

EXPLANATORY MEMORANDUM TO
THE POLICE PENSIONS (AMENDMENT) REGULATIONS 2010

2010 No. 431

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The instrument amends existing regulations which deal with police officer pensions and retirement benefits. It makes various amendments of a minor and technical nature designed to improve the clarity and efficiency of the police pension schemes, and to reflect certain changes in the relevant tax rules.

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

3.1 Schedule 3 of the instrument has retrospective effect, being effective from 1st April 2004 until 30th September 2006. Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976. The reason for the selection of the particular dates is given in paragraph 7.4

4. **Legislative Context**

4.1 The regulations governing police pensions are subject to regular amendment to reflect changing circumstances such as changes to the applicable tax rules. This instrument is part of that ongoing process of review and amendment. The Police Negotiating Board (PNB) has the statutory function of considering questions concerning police terms and conditions of service. The instrument reflects agreements reached by the PNB on various matters relating to pensions.

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**

7.1 Police officer pensions and retirement benefits are set out in the Police Pensions Regulations 1987 (“the old police pension scheme”) and the Police Pensions Regulations 2006 (“the new police pension scheme”). A police officer may be a

member of one scheme or the other. The two schemes differ in certain respects, making them more or less attractive to police officers depending on their personal circumstances. On the creation of the new scheme in 2006, the old scheme was closed to new entrants, and existing members of the old scheme were given the opportunity to transfer to the new one. In addition the Police (Injury Benefit) Regulations 2006 provides for a separate scheme of benefits payable where a police officer is injured or killed in the execution of his or her duty

7.2 The instrument amends the old police pension scheme to make its language more consistent with that of the new police pension scheme, to make corrections, to update references to tax legislation and other enactments, and to replace all references to the Government Actuary with references to the Scheme actuary (this last is because public service pension schemes are now able to appoint someone other than the Government Actuary to provide them with actuarial services).

7.3 The instrument also amends the old pension scheme to allow a police authority to disapply the regulation which limits the size of lump sum for which a police officer with less than 30 years' service can commute his or her pension, in the limited circumstance where the officer retires one day before reaching 30 years' service, and below the age of 50. This provision will assist a police authority to manage the orderly retirement and replacement of a chief officer who joined the service before the age of 20 and has had the expectation of being able to retire before 50, by allowing him or her to retire as planned but to defer his or her 30-year pension (albeit very slightly reduced) to 50 in order to meet HMRC requirements for an authorised payment free from tax charges.

7.4 The instrument also amends the old pension scheme to give chief officers of police the right to retire with a full pension at the age of 50, having given six months' notice. This gives effect to an agreement reached by the PNB in 2004 and adopted in Home Office Circular 36/2004. It was not thought necessary at that time to reflect the agreement in regulations. However, subsequent changes to tax legislation have made the question of whether or not a chief officer had the right to retire with a full pension before the age of 55, as at 5 April 2006, relevant to the determination of his or her later tax liability. The amendment to the regulations is designed to make it clear that such a right did exist. This provision has retrospective effect, commencing on the date of the PNB agreement (1st April 2004) and ending the day before the current tax provisions came into effect on 1 October 2006.

7.5 The instrument also amends the old and new pension schemes and the Police (Injury Benefit) Regulations 2006 in relation to a police officer's appeal against findings made by the medical practitioner appointed by the police authority where the degree and permanence of the officer's disablement are in issue. The amendment extends the period in which a party to the appeal will be liable to pay the medical appeal board costs arising from a cancellation or postponement of the medical appeal hearing, where the cancellation or postponement is occasioned by that party. This is intended to reduce the number of late cancellations or postponements of hearings.

8. Consultation outcome

8.1 The instrument was the subject of statutory consultation with the Police Negotiating Board (PNB) under section 1 of the Police Pensions Act 1976. The PNB Staff Side sent in comments which are reflected in the instrument. We have also collaborated with HM Treasury in agreeing the policy set out in this instrument.

9. Guidance

9.1 A Home Office Circular will be issued to Home Office forces with guidance on the provisions of the instrument. This will also be available on the Home Office website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies

10.2 The impact on the public sector is limited to the area of police pensions provision. It is not anticipated to result in any increased costs.

10.3 An Impact Assessment has not been prepared for this instrument. This is because no impact on business, charities or voluntary bodies is foreseen and the impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Police pensions policy is kept under review by the Home Office together with the PNB. If necessary changes are identified, the legislation will be amended accordingly.

13. Contact

John Gilbert at the Home Office Tel: 020 7035 1880 or email: johnalexander.gilbert@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.