EXPLANATORY MEMORANDUM TO

THE LOCAL POLICING BODIES (CONSEQUENTIAL AMENDMENTS NO. 2) REGULATIONS 2012

2012 No. 2732

AND

THE LOCAL POLICING BODIES (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION) ORDER 2012

2012 No. 2733

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

2. Purpose of the instruments

2.1 The instruments make amendments to several other instruments in consequence of changes made by the Police Reform and Social Responsibility Act 2011 ("the 2011 Act") to policing governance arrangements in England and Wales. The Local Policing Bodies (Consequential Amendments and Transitional Provision) Order 2012 also makes transitional provision in relation to police staff. These are linked instruments and accordingly a single explanatory memorandum is being produced.

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

3.1 None.

4. Legislative Context

4.1 The 2011 Act makes significant changes to the governance arrangements for policing in England and Wales, with the exception of the City of London police area. The Act abolishes the police authorities responsible for maintaining police forces outside London and replaces them with directly elected Police and Crime Commissioners ("PCCs"), with effect from 22nd November 2012. The Act also abolishes the Metropolitan Police Authority and replaces it with the Mayor's Office for Policing and Crime ("MOPAC"), with effect from 16th January 2012.

4.2 The 2011 Act further establishes Chief Officers of Police (Chief Constables of police forces outside London, and the Commissioner of Police of the Metropolis) as corporations sole able to employ staff in their official capacity. However, the 2011 Act provides for all staff employed by police authorities to transfer initially to be employees of the relevant PCC or, in the metropolitan police district, the MOPAC. There is then provision for a PCC or the MOPAC to transfer staff to be employees of the relevant Chief Officer of police at a later stage.

4.3 In the City of London the Common Council retains its role as the police authority, and the status of the Commissioner of the City of London Police remains unchanged. The Act refers to PCCs, the MOPAC and the Common Council collectively as "local policing bodies".

5. Territorial Extent and Application

5.1 This instruments apply to England and Wales.

6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 These instruments amend various existing instruments in order to reflect the replacement of police authorities with local policing bodies, and the new arrangements for the employment of police staff. They do not change the substantive effect of the instruments being amended, other than for that purpose.

7.2 The Local Policing Bodies (Consequential Amendments and Transitional Provision) Order 2012 ("the Order") also makes transitional provision in relation to police staff. Amendments made by the 2011 Act to the Local Government and Housing Act 1989 have the effect that every post on the staff of a PCC or the MOPAC is a politically restricted post, meaning that the person holding the post is prohibited from undertaking specified political activity. However, the 2011 Act protects the position of staff employed by police authorities in posts that are not politically restricted. Such staff do not become subject to political restriction by reason of being transferred to the staff of the PCC or the MOPAC upon the abolition of the police authority, provided that they continue to carry out duties which are the same, or substantially the same, as those that they carried out under the police authority.

7.3 The Order has the effect that a person who joins the staff of a PCC or the MOPAC and comes under the direction and control of the Chief Officer of Police by reason of being employed solely to assist the police force is not subject to political restriction. This reflects the fact that it is anticipated that such staff will ultimately transfer to being employed by the Chief Office of Police, and the political restriction provisions do not apply to any of the Chief Officer's staff.

- ***Consolidation***

7.4 As very limited amendments are being made to the existing instruments, the Government does not intend to consolidate the legislation.

8. Consultation outcome

8.1 In light of the limited and technical nature of the amendments being made, consultation was limited to the affected Government Departments and the bodies that must be consulted before making Regulations in relation to rail safety accreditation schemes. No comments were received.

9. Guidance

9.1 Bearing in mind the limited extent of the amendments made to existing instruments, there is no intention to issue guidance.

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for these instruments.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Bearing in mind the limited extent of the amendments made to the existing instruments, there is no intention to review the impact of these instruments.

13. Contact

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