EXPLANATORY MEMORANDUM TO

THE EUROPEAN PARLIAMENTARY (UNITED KINGDOM REPRESENTATIVES) PENSIONS (AMENDMENT) ORDER 2006

2006 No. 919

1. This explanatory memorandum has been prepared by the Cabinet 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 the European Parliament (UK Representatives) Pension ("EP(UKR)PS") scheme and its Additional Voluntary Contributions ("AVC") scheme, which provide pension for United Kingdom Representatives to the European Parliament ("UK MEPs"). It makes the two schemes compatible with the tax simplification related requirements of the Finance Act 2004 and incorporates some of the new flexibilities that the Act offers. The changes are in line with those also being made to the Parliamentary Contributory Pension Fund ("PCPF") scheme, which the EP(UKR)PS closely mirrors.

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

3.1. This SI is being laid for less that the normal 21 days. As the EP(UKR)PS scheme closely mirrors the PCPF scheme, it has not been possible to lay this order sooner due to the additional time it has taken to address concerns raised during the PCPF scheme's consultation process by its Trustees and individual scheme members. In particular, these concerns related to the treatment of members over 75, on whom the Finance Act 2004 has significant impact. The Leader of the House of Commons has, where possible, taken steps to address these concerns in both the PCPF and the EP(UKR)PS schemes, taking account of the draft of the Finance Bill 2006 which was published on 16 March 2006.

3.2. This order comes into force on 6 April 2006. This is necessary to ensure that the provisions are in place when the new tax regime in the Finance Act 2004 comes into force.

4. Legislative Background

4.1. The European Parliament (Pay and Pensions) Act 1979 ("the Act") confers powers to make provision for pensions payable to UK MEPs. These powers are now vested in the Leader of the House of Commons (see the Transfer of Functions (European Parliamentary Pay and Pensions) Order 2003). Such provision has been made via the European Parliament (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994, as amended from time to time.

4.2. The Leader of the House of Commons, in exercise of the powers conferred by section 4(1) and (3) of the Act, and now vested in him, is now making further amendments to the EP(UKR)PS scheme.

5. Extent

5.1. This instrument applies to all of the United Kingdom.

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 tax treatment of pensions is changing from 6 April 2006 due to changes made under the Finance Act 2004. The new tax regime will apply to the EP(UKR)PS scheme in the same way it applies to other pension schemes. Cabinet Office has worked with the Government Actuary's Department ("GAD"), HM Treasury and the Managers of the EP(UKR)PS scheme to come up with a suitable package of changes. These changes follow what has been agreed for the PCPF scheme, which the EP(UKR)PS scheme closely mirrors.

7.2. The package, which GAD has advised is cost neutral, consists of changes which fall into two broad categories. First, changes which are essential to avoid the scheme making "unauthorised payments" under the new tax regime. Second, changes which provide members with increased flexibility on contributing to the schemes or on the form and level of the benefits they take, whilst ensuring that the risk of increased costs to the Exchequer is contained within reasonable bounds.

7.3. Aside from the more minor technical changes, the main parts of the package are:

- Measures to ensure compliance with the Finance Act 2004, including: removing the regulation that currently abates members' pensions if they stand as a candidate for election (article 4); restricting dependents' pensions in certain circumstances where the member was over 75 when they died (article 6); amending the EP(UKR)PS scheme's definition of "incapacity" for the purpose of ill-health pensions (article 9); and enabling the EP(UKR)PS scheme to pay certain tax charges (articles 10 and 20).

- Changes to the EP(UKR)PS scheme's added years arrangements. These ensure the arrangement provides a worthwhile facility to those who may only serve for a relatively short period of time and may not have built up significant pension rights elsewhere, whilst reducing the scope for abuse which would exist if those purchases which are currently unlimited were allowed to continue. (article 3)

- Allowing members of both the EP(UKR)PS scheme and its AVC scheme to take the maximum tax-free lump sum permitted under the new tax regime. (articles 5 and 18)

- Imposing a time limit of 12 months for transferring pension rights into the EP(UKR)PS scheme from personal pension and voluntary contribution schemes.

Without a limit, someone seeking to avoid the ceiling on added years' purchases could purchase a single premium pension and then transfer that to the EP(UKR)PS scheme, thus circumventing the contribution limits. The restriction on transfers-in will not apply to existing members until 6 April 2007, so that they have a reasonable period of notice. (article 11 and Schedule 1)

- Facilitating EP(UKR)PS scheme members to benefit from "enhanced protection", if they apply for it. Enhanced protection is a transitional protection measure offered by the new tax rules so that members can protect pensions already built up before 6 April 2006. (article 14)

- Removing the current limits on contributions to, and benefits from, the AVC scheme. (article 18)

8. Impact

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. There is no impact on the public sector.

8.2. The package of changes is, overall, expected to be cost neutral to the Exchequer.

9. Contacts

9.1. The following contacts at the Cabinet Office can answer any queries regarding the instrument:

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