

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE PENSIONS (AMENDMENT) REGULATIONS 2014**

**2014 No. 79**

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 These Regulations amend the Police Pensions Regulations 1987 and the Police (Injury Benefit) Regulations 2006 in advance of the first marriages of same sex couples, to make contrary provision to the glossing provision in the Marriage (Same Sex Couples) Act 2013 (“the Act”).

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

3.1 None

**4. Legislative Context**

4.1 This is one of a number of Orders and Regulations which are being laid before Parliament at the same time and which are necessary for implementation of the majority of the Act. They include, briefly, statutory instruments:

- making consequential and other amendments to primary and secondary legislation in England and Wales<sup>1</sup>;
- setting out procedures for registration of shared religious buildings for the solemnization of marriages of same sex couples<sup>2</sup>;
- setting out provisions on jurisdiction in the event of divorce or annulment of a marriage of a same sex couple<sup>3</sup>;
- allowing separate registration of religious buildings and appointment of authorised persons for marriage of same sex couples<sup>4</sup>;
- setting out procedures for registration of military chapels for marriage of same sex couples<sup>5</sup>;
- setting out procedures for marriages in overseas consulates and overseas armed forces bases<sup>6</sup>;
- providing for graduated retirement benefit to be inheritable by a surviving same sex spouse<sup>7</sup>;

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<sup>1</sup> The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provision and Scotland) Order 2014, and the Marriage (Same Sex Couples) Act 2013 (Consequential Provision) Order 2014.

<sup>2</sup> The Marriage of Same Sex Couples (Registration of Shared Buildings) Regulations 2014.

<sup>3</sup> The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgements) Regulations 2014.

<sup>4</sup> The Marriage of Same Sex Couples (Registration of Buildings and Appointment of Authorised Persons) Regulations 2014.

<sup>5</sup> The Marriage of Same Sex Couples (Use of Armed Forces’ Chapels) Regulations 2014.

<sup>6</sup> The Consular Marriages and Marriages under Foreign Law Order 2014, and the Overseas Marriage (Armed Forces) Order 2014.

<sup>7</sup> The Social Security (Graduated Retirement Benefit)(Married Same Sex Couples) Regulations 2014.

- making changes to particular public service pension schemes to provide survivor benefits for married same sex couples on the same basis as civil partners<sup>8</sup>.

## **5. Territorial Extent and Application**

5.1 This instrument applies to 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*

7.1 These Regulations amend the Police Pensions Regulations 1987 (“the 1987 Regulations”) and the Police (Injury Benefit) Regulations 2006 in consequence of the Marriage (Same Sex Couples) Act 2013. Section 11 of the Act provides for the law of England and Wales to apply to marriages of same sex couples as it applies to marriages of opposite sex couples. Schedule 3 includes “glossing” provisions which require references in legislation to marriage, married couples and people who are married to be read as including references to marriages of same sex couples, and there is similar provision in relation to people who are living together as a married couple.

7.2 The glossing provision has the effect that the law on marriage is to be interpreted as applying equally to same sex and opposite sex couples. Contrary provision is necessary to ensure that the policy on survivor benefits for married same sex survivors is implemented as intended, and aligned with provision for civil partners. Without contrary provision survivor benefits in public service pension schemes for survivors of marriages between same sex couples would be too generous and aligned with those provided to women who survive their male spouse which is not the policy intention. These Regulations implement the correct policy in the case of the the Police Pensions Regulations 1987 and the Police (Injury Benefit) Regulations 2006.

- *Consolidation*

7.3 The Department has decided not to consolidate the relevant Regulations at this stage, but intends to do so at a later stage.

## **8. Consultation outcome**

8.1 A draft of these regulations was supplied to the Police Negotiating Board as part of the consultation process. The comments received from the Police Negotiating

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<sup>8</sup>The National Health Service Pension Scheme, Additional Voluntary Contributions, Compensation for Premature Retirement and Injury Benefits (Amendment) Regulations 2014, and the Police Pensions (Amendment) Regulations 2014.

Board have been taken into consideration and some changes have been made to the draft as a result.

## **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 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 areas of police pensions and police pay and conditions. It is not anticipated to result in any increased costs.

10.3 An Impact Assessment has not been prepared for these instruments. 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 pay and conditions and pensions are kept under review by the Home Office together with the Police Negotiating Board. If necessary changes are identified, the legislation will be amended accordingly.

## **13. Contact**

Steve Whitefield at the Home Office Tel: 020 7035 1828 or email: [police.pensions@homeoffice.gsi.gov.uk](mailto:police.pensions@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.