EXPLANATORY MEMORANDUM TO

The Police Pensions (Consequential Provisions) (Amendment) Regulations (Northern Ireland) 2016

1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (detailed above) which is being laid before the Northern Ireland Assembly.

The Statutory Rule is made under powers conferred by sections 1(1) and (2)(g), 2(1) and 3(1), (2), (3)(a) and (4) of the Public Service Pensions Act (Northern Ireland) 2014 ("the 2014 Act") and is subject to the draft affirmative resolution procedure.

2. Purpose of the Instruments

2.1 These Regulations are a technical amendment which modifies the definition of "the cessation date" in the Pension Scheme (Northern Ireland) Act 1993 ("the 1993 Act") and introduces a date of 6 April 2016 for the abolition of contracting-out for salary related schemes, following the introduction in June 2015 of the Pensions Act (Northern Ireland) 2015 ("the 2015 Act").

3. Legislative Context

3.1 The Department of Justice made the Police Pensions (Consequential Provisions) Regulations (Northern Ireland) 2015 ("the 2015 Regulations") on 18 February 2015. The 2015 Regulations made modifications to primary legislation to ensure that the new 2015 Career Average Revalued Earnings (CARE) pension scheme operated as intended in terms of its interaction with the wider framework of pensions and tax legislation.

3.2 At the time the 2015 Regulations were made, the necessary legislation to provide for the abolition of contracting-out for defined benefit salary-related pension schemes had not yet been made. It was therefore necessary to defer making consequential provisions aimed to provide protection of increases in guaranteed minimum pensions ("anti-franking") which contacted-out schemes have to provide, following the abolition of contracting-out.

2.3 Measures to implement the necessary legislation to provide for the abolition of contracting-out for defined benefit salary-related pension schemes were introduced in June 2015, by the Department for Social

Development under 2015 Act. The 2015 Act amends the 1993 Act, by specifically introducing 6 April 2016 as the date for abolition of contracting-out for salary-related schemes and also modifies the definition of the "cessation date" for the abolition of contracting–out for salary-related schemes. .

4. Policy background

4.1 The policy intent is that the new public service pension schemes enacted under the 2014 Act, like the existing schemes, should be contacted-out of the additional state pension, until contracting-out ends on 6 April 2016. Chapter 3 of Part 4 of the 1993 Act concerns the protection of increases in guaranteed minimum pensions ("anti-franking"), which contracted-out schemes had to provide until 1997.

4.2 Regulation 3 inserts regulation 9A in the 2005 Regulations which includes a subsequent modification of the definition of "the cessation date", in section 83 of the 1993 Act. Section 83 was amended by the 2015 Act as part of the abolition of contracted-out employment under the old scheme (and from which point guaranteed minimum pensions may need to be increased).The cessation date is treated at the date when the person leaves the new scheme, and not the date when they transfer from their old scheme to their new scheme.

5. Consultation

5.1 As required by section 21 of the Public Service Pensions Act (Northern Ireland) 2014, the Department of Justice has consulted the Northern Ireland Policing Board and the Police Association for Northern Ireland. The consultation was also extended to the Chief Constable of the Police Service of Northern Ireland.

5.2 In accordance with section 3(5) of that Act, the Department of Justice has obtained the consent of the Department of Finance and Personnel.

5.3 In accordance with section 134 of the Antisocial, Behaviour, Crime and Policing Act 2014, the Department also invited the views of the Police Advisory Board for England and Wales.

5.4 The draft regulations were issued for consultation from 2 October 2015 to 7 November 2015. The level of public interest in the introduction of these amendments is low. There was no public consultation process and no media coverage.

6. Equality Impact

6.1 Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998 and no equality issues have been identified by the Department.

7. Regulatory Impact

7.1 The Department does not consider that there is a need for a regulatory impact assessment for this instrument as it has no impact on business, charities or voluntary bodies.

8. Financial Implications

8.1 The impact on the public sector is limited to the area of police pensions provision. In common with other public sector schemes, the Police Service of Northern Ireland advises that the abolition of contracting-out will create a resource pressure which has been identified in its resource plan.

9.0 Section 24 of the Northern Ireland Act 1998

9.1 The proposed legislation is considered compatible with section 24 of the Northern Ireland Act 1998.

10. European Implications

10.1 Not applicable.

11 Parity or Replicatory measure

11.1 Similar legislation was introduced in Scotland, England and Wales on 1 April 2015.

12. Additional Information

12.1 Not applicable