EXPLANATORY MEMORANDUM TO

THE JUDICIAL PENSIONS (CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2016

2016 No. 30

1. Introduction

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

2. Purpose of the instrument

2.1 The Judicial Pensions (Contributions) (Amendment) Regulations 2016 ('the Regulations') will change the rate of contributions to be paid by some members of judicial pension schemes established by the:

- District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960;
- Sheriffs' Pensions (Scotland) Act 1961;
- Judicial Pensions Act 1981; and
- Judicial Pensions and Retirement Act 1993.

2.2 The purpose of this instrument is for members of the above judicial pension schemes to pay the same rate of contributions as paid by members of the pension scheme established by the Judicial Pensions Regulations 2015, after tax relief.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960, the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993 contain provisions enabling the appropriate Minister, with the consent of the Treasury, to make regulations requiring some judges of the pension schemes referred to in paragraph 2.1 to contribute towards the cost of providing a pension. The Judicial Pensions (Contributions) Regulations 2012 were made under these enabling powers.

4.2 These Regulations amend the Judicial Pensions (Contributions) Regulations 2012 to change the rate at which contributions are paid.

5. Extent and Territorial Application

5.1 The extent of this instrument is to the United Kingdom.

5.2 The territorial application of this instrument is to 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

What is being done and why

7.1 During the last Parliament a number of changes were made to public service pension schemes, including to the schemes for the judiciary. The changes included increases to the contributions that members make towards the cost of providing pension benefits. Prior to April 2012 members of the judiciary paid 1.8% of their salary towards the cost of providing pension benefits in respect of their dependants. Since April 2012, judges have also paid contributions towards the cost of providing their pension benefits. The additional contributions were taken at the rate of 1.28% from April 2012. The rate increased to 2.56% from 1 April 2013 and increased again to 3.2% from 1 April 2014.

7.2 New public service pension schemes, including a new judicial pension scheme, were established and came into effect in April 2015. The new schemes were made under powers set out in the Public Service Pensions Act 2013. The provisions of the Act specify matters such as the normal pension age of a person, the type of scheme that may be provided, and how costs are to be valued and controlled. The Act also allowed for transitional arrangements to be made in respect of members who were eligible to be members of their respective existing pension schemes immediately before 1 April 2012.

7.3 A new judicial pension scheme came into force in April 2015. Judges who were more than 13.5 years from their normal retirement date immediately prior to 1 April 2015 moved into the new scheme from 1 April 2015. New judges are able to join the new judicial pension scheme when they take up their appointment. Judges that participate in the scheme pay 7.35% – 8.05% of their salary towards the cost of the new judicial pension scheme.

7.4 The Ministry of Justice set out that members of the judicial pension schemes referred to in paragraph 2.1 of this memorandum should pay the same rate of contributions as those in the new judicial pension scheme. The pension schemes in paragraph 2.1 and the new judicial pension scheme are treated differently for tax purposes, the changes made by these regulations will provide that judges with the same pay will make the same contribution from their net pay as each other regardless of which scheme they are in. This means that in the schemes referred to in paragraph 2.1:

- a person with an annual salary of £150,000 or less must make personal contributions at a rate of 2.61% of their salary and dependants pension contributions of 1.8% of their salary; and
- a person with an annual salary of more than £150,000 must make personal contributions at a rate of 2.61% and dependants contributions of 1.8% of their salary up to and including £150,000 and 4.43% of their salary in excess of £150,000.

Consolidation

7.5 These regulations are not being consolidated.

8. Consultation outcome

8.1 The Ministry of Justice issued a public consultation (16 June – 8 September 2014) before the introduction of the Judicial Pension Scheme 2015. The consultation document proposed that the rates of personal pension contributions to the schemes set out in paragraph 2.1 of the memorandum would change from 2015/16 so that members of those schemes would pay the same amount of contributions as paid by members of the new judicial pension scheme. There were 84 individual responses to the consultation overall which included individual members of the judiciary and Judicial Associations. A response to the consultation was published (21 November 2014) which included the Government's position about the calculation of member contributions, which this instrument reflects for the pension schemes to which it relates.

9. Guidance

9.1 In addition to the public consultation, the Ministry of Justice has notified the judiciary about these changes again recently and cascaded information to them, for example via the Judicial Intranet and the Judicial Associations.

10. Impact

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

10.2 The public sector impact would be a small reduction in the contributions received from members of the judicial pension schemes to which these Regulations apply. The full cost of judicial pension benefits are met from employer and member contributions, therefore the loss of income due to the reduction in member contributions will have to be made up from the employer contributions for the pension schemes to which the Regulations apply.

10.3 This instrument does not require an Impact Assessment. As a result of these Regulations, members of the applicable pension schemes will benefit financially as the rate of their personal contributions has reduced to align with that of Judicial Pension Scheme 2015.

11. Regulating small business

11.1 This instrument does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 In 2018/19 the Ministry of Justice will undertake a valuation of the judicial pension schemes (both those set out under paragraph 2.1 of this Memorandum and the new judicial pension scheme. If changes in the cost of the schemes are identified, member contributions may be increased or decreased to reflect that or the benefits provided under the schemes may be adjusted. Any changes arising from the valuation will be subject to further consultation with members of the judiciary and other interested parties.

13. Contact

13.1 Surinder Sawali at the Ministry of Justice can answer any queries regarding the instrument (telephone: 020 3334 3142 or email: surinder.sawali@justice.gsi.gov.uk).