EXPLANATORY MEMORANDUM TO

THE CIVIL SERVICE (OTHER CROWN SERVANTS) PENSION SCHEME (AMENDMENT) REGULATIONS 2019

2019 No. 906

1. Introduction

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

2. Purpose of the instrument

2.1 To amend the Civil Service (Other Crown Servants) Pension Scheme Regulations 2016 ("the 2016 Regulations") made under the Public Service Pensions Act 2013 ("the Act"). The amendments correct an error that has been identified in the 2016 Regulations, widen the scope of those eligible to participate in the scheme established by those regulations to facilitate staff movement across the Agencies, and provide for the contribution rates applicable in the scheme year ending 31st March to also apply for the following year.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Regulation 6 corrects a minor and technical issue that has been identified during the operation of the scheme. By virtue of paragraph 1(2)(a), regulation 6 has effect from 1 April 2016. We have consulted the SI Registrar who agrees that in the circumstances the procedure for free issue should be applied.

3.2 Regulation 7(c) provides for the contribution rates applicable in the scheme year ending 31st March 2019 to also apply for the following year. Since this involves a change to a protected element of the scheme as defined by section 22 of the Act, the Minister has consulted representatives of those likely to be affected by the change with a view to reaching agreement and has laid a report before Parliament. By virtue of paragraph 1(2)(b), regulation 7(c) has retrospective effect from 1st April 2019.

3.3 Section 3(3)(b) of the Act confers a power to make regulations having effect from a date earlier than their making. Section 3 refers the reader to section 23.

3.4 The Cabinet Office does not consider that section 23 of the Act applies in this case. That section provides the procedure to be followed when retrospective provisions are included within scheme regulations that will have a significant adverse effect in relation to the pension payable to or in respect of members of the scheme. The Secretary of State, as the responsible authority, does not consider that the retrospective amendment has any significant adverse effects for the purposes of section 23.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.5 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Act gives the Minister for the Civil Service powers to make and maintain a pension scheme for the Civil Service and certain other (mainly public service) employers.

6.2 The 2016 Regulations established a scheme for civil servants employed by the Secret Intelligence Service and the Security Service ("the Agencies"). The scheme is established by analogy to the civil service pension scheme established by the Public Service (Civil Servants and Others) Pension Regulations 2014 (SI 2014/1964) with some amendments and modifications. The scheme has been in operation since 1st April 2016.

7. Policy background

What is being done and why?

Employee contributions

7.1 The 2016 Regulations make provision for employee contribution rates up to and including the scheme year ending on 31 March 2019. In order to continue the legislative basis for collection of employee contributions, these Regulations extend the relevant date such that employee contributions are maintained at the same level for the scheme year 1st April 2019 to 31st March 2020. (Regulation 7(c)).

Minor and technical amendments

7.2 A minor drafting error in the 2016 Regulations that has been identified since those regulations were made is corrected. (Regulation 6).

Scope of those eligible to join the scheme

7.3 A transfer of functions is taking place from the Agencies to Government Communications Headquarters. It has been agreed that those employees who are transferring will continue to have access to the scheme established by the 2016 Regulations. These Regulations make amendments to the 2016 Regulations to widen the eligibility to participate in the scheme to give effect to that decision. The transferring employees will only remain eligible to be members of the scheme

established by the 2016 Regulations for as long as they remain employed in the transferred function. (Regulations 3,4,5,7 (except 7(c)).

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument makes reasonably limited amendments to the 2016 Regulations and it is not considered appropriate to consolidate the 2016 Regulations at this time.

10. Consultation outcome

10.1 Where the responsible authority proposes to make scheme regulations containing provisions changing the protected elements of the scheme within the protected period, the Act requires (section 22) the responsible authority to consult, with a view to reaching agreement, the persons, or representatives of those persons, who appear to the responsible authority to be likely affected by the regulations if they were made. Changes to member contributions are one of the protected elements (section 22(5)(b)). The consultation took place between 19th February 2019 and 28th February 2019. Those representatives indicated that they had no objections to the amendments being implemented.

11. Guidance

11.1 No guidance has been produced to accompany this instrument, the contents of which are self-explanatory.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

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

14. Monitoring & review

14.1 The Civil Service (Other Crown Servants) Pension Scheme Regulations 2016 are kept under review by the pension scheme manager.

15. Contact

15.1 Peter Spain at the Cabinet Office Telephone: 0125 684 6428 or email: peter.spain@cabinetoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Davina Henderson, Deputy Director for Strategic Oversight, at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Oliver Dowden, the Minister for Implementation at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.