

EXPLANATORY MEMORANDUM TO
THE POLICE PENSIONS (AMENDMENT NO. 2) REGULATIONS 2012
2012 No. 2811

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

2. **Purpose of the instrument**

2.1 This instrument amends the regulations governing pensions for police officers in order to implement certain recommendations in the Independent Review of Police Officer and Staff Remuneration and Conditions: Part 1 Report (“the Part 1 Report”) in relation to the factors to be taken into account when considering whether a police officer should be required to retire on grounds of efficiency, and early access to pension benefits by senior police officers.

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

3.1 None

4. **Legislative Context**

4.1 Under section 1 of the Police Pensions Act 1976, the Home Secretary has the power to make regulations in relation to pensions for police officers in England and Wales. Two pension schemes have been created using regulations made under section 1. The “old” police pension scheme is governed by the Police Pensions Regulations 1987 (“the 1987 Regulations”), and the “new” police pension scheme by the Police Pensions Regulations 2006 (“the 2006 Regulations”). On the coming into force of the 2006 Regulations, members of the old scheme were given the opportunity to transfer to the new one, and the old scheme was effectively closed to new members, with recruits to the police service being given the opportunity to join the new scheme only.

4.2 Regulation A19 of the 1987 Regulations allows a police pension authority to require a police officer who is eligible for a full pension to retire if the retention of the officer in the police force would not be in the general interests of efficiency. Regulation 20 of the 2006 Regulations makes similar provision for the “new” scheme. At present neither regulation sets out matters that a police pension authority should take into account in deciding whether to exercise the power of compulsory retirement.

4.3 Regulation B1(5) of the 1987 Regulations provides for a police officer who retires in the circumstances set out in the other provisions of regulation B1 to receive an ordinary pension. However, if the officer has less than 30 years’ reckonable service, the pension is not to be paid until the officer reaches

the age of 50. Currently there is no provision for a police officer to defer receipt of an ordinary pension.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

- *What is being done and why*

7.1 This instrument brings into effect changes that the Home Secretary announced in a Written Ministerial Statement on 30 January 2012 in relation to Part 1 of Tom Winsor's Independent Review of Police Officer and Staff Remuneration and Conditions. The Review was asked to make recommendations on providing pay and conditions that are fair to officers and staff and to the taxpayer, support forces in maximising deployment to the frontline, and enable modern management practices.

7.2 The Part 1 Report, on short-term improvements, was published on 8 March 2011 and recommendations were referred to the police negotiating machinery to consider. The Home Secretary announced on 30 January 2012 that she was accepting the recommendations of the Police Negotiating Board on police officers' pay and conditions. Changes to the regulations governing police officers' pensions are needed to implement certain recommendations.

7.3 Regulation 3 of this instrument implements recommendation 57 of the Part 1 report. This stated that the criteria for the use of the power in regulation A19 of the 1987 Regulations should be amended, with service-critical skills and performance being explicit considerations. Although the recommendation referred only to regulation A19 of the 1987 Regulations, an identical amendment has been made to the corresponding regulation in the 2006 Regulations, regulation 20.

7.4 Regulation 4 of this instrument implements recommendation 55 of the Part 1 Report. This stated that the 1987 Regulations should be amended to allow chief officers to make a choice in relation to the time at which their pension benefits crystallise. Most police officers have a protected pension age of 50, and can therefore receive pension benefits from that age without the benefits being classed as unauthorised payments for tax purposes and incurring charges. However, there are some senior officers who, due to their career history and the operation of the legislation on police fixed term appointments, are subject to the normal minimum pension age of 55. The intention of the recommendation is to allow these senior officers to elect to

defer receipt of their pensions until they reach the normal minimum pension age, thus avoiding the tax charges that would otherwise arise.

- ***Consolidation***

7.5 These Regulations make only limited amendments to the Police Pensions Regulations 1987 and 2006. Accordingly this is not regarded as a suitable opportunity to consolidate these and other amendments that have been made to those Regulations.

8. Consultation outcome

8.1 A draft of these Regulations were supplied to the Police Negotiating Board as part of the consultation process. The comments received from the Police Negotiating Board have been taken into consideration and some changes have been made to the draft as a result.

9. Guidance

9.1 The Regulations are intended to be self-explanatory to the lay reader, and no guidance will be issued.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is that these regulations affect changes to police officer conditions of service.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Police Pensions Regulations 1987 and 2006 make extensive provision about the pensions and retirement provisions of police officers in England and Wales, and the effective operation of the Regulations is the subject of ongoing attention by the Home Office.

13. Contact

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Neil.Pattinson@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.