EXPLANATORY MEMORANDUM TO

THE PARLIAMENTARY PENSIONS (AMENDMENT) REGULATIONS 2007

2007 No. 270

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 provide an option for scheme members to cease participation in the scheme on the day before their 75th birthday despite continuing as a Member of the House of Commons, a Minister or other office holder, and extends certain death benefit provisions to them. It also provides the flexibility for a further pensioner (who is entitled to a pension in respect of service as a Member of the House of Commons) to be appointed as a Trustee of 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 Leader of the House of Commons is now making further amendments to the Parliamentary Pension Scheme, with the consent of the Minister for the Civil Service.

4.3. Some of the amendments to the Parliamentary Pension Scheme are 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.

4.4. Section 2(7) of the Act requires the Leader of the House of Commons to consult the Trustees of the Fund and persons appearing to him to represent persons likely to be affected by the amendments. The Leader wrote to the Chairman of Trustees in December 2006 and January 2007 about the amendments, and the Chairman responded that the Trustees were content. The Leader also wrote in January 2007 to

Party representatives and the Association of Former Members of Parliament, and they all either indicated that they were content or made no comment.

4.5. The Cabinet Office intends to commence a project to consolidate the Parliamentary Pension Scheme regulations within the next financial year.

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. The tax rules relating to pensions which were introduced by the Finance Act 2004 do not give any tax privileges to pension scheme members aged over 75. Amendments to the Parliamentary Pension Scheme were made in March 2006 to allow those who were over 75 at that time to opt to cease participation in the scheme before the introduction of the new tax rules on 6 April 2006 despite continuing as a Member of the House of Commons, a Minister or other office holder. The amendments allowed them to take their tax-free lump sum at that point if they wished, with their accrued pension abated (suspended) until their final retirement. Ceasing participation in the scheme also allowed them to cease paying pension contributions (on which, under the new tax rules, they would get no tax relief over age 75). Special provisions were introduced to provide death benefit cover should they die whilst still serving as a Member of the House of Commons, Minister or other office holder, or if they should die shortly after retirement.

7.2. The policy intention was that there should be a consistent approach for those who were aged 75 before 6 April 2006 and those who reach that age after that date. However, when the amendments to the scheme described in paragraph 7.1 above were made in March 2006, it was not possible to extend the provisions to scheme members reaching age 75 on or after 6 April 2006 because the abatement of pensions in these circumstances was not permitted by the Finance Act 2004. A change to the tax rules relating to abatement was made in the Finance Act 2006, which now allows the provisions in the Parliamentary Pension Scheme described in paragraph 7.1 to be extended accordingly, with members being given the option to cease participation in the scheme on the day before their 75th birthday.

7.3. Opportunity is also taken to clarify that Parliamentary pensions that are subject to abatement cannot be reduced below the level of the guaranteed minimum pension (as defined in section 8(2) of the Pension Schemes Act 1993).

7.4. Only one of the Trustees of the Parliamentary Pension Scheme may be a pensioner (who is entitled to a pension in respect of service as a Member of the House of Commons). The amendment provides for at least one but not more than two of the Trustees to be a pensioner. This will provide the flexibility to appoint an additional pensioner who could bring a different perspective and be an asset to the Trustees' deliberations.

7.5. The new provisions have been explained to the Trustees during the consultation process, and they will communicate details to scheme members as they feel appropriate.

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.