

EXPLANATORY MEMORANDUM TO

THE POLICE PENSION SCHEMES AND ADDITIONAL VOLUNTARY CONTRIBUTIONS (AMENDMENT) (ENGLAND AND WALES) REGULATIONS 2018

2018 No. 530

1. Introduction

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

2. Purpose of the instrument

- 2.1 This measure makes three sets of changes in relation to pensions for police officers in England and Wales. Firstly to extend the ability for officers to make extra contributions in order to buy pensionable service for the unpaid periods of certain types of family leave. Secondly, for the purposes of voluntary exit, to bring early payment of pension into line with wider public sector changes to payments on exit from work. And, thirdly, to increase the options available to members of the Additional Voluntary Contribution (AVC) Scheme in England and Wales on when and how they can take benefits from the Scheme.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The amendments on Family Leave and AVCs have retrospective effect. Retrospective effect is permitted by section 1(5) of the Police Pensions Act 1976. The amendments in respect of family leave have effect from 1 September 2014 in line with Ministerial commitments on this issue. The amendments in respect of AVCs have effect from 28 July 2016. See also paragraphs 7.7 and 8.2, below.

Other matters of interest to the House of Commons

- 3.2 This entire instrument applies only to England and Wales.

4. Legislative Context

- 4.1 The police pension schemes are set out in the Police Pensions Regulations 1987 (S.I. 1987/257), the Police Pensions Regulations 2006 (S.I. 2006/3415) and the Police Pensions Regulations 2015 (S.I. 2015/445). Section 153A of the Small Business, Enterprise and Employment Act 2015 (c. 26) makes provision for regulations to restrict public sector exit payments (which is relevant to regulations 4 and 14). The arrangements for AVCs are set out in the Police Pensions (Additional Voluntary Contributions) Regulations (S.I. 1991/1304). Similar provision has been made for AVCs in Scotland by the Police Pensions (Miscellaneous Amendments)(Scotland) Regulations 2016 SSI 2016/75.
- 4.2 The amendments to family leave are to implement changes that the workforce has been pressing for which were agreed in principle in 2014.

- 4.3 The amendments to voluntary exits are part of a government wide change to public service exit and redundancy payments.
- 4.4 The amendments to the AVC Scheme are to implement a permitted flexibility that members would like to have.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England and Wales.

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

What is being done and why

Family Leave

- 7.1 Police officers who have periods of unpaid sick leave or maternity leave or parental leave are able to pay voluntary contributions to buy pensionable service in respect of those periods. In his report on police pay and conditions Sir Tom Winsor (who subsequently became HM Chief Inspector of Constabulary) considered the provision of paid and unpaid family related leave. His recommendations to extend and increase flexibility around paid maternity leave were implemented in 2013, and included paid adoption leave with both employers and employees paying contributions.
- 7.2 In 2014 Ministers agreed that provisions introduced following those recommendations should be extended to enable officers to buy back pensionable service for a further range of family related unpaid leave, including unpaid adoption leave, maternity support (formerly paternity) leave, adoption support, additional maternity support and additional adoption support leave.
- 7.3 This is achieved by this amendment and will be backdated to 1 September 2014.

Voluntary Exits

- 7.4 During the 2015 Spending Review and Autumn Statement the Government announced its intention to consult on a cross-public sector basis, to take action on exit payment terms. The aim was to improve consistency between workforces and reduce redundancy payment costs. The consultation results were published on the 26 September 2016 and HM Treasury instructed departments to submit proposals to reflect their framework for respective workforces.
- 7.5 The current voluntary exit scheme for police officers was implemented in 2013. A police officer, receiving a compensation lump sum on voluntary early retirement, is able to use the lump sum to buy out the actuarial reduction in their pension, and if the lump sum is insufficient to do so, the police pension authority is able to make up the shortfall. This amendment allows an officer to choose to buy out part of the actuarial reduction. The new measure also provides that the amount the police pension authority can provide, if the lump sum is insufficient to buy out the actuarial reduction in full, is subject to wider restrictions on public service exit and redundancy schemes.

Additional Voluntary Contributions (AVCs)

- 7.6 HMRC announced on 8 August 2014 that “additional flexibilities” would, subject to pension scheme rules, be available to those wishing to access their pension pots in “defined contribution” schemes, including AVCs. The announcement was in the response to the consultation “Freedom and choice in pensions”¹ and enabled through the Taxation of Pensions Act 2014.
- 7.7 The Government wants to apply the “additional flexibilities” to police AVC pensions. In addition to the current options, these additional flexibilities are that the whole proceeds of AVCs are to be accessible as a lump sum or lump sums, or as a flexi-access draw down. These amendments have effect from 28th July 2016 as this is when a public commitment was made to do so in Home Office Circular 7 of 2016².
- 7.8 The Home Office does not anticipate public interest with this policy. Representatives of employer and staff associations as members of the Police Advisory Board have had an active interest on this policy (see below).

Consolidation

- 7.9 The issue of consolidation is not relevant to this instrument.

8. Consultation outcome

- 8.1 The Police Advisory Board for England and Wales was consulted on each of the issues.
- 8.2 **Family Leave:** the consultation took place over four weeks and two responses were received - from the Police Federation and from the Metropolitan Police Service. Although the Police Federation was pleased to see the introduction of these types of family leave, it was concerned that the implementation date should have been earlier than 5 April 2015. The Government considered the arguments carefully and concluded that the implementation date, for buying back these types of unpaid family leave in the 1987 and 2006 schemes, should be 1 September 2014, as it would arguably have been reasonable to expect the scheme changes to have been implemented by that date. For other technical drafting points raised appropriate amendments have been made.
- 8.3 **Voluntary Exits:** the consultation took place over six weeks and one response was received from the Police Federation. No concerns were raised on this amendment.
- 8.4 **AVCs:** the consultation took place over eight weeks and two responses were received - from the Police Federation and from one of the pension administrators. Only technical drafting points were raised and appropriate amendments have been made.
- 8.5 The Government responded directly to the Police Advisory Board for England and Wales on any issues raised in the consultation.

9. Guidance

- 9.1 Guidance on the Voluntary Exit Scheme will be published and made available on the GOV.uk website. A Home Office circular on the AVC changes is already on the GOV.uk website (HOC 7 of 2016 – see footnote above).

¹ <https://www.gov.uk/government/publications/pension-flexibility-2015>

² <https://www.gov.uk/government/publications/circular-0072016-police-pensions-additional-voluntary-contributions>

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the wider public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument as it applies to the police pension scheme alone and no impact on business is foreseen.

11. Regulating small business

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

12. Monitoring & review

- 12.1 Monitoring and review will take place at the level of individual forces. The Home Office will consider undertaking reviews at the request of the Police Advisory Board.

13. Contact

- 13.1 Queries regarding the instrument can be answered by officials at the Home Office:
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