EXPLANATORY MEMORANDUM TO

THE JUDICIAL PENSIONS (CONTRIBUTIONS) (AMENDMENT) REGULATIONS

2006 No. 749

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The purpose of the Statutory Instrument is to amend the rate of contributions that judicial office holders are required to pay to the judicial pension schemes in respect of the provision of contingent spouse, children and civil partner benefits payable after the office holders' death. The amendments reduce the contribution rate payable to reflect a change in the tax treatment of such contributions, which will, with effect from 6 April 2006, cease to attract tax relief.

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

3.1 None

4. Legislative Background

4.1 Part 4 of The Finance Act 2004 introduces a new tax regime for pension schemes with effect from 6 April 2006. The new regime provides that certain prescribed pension schemes, which the Act terms 'registered pension schemes' qualify for relief and exemption from various taxes up to specified levels.

4.2 On 15 December the Lord Chancellor announced to Parliament (Hansard, 15 December 2005, Column WS151) that the schemes constituted by the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993 will not become registered pension schemes under the Finance Act 2004. The Lord Chancellor's statement also set out that an adjustment would be made to the rate of contributions payable by judicial office holders. This change is being made because such contributions will no longer attract tax relief where made on or after 6 April 2006.

4.3 This Statutory Instrument is made in exercise of the powers conferred by Section 23 of the Judicial Pensions Act 1981 and Section 9 of the Judicial Pensions and Retirement Act 1993. It amends existing regulations made under these powers to establish the rate of contributions payable in respect of the schemes constituted by those Acts. The Acts enable, the Lord Chancellor, and in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State, with the concurrence of Her Majesty's Treasury, to make this Statutory Instrument.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

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 Certain existing pension schemes will under the provisions of the Finance Act 2004 become what the Act terms 'registered pension schemes'. Such schemes attract preferential income tax treatment in that contributions payable to the schemes attract tax relief and lump sum benefits payable on retirement are paid tax free, subject to limits on the amount of tax free savings annually and in total.

7.2 The Finance Act 2004 also provides that the scheme administrators of existing pension schemes may choose that their schemes should not become 'registered pension schemes' for the purposes of the Act. The Lord Chancellor, as the scheme administrator of the judicial pension schemes, announced to Parliament that he would exercise this option in respect of those schemes. This means that the schemes will no longer attract the preferential tax treatment afforded to 'registered pension schemes'. In the particular context of the amendments made by this Statutory Instrument, it means that contributions payable by judicial office holders will cease to attract tax relief; they will be paid from net salary rather than gross salary.

7.3 The changes made by this Statutory Instrument mean that judicial office holders will pay the same net rate of contributions after 6 April 2006 as they would have paid prior to that date.

7.4 The Department for Constitutional Affairs circulated this Statutory Instrument in draft form to representatives of the devolved administrations, Her Majesty's Treasury, Her Majesty's Revenue and Customs and representatives of judicial office holders and sought their views on its content. The consultation was conducted between 23 January and 15 February 2006.

7.5 Following representations from judicial representatives amendments have been included in the Statutory Instrument to allow certain judicial office holders to choose to cease to pay contributions where they would otherwise be likely to overpay. This amendment extends an existing provision that permits members who cease to have a spouse or civil partner to elect not to pay contributions. A further amendment has been included to allow individuals to pay any arrears of contributions at a higher rate than previously permitted. No other substantive changes were sought by consultees.

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 There is no impact on the public sector. No financial impact arises; the Department for Constitutional Affairs will in due course make additional payments towards the cost of providing judicial pensions for dependants of judicial office holders, but this will be directly offset by a reduced liability for Her Majesty's Government to pay tax relief on the contributions payable by judicial office holders.

9. Contact

Paul Kirk at the Department for Constitutional Affairs Tel: 020 7210 8504 or e-mail: paul.kirk@dca.gsi.gov.uk can answer any queries regarding the instrument.