EXPLANATORY MEMORANDUM TO

THE PARLIAMENTARY PENSIONS (AMENDMENT) (NO.2) REGULATIONS 2006

2006 No. 1965

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

   This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1. This instrument amends the Parliamentary Pension Scheme to allow the Speaker of the House of Lords to participate in the Scheme.

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

3.1. None.

4. Legislative Background

4.1. The Parliamentary and other Pensions Act 1987 ("the Act") provides for the existence of the Parliamentary Contributory Pension Fund and confers powers on the Leader of the House of Commons to make regulations making provision for pensions to be payable from the Fund for Members of the House of Commons, Ministers and certain other office holders. Such provision has been made via the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993, as amended from time to time (referred to, for ease, as the Parliamentary Pension Scheme).

4.2. The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No 3) Order 2006 amended the Act so that regulations made under the Act can apply to the holder of the office of Speaker of the House of Lords.

4.3. The Leader of the House of Commons is now making a further amendment to the Parliamentary Pension Scheme, with the consent of the Minister for the Civil Service. The amendment allows the holder of the office of Speaker of the House of Lords to participate in the Scheme.

4.4. The amendment to the Parliamentary Pension Scheme is retrospective. Section 2(4) of the Act permits the Leader of the House of Commons to make provisions which have effect from a date earlier than the date of the making of the regulations containing the provision.

4.5. As required by section 2(7) of the Act, the Leader of the House of Commons has consulted with the Trustees of the Fund, and they are content. The Act also requires the Leader to consult persons appearing to him to represent persons likely to be affected by the amendment but, given that no benefit provisions are being amended,

and given the Parliamentary scrutiny of the Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No 3) Order 2006 (which amended the Act to allow regulations to make provision for a pension for the Speaker of the House of Lords), the Leader did not consider that any further consultation was required or was necessary.

4.6. The Cabinet Office intends to commence a project to consolidate the Parliamentary Pension Scheme regulations within the next 18 months.

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. In June 2003, the Government announced that it proposed to abolish the office of Lord Chancellor. The traditional functions of the Lord Chancellor would be split three ways. His ministerial functions would pass to a Secretary of State who would have no special status within Government. His judicial functions as Head of the Judiciary in England and Wales would pass to the Lord Chief Justice, and the Lord Chancellor would cease to be a judge. His functions as Speaker of the House of Lords would pass to a Speaker elected by the Lords themselves. The intention of the reform was to enhance the separation of powers within the UK. The Government felt that it was no longer justifiable that a senior Cabinet Minister should also be head of the judiciary. They also felt that it was inappropriate that the Prime Minister should appoint the presiding officer of one of the Houses of Parliament.

7.2. The Government introduced in February 2004 into the House of Lords a Constitutional Reform Bill to give effect to these proposals. During the course of extensive debates on the Government's proposals, the Government agreed to keep the name of the office of Lord Chancellor for the holder of the ministerial functions. The transfer of the judicial functions, however, went ahead. The Bill also provided for the separation of the offices of Lord Chancellor and Speaker of the House of Lords. It did not, however, create a new office nor a new procedure for selecting the Speaker, since those were matters for the House to decide for itself.

7.3. The House of Lords appointed on 3 July 2003 a select committee to consider the question of what the functions of the new office should be. At the time the Committee sat, they assumed that the office of Lord Chancellor would in fact be abolished, as the Prime Minister had proposed, and therefore that they must provide for an alternative. The Committee reported on 18 November 2003. In respect of remuneration, the Committee recommended that the new Speaker should be paid the same as a Cabinet Minister in the Lords.

7.4. When the Government agreed to reform, rather than abolish, the office of Lord Chancellor, the House of Lords had to consider the question of its future presiding officer on a rather different basis. The House agreed on 12 July 2005 that it should in

future elect its own presiding officer and re-appointed the select committee to consider in detail how to achieve this. The select committee reported on 13 December 2005. In respect of salary and pension, the Committee this time recommended that "The Senior Salaries Review Body should be invited to propose a salary and pension arrangements which would be appropriate vis-à-vis those of the Chairman and Principal Deputy Chairman of Committees.". The House approved the Report from the Select Committee on 31 January 2006 and invited the SSRB to recommend a salary and pension arrangements for the Speaker.

7.5. The SSRB responded in March 2006. It proposed that the Lord Speaker should have the same salary as a Cabinet Minister in the House of Lords. Secondly, it proposed a pension in accordance with the normal pension scheme provisions for Ministers, MPs and the Chairman and Principal Deputy Chairman of Committees in the House of Lords. The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No 3) Order 2006 (SI 2006/1640), made on 21 June 2006, gives effect to these recommendations.

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. There is no impact on the public sector.

9. Contacts

9.1. Peter Spain at the Cabinet Office (tel: 01256 846428 or e-mail: peter.spain@cabinet-office.x.gsi.gov.uk) can answer any queries relating to this instrument.