

EXPLANATORY MEMORANDUM

The PSNI Pensions (Amendment) Regulations 2004

2004 No.384

**This explanatory memorandum is laid before Parliament
by Command of Her Majesty**

**This memorandum contains information for House of Lords Select Committee
on the Merits of Statutory Instruments**

Department responsible: Northern Ireland Office

1. This instrument will, subject to annulment in pursuance of a resolution of either House, come into operation on 1st October 2004 and make revisions to the Royal Ulster Constabulary Pensions Regulations 1988 (S.R. 1988/374). The revisions relate to new arrangements for a health standard applied to those seeking appointment to membership of a police force, under which those with an identified risk of ill-health retirement which would lead to disproportionately high pensions costs are excluded from the ill-health benefits of the Police [Service of Northern Ireland] Pension Scheme.

Legislative Background:

2. The instrument is made under section 25 of the Police (Northern Ireland) Act 1998 as amended.

Extent:

3. The instrument applies to Northern Ireland.

European Convention on Human Rights:

4. In the view of the Secretary of State for Northern Ireland, the Rt Hon Paul Murphy MP the provisions of the instrument are compatible with the Convention Rights.

Policy background:

5. In October 2004 the Police Service of Northern Ireland will be brought further within the scope of the Disability Discrimination Act 1995 (DDA). Council Directive 2000/78/EC established a general framework for equal treatment in employment and occupation. The DDA will apply to the medical standards on entry into the police service. While those who are unable to meet the fitness criteria at the time of application may still be refused entry to the service, there will be others, eg with progressive conditions, who are fit for immediate service

but whose risk of later ill-health retirement makes their likely pensions costs significantly higher than those without an identified risk of such retirement. The regulations provide a means of allowing such applicants to join the PSNI Pension Scheme without imposing a disproportionate burden on it.

6. Regulation 2(1) to (4) specifies the ill-health pension benefits payable from which an officer is to be excluded where his or her pension costs are assessed as likely to be disproportionately high due to a risk of medical retirement.
7. Regulation 2(5) provides for the pension contributions of an officer excluded from ill-health benefits to be reduced from 11% to 7.5% of pensionable pay.
8. Regulation 2(6) provides that the officers who have opted out of the Police Pension Scheme cannot be debarred from re-joining the scheme on ill-health grounds but are liable to be excluded from its ill-health benefits in the same way as applicants to join the service.
9. Regulation 2(7) inserts a new Regulation G7 in the RUC Pensions Regulations 1988. Paragraphs (1) to (5) of new G7 provide for applicants to the police, those seeking to re-join after a break in service, and those applying to re-join the scheme after opting out to be examined by a medical practitioner selected by the Chief Constable (selected medical practitioner – SMP) in order to assess whether there is a significantly increased risk of the applicant becoming permanently disabled for police duties. The SMP will report his or her decision to the Chief Constable who will then use the report issued by the SMP in conjunction with reference tables produced by the Government Actuary's Department (GAD) to determine whether the applicant is eligible to be admitted to the full benefits of the Police Pension Scheme, or would have to be excluded from the ill-health benefits of the scheme on the ground that his or her pension costs, are likely to be disproportionately high, which is defined as being more than 50% greater than the costs of a person with no identified risk of medical retirement.
10. Paragraphs (6) to (12) of G7 lay down an appeal procedure. An appeal must be in the form of evidence that a medical practitioner has examined the applicant and disagrees with the SMP's opinion. If the SMP's review of the medical evidence produced by the applicant results in the applicant gaining access to ill-health benefits, no further appeal action is necessary. In any other case the Chief Constable will arrange for a third medical practitioner to examine the applicant. The Chief Constable will then use the third medical practitioner's report in conjunction with the GAD reference tables to determine afresh whether the applicant is eligible for ill-health benefits.
11. Regulation 3 provides for amendments to the RUC Pensions (Purchase of Increased Benefits) Regulations 1988 to ensure that the added years of benefits bought by officers excluded from ill-health benefits are paid at a suitably reduced level of contributions and to exclude automatic credit of the amount of added benefits being purchased in the event of medical retirement.

Consultation:

12. In accordance with the provisions of section 62(3) of the Police Act 1996 this instrument was sent in draft to the Police Negotiating Board for consultation and under section 25(8) of the Police (Northern Ireland) Act 1998 to the Northern Ireland Policing Board and the Police Association of Northern Ireland.

Impact:

13. No Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen. The effect of the instrument is to protect public sector resources.

Contact:

14. Further information on this instrument can be obtained from:

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