EXPLANATORY MEMORANDUM TO

THE POLICE PENSIONS (EMPLOYER CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2024

2024 No. 920

1. Introduction

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

2. Declaration

2.1 Dame Diana Johnson, Minister for Policing, Fire and Crime Prevention at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Peter Spreadbury, Deputy Director for the Police Workforce and Professionalism Unit at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sara Alderman at the Home Office, Telephone: 07909 890002 or email: sara.alderman@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The police pension scheme's recent valuation found that the employer contribution rate should be increased. These Regulations will allow the rates in the formal actuarial valuations to apply without further need for legislation as is the current position. Specifically, they allow the employer contribution for pensions payable in respect of police officers in England and Wales to be determined by the Secretary of State on advice from the scheme actuary. It is important that the scheme collects contributions at the correct rate as otherwise it would create a cashflow pressure for taxpayers.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why? What was the previous policy, how is this different?

5.1 From 1 April 2024, the employer contribution rate for the pension scheme that applies to police officers in England and Wales, as assessed in its recent actuarial valuation[1], was increased from 31% to 35.3%. The size of the percentage change is also the direct result of the routine valuation process, which is described further below.

5.2 The scheme is subject to actuarial valuation every four years. The purpose of that valuation is to assess the size of liabilities already accrued and those that will be accrued in the future, so that total contributions (from employers and employees) can be set at a level to reflect these rights. It is important to note that the police scheme is 'unfunded', meaning it holds no assets. A simple explanation of what this means in practice is that the pensions that are being paid now are being funded by the contributions that are being made now.

5.3 Regulation 197 of the Police Pensions Regulations 2015 describes how the scheme actuary is to be appointed and actuarial valuations must be done. This regulation requires that valuations are undertaken in accordance with HM Treasury directions under section 11 of the Public Service Pensions Act 2013. The directions prescribe certain assumptions that must be used in the calculations. The result of the valuation is a new employer contribution rate for the scheme in question; this rate is valid until the next valuation comes into effect.

5.4 The increase in employer contributions to 35.3% means an increase in pension costs to police forces, although additional funding has been provided to mitigate the impact of this increase (see the Written Ministerial Statement: https://questions-statements.parliament.uk/written-statements/detail/2023-12-14/hcws132). Though at the higher end of the range, these employer contribution levels are broadly in line with the rates paid for other public service and civil service pension schemes. The then Minister for Crime, Policing and Fire wrote to Police and Crime Commissioners and Chief Constables in March 2024 to request that they pay the 35.3% rate with effect from 1 April 2024. In effect, PCCs and Chief Constables have implemented the change administratively in anticipation of the Regulations.

5.5 As the employer contribution rate is written into the regulations governing the police pension schemes, any change therefore needs to be reflected in those regulations. While the simplest amendment would be to update the percentage in the regulations to 35.3%, we are changing the approach in the drafting of the regulations to allow the Secretary of State to set the employer contribution rate, after taking advice from the scheme actuary. This will have the same result, because the advice from the scheme actuary (i.e. the valuation report) is that the rate should be 35.3%. This change will also future proof the scheme regulations, so future changes in the employer contribution rate, as assessed by the scheme actuary, will not require a change in regulations.

5.6 These amendments will mirror the set up on employer contributions in the Firefighters' Pension Scheme regulations, as the police are most similar to fire and rescue authorities in terms of the administrative and governance arrangements around pensions. Other public service pension schemes (e.g. those for teachers and civil servants) also have similar rules to allow the employer contribution rate to be set by the Secretary of State further to advice from the scheme actuary. The scheme

[1] https://www.gov.uk/government/publications/2020-valuation-police-pension-schemes-england-and-wales

valuation reports (which is the advice from the scheme actuary that contains the employer contribution rate) are published online (see footnote 1) by the scheme actuary.

6. Legislative and Legal Context

How has the law changed?

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

- The Police Pension Fund Regulations 2007 ("the 2007 Regulations"), which make provision, amongst other things, for the payment into a pension fund of contributions payable by employers towards pensions.
- The Police Pensions Regulations 2015 ("the 2015 Regulations"), made under section 3 of the Public Service Pensions Act 2013.

6.2 Previously, these regulations specified a rate for employer contributions; going forward, the 2015 regulations will allow the rates in the formal actuarial valuations to apply without further need for legislation. Since April 2022, the 2015 Regulations constitute the only scheme ("the 2015 scheme") that can be contributed to by active members, so the 2015 scheme is the only scheme that is affected by this change in contribution rates.

6.3 The 2007 regulations are amended by removing specific provision about the rate in those regulations.

Why was this approach taken to change the law?

6.4 This approach was taken as it avoids having to make regulations every time there is a valuation and it mirrors practice elsewhere in the public sector for implementing employer contribution rate valuation outcomes. The Firefighters' Pension Scheme regulations were closely followed as the arrangements around scheme governance and administration are almost identical for the Police Pension Scheme.

7. Consultation

Summary of consultation outcome and methodology

7.1 Under section 1(1) of the 1976 Act, the Secretary of State is required to consult the Police Advisory Board of England and Wales (PABEW) before making these regulations, and under section 1 (1ZB) of the 1976 Act the Secretary of State must invite the views of the Northern Ireland Policing Board and the Police Association of Northern Ireland.

7.2 Under section 21 of the Public Services Pensions Act 2013 the Secretary of State is required to consult those likely to be affected – this is achieved through consulting the PABEW.

7.3 As the nature of the issue was very limited, specific and technical, the consultation was just with the stakeholders set out above. Therefore, the consultation was not published and there will not be a formal response document.

7.4 Consultees did not raise any issues on the proposed draft regulations. It was noted that the regulations adequately allow for the practical application of the scheme valuation to the employer contributions. One response to the consultation was received, this was from the National Police Chiefs' Council, who were supportive of the change in approach.

7.5 We have slightly changed the drafting approach to amending the 2007 regulations from that in the draft version of the regulations shared with the consultation. This removes specific provision about the rate in those regulations, which is no longer needed as the 2015 regulations have provisions about the rate. The overall policy approach set out above is not affected and this drafting approach removes unnecessary duplication of the rates.

8. Applicable Guidance

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

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it can only affect police forces and therefore has no impact on businesses. While the impact is a direct cost for police forces in their role as "employers" of police officers, additional funding has been provided to mitigate this.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this change only applies in the public sector.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this change only applies to police forces who have already received funding for the associated increase in employer contributions.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Outside of the valuation process described above, there are no proposals to actively monitor or review the outcome of the changes made by this instrument.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").