

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE PENSIONS (CONTRIBUTIONS AND ADDITIONAL VOLUNTARY**  
**CONTRIBUTIONS PROVIDER) (AMENDMENT) (ENGLAND AND WALES)**  
**REGULATIONS 2020**

**2020 No. 188**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument makes two sets of changes in relation to pensions for police officers in England and Wales. Firstly, it amends the end date in the Police Pensions Regulations 2015 to allow member contributions to continue to be lawfully collected for the next three years (until 31 March 2023). Secondly, it amends the Police Pensions (Additional Voluntary Contributions) Regulations 1991 to include Utmost Life as an approved provider, replacing the previous provider, Equitable Life.

**3. Matters of special interest to Parliament**

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

- 3.1 The amendments relating to Additional Voluntary Contributions (AVC) will have retrospective effect from 1 January 2020. Retrospective effect is permitted by section 1 (5) of the Police Pensions Act 1976. The amendments in respect of member contribution rates have effect from 1 April 2020.

*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 extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

- 6.1 There are two sets of regulations affected by this instrument. These are:

- The Police Pensions Regulations 2015 made under section 3 of the Public Service Pensions Act 2013 (“the 2015 Regulations”).
- The Police Pensions (Additional Voluntary Contributions) Regulations 1991 made under sections 1 to 7 of the Police Pensions Act 1976 (“the 1991 Regulations”).

## 7. Policy background

### *What is being done and why*

#### Police Member Contributions

- 7.1 The existing member contribution rates, set out in the 2015 Regulations, expire on 31 March 2020. The expiry date therefore needs to be extended to ensure that police forces can continue to lawfully collect contributions from scheme members and that the 2015 scheme continues to be adequately funded. The value of member contributions to the 2015 pension scheme is estimated to be circa £41 million per month. Members currently pay an effective rate of 12.44% (if their salary is equal to or below £27,000), 13.44% (if above £27,000 but less than £60,000) and 13.78% (if equal to or above £60,000). The Home Office does not propose any change to the rates themselves.
- 7.2 In 2019, the Home Office extended the previously applicable member contribution rates for a one-year period (1 April 2019 to 31 March 2020) as the outcome of the valuation of the scheme was not known at that time to enable the rate to be fixed for a longer term. Valuations of public service pension schemes are carried out every four years, in accordance with directions set by HM Treasury. The most recent valuation assessed the value of the scheme as at 31 March 2016. The purpose of the valuation is to assess the size of liabilities already accrued and those that will be accrued in the future, so that the rate of member and employer contributions can be correctly determined.
- 7.3 In January 2019, the Chief Secretary to the Treasury announced in a Written Ministerial Statement (HCWS1286) that an aspect of the valuation process (the cost cap mechanism) would be paused given the potentially significant but uncertain impact of the Court of Appeal judgment in the cases of McCloud and Sargeant.
- 7.4 Given the continuing uncertainty about the value of schemes noted above, the Home Office proposes to extend the current member contribution rates for the Police Pension Scheme 2015 for a three-year period, to run from 1 April 2020 until 31 March 2023 in order to create a legislative basis for collecting member contributions and for the end date to align with the current valuation cycle ending in 2023. This amendment will ensure stability regarding the funding of police pensions.

#### Additional Voluntary Contributions

- 7.5 In line with most other public service pension schemes, police officers were provided with access to an Additional Voluntary Contribution scheme (AVC) from 6 April 1990 in order to supplement their occupational pension scheme.
- 7.6 The 1991 Regulations provide for two approved AVC providers, one of which is Equitable Life. In 2019, Equitable Life Assurance Society (Equitable Life), proposed a transfer of its AVC policies to Utmost Life and Pensions Limited (Utmost Life). The transfer was subject to a successful vote by scheme policy holders and approval by the High Court.

- 7.7 On 22 November 2019, the High Court approved the transfer of AVC business from Equitable Life to Utmost Life. The implementation date of the scheme transfer set by the High Court was 1 January 2020. In response to the High Court judgment of the scheme transfer, the Home Office must amend Regulation 2 of the 1991 Regulations to include Utmost Life in the list of ‘approved AVC providers’.
- 7.8 Amendments to the 1991 Regulations could only commence once the High Court ruled on the application for the transfer of schemes, and so this change to the 1991 Regulations will be made with retrospective effect and it will apply to police AVC scheme members from 1 January 2020.

## **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.

## **9. Consolidation**

- 9.1 This instrument makes reasonably limited amendments to the Regulations listed at paragraph 6 above and this is not considered to be a suitable opportunity to consolidate these amendments with all other amendments made to those Regulations.

## **10. Consultation outcome**

### Member contribution rates

- 10.1 As the member contribution rate is a protected element under section 22 of the Public Service Pensions Act 2013, the Home Office has an obligation to consult with the representatives of those who will be affected by these changes with a view to reaching an agreement on any amendment.
- 10.2 The regulations were subject to consultation with the Police Pensions Scheme Advisory Board (SAB).
- 10.3 The consultation commenced on 15 January 2020 and ended on 12 February 2020. A total of seven responses were received, in the form of a joint response from the seven UK police staff associations.
- 10.4 Members did not raise any technical issues on the proposed draft regulations.
- 10.5 Police staff associations collectively responded to the consultation on 10 February 2020. They objected to a proposed extension of the rates by three years on the basis that the change could lead to members of the 2015 scheme continuing to pay existing rates but not receiving the improvements to the scheme that the provisional scheme valuation results indicated would be likely. As the staff associations’ response was provided at a late stage of the consultation, with no alternative proposals suggested, there was limited opportunity for consensus to be reached in time to lay the regulations. The SAB were informed of the proposed amendments through a period of informal consultation and discussion beginning in November 2019.
- 10.6 The Minister has concluded that, despite agreement not being reached, the most appropriate course of action is to extend the existing contribution rates as the pause to the cost cap mechanism remains in place. As the uncertainty about pension entitlements arising from the McCloud litigation has not yet been resolved, the value of the schemes to members cannot currently be assessed with certainty. Until that

uncertainty is resolved, it is pragmatic and reasonable to extend the existing member contribution rates.

#### Additional Voluntary Contributions

- 10.7 The Home Office sought views from the Police Pensions Scheme Advisory Board (SAB) on proposed amendments to the 1991 Additional Voluntary Contributions Regulations to include Utmost Life and Pensions Limited (Utmost Life) as an approved additional voluntary contributions (AVC) provider replacing the previous provider, Equitable Life Assurance Society (Equitable Life). Eight responses were received, including a joint response from the seven UK police staff associations.
- 10.8 Members did not raise any technical issues on the proposed draft regulations.
- 10.9 One consultee agreed with the proposed change to the 1991 AVC Regulations in respect of the AVC provider.
- 10.10 The Police staff associations raised whether it was possible, as an alternative, for members with such AVCs to transfer them into their respective police pension schemes to purchase additional benefits. The Home Office has clarified that it is not legally possible to transfer benefits from separate schemes where accrual in the scheme was completed concurrently.

### **11. Guidance**

- 11.1 No Home Office guidance is to be issued on this instrument.

### **12. Impact**

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the private sector.
- 12.3 An Impact Assessment has not been prepared for this instrument, as it relates only to the police pension schemes and no significant impact on business, charities or voluntary bodies is foreseen.

### **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

### **14. Monitoring & review**

- 14.1 Outside of the valuation process described above, there are no proposals to actively monitor or review the outcome of the changes made by this Statutory Instrument.
- 14.2 The regulation does not include a statutory review clause.

### **15. Contact**

- 15.1 Wadha Salah at the Home Office; telephone 0207 035 1108 or email [wadha.salah@homeoffice.gov.uk](mailto:wadha.salah@homeoffice.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Peter Spreadbury, Head of Unit for the Police Workforce and Professionalism Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kit Malthouse, Minister of State for Crime and Policing at the Home Office can confirm that this Explanatory Memorandum meets the required standard.