EXPLANATORY MEMORANDUM TO

THE POLICE PENSIONS (AMENDMENT) REGULATIONS

2008 No. 1887

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This instrument amends existing Regulations which deal with police officer pensions and retirement benefits. It sets out a new scheme of ages at which police officers can be compulsorily retired, and ensures that a specific group of officers who transferred to the Serious Organised Crime Agency (SOCA) at the time of its creation on 1st April 2006 retain their membership of the Police Pension Scheme 1987. The instrument also amends the employer contribution rate payable by police authorities in respect of officers who are members of the police pension schemes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument corrects an occurrence of defective drafting noted in the Ninth Report of Session 2006-07 of the Joint Committee on Statutory Instruments. The error, in Statutory Instrument No. 2006/3415, is corrected by regulation 42 of this instrument.

3.2 The instrument has effect from 1st April 2006, save as set out in regulation 1(3) of the instrument. In particular, the changes relating to the new scheme of compulsory retirement ages have effect from 1st October 2006 and the new employer contribution rate has effect from 1st April 2008. Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976.

4. Legislative Background

4.1 The instrument is made in response to two pieces of legislation. Firstly, it is a response to the Employment Equality (Age) Regulations 2006, which make it unlawful for an employer to discriminate against an employee by dismissing him/her on the grounds of age. These Regulations establish a default retirement age of 65 for employees, but this does not apply to police officers and other office holders. The compulsory retirement ages that apply to police officers needed to be reviewed for compliance with the new Regulations on age discrimination. This review concluded that compulsory retirement ages for the police needed to be kept but that they should be revised. This instrument sets out these revised ages. Secondly, this instrument provides for certain police officers who transferred to SOCA on its creation by the Serious Organised Crime and Police Act 2005 to remain members of the Police Pension Scheme

1987. The employer contribution rate is also being amended from 24.6% to 24.2% as a result of an actuarial assessment of the police pension schemes.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Police Pensions Act 1976, under which this instrument is made, provides for regulations to be made for the pension arrangements of members of the Police Service of England and Wales.

7.2 This instrument relates to compulsory retirement on the grounds of age. Compulsory retirement ages (CRAs) give management the facility to retire all officers on the grounds of age, so as to maintain an effective police service. The pre-October 2006 compulsory retirement ages (55 for the ranks of Constable and Sergeant, 60 for the ranks of Inspector, Chief Inspector, Superintendent and Chief Superintendent and 65 for more senior ranks, with different ages applying to the Metropolitan Police Force) had been in place for over 50 years, and the advent of the Employment Equality (Age) Regulations 2006 led to a review of these ages. The new CRAs have been established in the light of advances in health and life expectancy, and a commitment to encourage diversity within the service by enabling late starters to build up a full pension before compulsory retirement. These factors were balanced against the fact that the role of a Police Constable is expected to become increasingly confrontational in the future, so that too late a compulsory retirement age may not suit the demands of the job. As a result, the following new compulsory retirement ages have been set, with effect from 1 October 2006:

- 60 for Constable to Chief Inspector;
- 65 for ranks of Superintendent and above.

7.3 The instrument does not abolish the pre-October 2006 compulsory retirement ages altogether since they have been retained in the form of new pension ages for officers in specific circumstances. In particular the instrument enables officers with less than 25 years' service to retire voluntarily with a short-service pension at the point they would previously have expected to be compulsorily retired with such a pension on the grounds of age. The instrument also enables officers with 25 or more years' service but less than 30 years' service to have access to the same higher pension lump sum if they retire voluntarily at the point at which they would previously have been required to retire on age grounds.

7.4 The instrument also makes changes to the Police Pensions Regulations 1987 and the Police Pensions (Purchase of Increased Benefits) Regulations 1987 which are consequential on the new scheme of CRAs.

7.5 The second broad policy change preserves the pension rights of a discrete group of under 1200 police officers who automatically transferred from the National Crime Squad and the National Criminal Intelligence Service to SOCA at its inception on 1 April 2006. In the instrument, this group is referred to collectively as “specified employees of SOCA”. These officers were given the right to retain their membership of the Police Pension Scheme 1987 (PPS) upon joining SOCA, whereas any subsequent transferees to SOCA have to leave the PPS and join the Principal Civil Service Pension Scheme (PCSPS). The provisions also enable specified employees of SOCA to transfer back to a police force whilst retaining membership of the PPS, rather than having to join the New Police Pension Scheme 2006 (NPPS), and therefore to retain their ability to retire with an immediate pension after 30 years under PPS. Changes have also been made to the Police Pension Regulations 2006 to enable a specified employee of SOCA to join NPPS, having made an election to transfer from the PPS, and also to allow for the possibility that an specified employee could retire from SOCA and then re-join the police service and become a member of NPPS, as the PPS is now closed to new entrants.

7.6 The instrument also ensures that specified employees of SOCA remain within the scope of the Police (Injury Benefit) Regulations 2006, in case of death or permanent disablement caused by an injury sustained in the course of duty.

7.7 Changes are also made to the Police Pension Fund Regulations 2007 to ensure that, in relation to the specified employees, SOCA fulfil the same obligations as a police authority with regard to the pension financing arrangements, i.e. the administration of a ring fenced pension account, the payment of employer contributions into this account and the payment of pensions out of this account.

7.8 The third broad change relates to the new police pension financing arrangements introduced on 1 April 2006. Whereas previously police authorities had to meet the cost of pensions in payment on a pay-as-you go basis, they are now only responsible for the payment of an employer contribution for each officer, whilst a central Home Office top-up grant will cover any deficits, or recoup any surplus, that the authority incurs each year. The employer contribution has been reduced from 24.6% of pensionable pay to 24.2%, as of 1 April 2008. This is the result of an actuarial assessment of the police pension schemes, as part of the system of regular three yearly actuarial valuations, and is based on the rising number of officers in the less expensive NPPS. It demonstrates the advantage of the new financing system in allowing forces to feel the benefit of this less expensive scheme much quicker than under the pay-as-you-go system.

7.9 In accordance with the provisions of section 1 of the Police Pensions Act 1976, this instrument was sent in draft to the Police Negotiating Board (PNB) for consultation. This instrument is the result of very extensive discussion over a period of two years and full account has been taken of comments received from both the Official and the Staff Sides of the PNB, and from the Public and Commercial Services Union (the trade union for employees of SOCA). The PNB and PCS both agreed with the policy underlying the regulations and both offered comments on the drafting of the regulations.

7.10 The level of public interest in the introduction of these amendments is low. The consultation process described in 7.9 above included police groups represented on the PNB (e.g. the Police Federation and the Association of Chief Police Officers). HM Treasury and Government Actuary’s Department were also consulted. There was no public consultation process, and little media coverage. No further media coverage is expected, given the retrospective nature of the instrument's implementation.

7.11 This instrument is being laid with retrospective effect, as the arrangements for specified employees of SOCA were introduced administratively on 1 April 2006, and those for the new CRAs on 1 October 2006. The new employer contribution rate has been introduced with effect from 1 April 2008. Guidance in the form of Home Office Circulars has been issued to police authorities, the National Policing Improvement Agency and SOCA covering all these changes. The circulars have also been placed on the Home Office Police Pensions and Retirement Policy external website for download.

8. Impact

8.1 An Impact Assessment (IA) has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. An IA is not necessary to assess the impact of the reduction in employer contribution rate on the public sector, as this arose from a regular review by the scheme actuary and had to be implemented in order to meet the changing needs and membership of the police pension schemes.

8.2 The impact of the instrument on the public sector is as follows.

- When the new CRAs were introduced administratively, there was an initial increased workload for pension administrators in police authorities, as individual officers nearing either the "old" or the "new" CRA had to be notified of the effect of the changes, and the retirement options now available to them. This exercise has now been largely completed, and the new CRAs should aid retention, and provide police forces with more flexibility in maintaining operational resilience.
- Providing for specified employees of SOCA to remain within PPS requires SOCA to set up and administer a ring fenced pension account, and to provide employer contributions. This is for a finite number of officers, and does not extend to the entire employee body of SOCA. As such the impact on the public sector is limited.
- The reduction in the employer contribution rate is expected to result in a saving to police authorities of approximately £15m per year. These savings will be retained by police authorities to use as they and their forces see fit.

9. Contact

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