(6) In this regulation and regulation 6 "member", in relation to a scheme, does not include a life member of the scheme, unless he–

(a) is a pensioner or pension credit member of the scheme, or

(b) would be a deferred member if he were not an active member.

The amount payable

6.—(1) In the case of the administration levy, the amount payable for a financial year in respect of a scheme with the number of members on the reference day that is specified in column 1 of the table for that levy for that year is—

(a) the amount specified for such a scheme in column 2 of the table (where M is the number of the scheme's members on the reference day); or

(b) if no amount is so specified or an amount which is greater is specified for such a scheme in column 3 of the table, that amount.

(2) This is the table for the administration levy for the financial year ending with 31st March 2006—

Column 1 *Number of members on the reference day*	*Column 2* *Amount of levy calculated by reference to number of members (M)*	*Column 3* *Minimum amount of levy*
2 to 11		£24
12 to 99	£2.50 x M	
100 to 999	£1.80 x M	£250
1,000 to 4,999	£1.40 x M	£1,800
5,000 to 9,999	£1. 06 x M	£7,000
10,000 or more	£0.74 x M	£10,600

(3) If, in any case where the reference day is determined in accordance with regulation 5(2) (31st March 2005), the number of members of the scheme on that day differs from the number according to the register compiled and maintained under regulations made under section 6 of the 1993 Act, the number according to that register is to be taken as the number on that day for the purposes of these Regulations.

(4) For schemes that are eligible schemes for only part of the financial year, see regulation 7.

Schemes eligible for only part of the financial year

7.—(1) This regulation applies if a scheme that is not an eligible scheme at the beginning of a financial year becomes such a scheme during that year.

(2) The amount of each of the levies payable in respect of the scheme for that year is such proportion of the full amount so payable as the period beginning with the date on which it becomes such a scheme and ending with the financial year bears to the whole financial year.

PART 3

THE INITIAL LEVY

The initial period

8. For the purposes of section 174(1) of the 2004 Act the period for which the initial levy is imposed begins with 6th April 2005; and accordingly the initial period begins with that date and ends with 31st March 2006.

Liability for the initial levy

9.—(1) The trustees or managers of each eligible scheme are liable to pay the initial levy to the Board in respect of the scheme for the initial period.

(2) The initial levy is payable on 6th April 2005.

(3) Paragraph (2) is subject to paragraphs (4) to (7).

(4) If the amount of the initial levy in respect of a scheme is not notified under section 181(3)(c) of the 2004 Act to the person liable to pay it before the day on which it would (apart from this paragraph) be payable, the levy is payable within the period of 28 days beginning with the date on which the notification is given or, if earlier, on 31st March 2006.

(5) If, on an application to the Board by trustees or managers who are liable to pay the initial levy to the Board in respect of a scheme, the Board considers that it is appropriate to do so in view of any exceptional circumstances that apply in relation to the scheme, it may agree to accept payment of the initial levy by instalments and, if it does so—

(a) the first instalment is payable as mentioned in paragraph (2) or, as the case may be, paragraph (4); and

(b) any subsequent instalment is payable at such later time or times during the initial period as are notified under section 181(3)(c) of the 2004 Act to the person liable to pay the levy.

(6) If the Board requires the Regulator to discharge its functions under section 181(3)(c) on the Board's behalf, the reference to the Board in paragraph (5) is to be taken as a reference to the Regulator.

(7) If—

(a) on 6th April 2005 a scheme is not an eligible scheme; but

(b) it becomes such a scheme during the initial period,

then, subject to paragraphs (4) and (5), the initial levy in respect of the scheme is payable on 31st March 2006.

The amount of the initial levy

10.—(1) The amount of the initial levy payable in respect of a scheme is calculated by reference to the number of persons appearing to the Board or, if the Board requires the Regulator to discharge its functions under section 181(3)(b) on the Board's behalf, to the Regulator, to fall within paragraphs (3), (4) and (5) on the reference day.

(2) In paragraph (1) "the reference day" means—

(a) in the case of a scheme that was established on or before 31st March 2005, that day; and

(b) otherwise, the date on which the scheme becomes a registrable scheme.

(3) For each active member of the scheme, £15 is payable.

(4) For—