

EXPLANATORY MEMORANDUM TO
THE POLICE PENSIONS (AMENDMENT) REGULATIONS 2006

2006 No. 740

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

2. Description

2.1 This instrument will, subject to annulment in pursuance of a resolution of either House, come into force on 5th April 2006 and make revisions to the Police Pensions Regulations 1987 (S.I. 1987/257) and the Police Pensions (Additional Voluntary Contributions) Regulations 1991 (S.I. 1991/1304). The revisions relate to the ability of a person who has opted out of the current Police Pension Scheme to opt back into it, and to parity of treatment that must be afforded to officers who form civil partnerships as with those who marry.

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

3.1 None.

4. Legislative Background

4.1 The instrument is made under section 1 of the Police Pensions Act 1976 as amended. Certain of the amendments relating to civil partnerships made by the Regulations take effect retrospectively as permitted by section 1(5) of the Act.

5. Extent

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

7.1 The amendments make provision for there to be the same range of survivor benefits in respect of police officers who form civil partnerships as of officers who marry. This results from the requirements set in place by the Civil Partnership Act 2004. The amendments also include a provision specifying the final date by which a person who has opted out of the Police Pension Scheme can opt back in before the introduction of a new Police Pension Scheme.

7.2 Regulation 1 provides that the amendments relating to civil partners shall be backdated to 5th December 2005, the date on which the Civil Partnership Act 2004 came into force. Forces have been instructed by means of a Home Office Circular to apply these provisions administratively in the interim. The amendment relating to opting back into the Police Pension Scheme comes into effect on 5 April 2006.

7.3 Regulation 2 and Schedule 1 amend the relevant parts of the 1987 (relating to allocation of pensions, widows' and widowers' pensions, and children's allowances) to provide that surviving civil partners of police officers and the step-children of officers as a result of a civil partnership will be entitled to the same survivor benefits as widows and widowers and their children.

7.3 Paragraph 3 of Schedule 1 also amends regulation C9 of the Police Pensions Regulations to extend the existing provisions for stopping survivor benefits on remarriage or cohabiting as husband and wife so that a pension will also cease on forming a civil partnership or cohabiting with a same-sex partner. However, these new conditions will apply in full only to the pension benefits relating to serving officers. The pensions of widows and widowers of those who ceased to serve before 5 December 2005 will continue to be payable if they live with a person of the same sex and, by the same token, the surviving civil partners of such officers will not have their pension stopped on cohabiting with a person of the opposite sex.

7.4 Paragraph 8 of Schedule 1 amends regulation G4 to provide for a cut-off date for officers who opted out of the Police Pension Scheme and who later decide to opt back in. The latest date they can do so will be 5 April 2006. After that such an officer will be eligible to join only the new Police Pension Scheme being introduced for new entrants on that date. The amendment also provides for any last-minute application to re-join the current Police Pension Scheme to take effect before 6 April.

7.5 Paragraph 9 of the Schedule amends regulation G6 of the Police Pensions Regulations 1987 to provide women officers with a further chance to pay extra contributions to up-rate the pre-1990 service for the purpose of survivor benefits. Although any such pre-1990 service which has already been up-rated for widowers' benefits will count for surviving civil partners' benefits as well, it is recognised that some women will not have wanted to take advantage of G6 before, on the basis that it benefited married officers only. This provision allows for a full three-month election period for opting to make such payments.

7.6 Regulation 3 and Schedule 2 provide that survivor benefits received as a result of additional voluntary contributions are payable to surviving civil partners as well as widows and widowers.

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.

8.2 The impact on the public sector is that the instrument will have an additional impact on public sector resources. The calculations involved are complex but have the result that the costs across all public service schemes are estimated at £7million to £14 million a year going forward from commencement and a capital addition to liabilities of £60 million to £125 million for past service back to 1988.

8.3 It should also be noted that the instrument will also strengthen the attractiveness of the police service to a more diverse workforce and help in its modernisation.

9. Contact

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