EXPLANATORY MEMORANDUM TO

THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993 (ADDITION OF QUALIFYING JUDICIAL OFFICES) ORDER 2008

2008 No. 171

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

2. **Description**

2.1 The purpose of the Statutory Instrument is to amend the Judicial Pensions and Retirement Act 1993 ("JUPRA") by adding the office of Chairman of the Welsh Mental Health Review Tribunal (MHRT) to the Schedule of qualifying offices, in Schedule 1 to the Act, enabling the holder of the office to be a member of the judicial pension scheme under the Act. The Order also caters for the office of President of the Welsh MHRT, for which provision is made in the Mental Health Act 2007.

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

3.1 None

4. **Legislative background**

4.1 This Statutory Instrument is made in exercise of the powers conferred by section 1(8), section 29 (3) and section 30(1) of JUPRA. Section 1(8) allows the Lord Chancellor, as the appropriate Minister, to amend Schedule 1 to JUPRA by adding offices to those already specified in the Schedule. Any office added to Schedule 1 becomes a qualifying judicial office for the purposes of JUPRA, allowing persons holding that office on a salaried basis to benefit from the JUPRA pension scheme. Section 29(3) provides a general power to make consequential, supplementary or incidental provision when exercising any power conferred by JUPRA to make regulations or orders as may appear necessary. Section 30(1) defines what is meant by "appropriate Minister" for these purposes.

5. **Extent**

5.1 This Statutory Instrument extends to the United Kingdom.

6. **European Convention on Human Rights**

6.1 The Lord Chancellor has made the following statement regarding Human Rights:

"In my view the provisions of the Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2008 are compatible with Convention Rights".

7. **Policy background**

7.1 The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) (No. 2) Order 2003 (S.I. 2003/2589) added MHRT Chairmen to Schedule 1 to JUPRA. But because of a chronological limitation in that Order, which was made to apply to those appointed on or after 1st November 2003, it does not cater for the serving

Regional Chairman of the Welsh MHRT who was already in office on that date. The new Order allows the holder of that office to qualify for a pension from 25 February 2008.

8. **Impact**

8.1 A Regulatory Impact Assessment has not been prepared of this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There are marginal public pension cost implications.

9. **Contact**

9.1 David Staff at the Ministry of Justice (Tel: 020 7210 8936 or email: david.staff@justice.gsi.gov.uk) can answer any queries regarding the instrument.