EXPLANATORY MEMORANDUM TO

THE POLICE AND JUSTICE ACT 2006 (SUPPLEMENTARY AND TRANSITIONAL PROVISIONS) ORDER 2006

2006 No. 3365

1. This explanatory memorandum has been prepared by the Home 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 Order makes supplementary and transitional provision in respect of new provisions regarding police authority membership which are being commenced under the Police and Justice Act 2006 ("the 2006 Act"). The new regime will come into operation, in the case of police authorities established under section 3 of the Police Act 1996, on 1 April 2008 and, in the case of the Metropolitan Police Authority, on 3 July 2008. This Order ensures that, until that new scheme comes into operation, existing lay justice members of police authorities in England and Wales whose appointments would otherwise expire on or after 15 January 2007 shall have their appointments extended until 31 March 2008 or, in the case of the Metropolitan Police Authority, 2 July 2008.

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

   3.1 This is the first time the power under section 51 of the Police and Justice Act 2006 has been exercised.

4. **Legislative background**

   4.1 Schedules 2, 2A, 3 and 3A to the Police Act 1996 make provision for the membership of police authorities. Schedules 2 and 2A to the Police Act 1996 are substituted, and Schedules 3 and 3A to that Act are repealed, by paragraphs 2, 4 and 6 of Schedule 2 to the 2006 Act. The Police and Justice Act 2006 (Commencement No. 1, Transitional and Saving Provisions) Order 2006 commences paragraphs 2 to 6 of Schedule 2 to the 2006 Act on 15 January 2007. Those new provisions of the 2006 Act provide the Secretary of State with a power to make regulations in respect of police authority membership and make certain provision as to what is to be prescribed in those regulations. It is intended that those regulations will be made in the summer 2007 and that the new scheme will operate from 1 April 2008 (in the case of police authorities established under section 3 of the Police Act 1996) and from 3 July 2008 (in the case of the Metropolitan Police Authority). A key difference between the existing provision under the Police Act 1996 and that made under the 2006 Act is that the new regime reduces the mandatory number of lay justice members of police authorities.

4.2 The Police and Justice Act 2006 (Commencement No. 1, Transitional and Saving Provisions) Order 2006, which commences paragraphs 2 to 6 of Schedule 2 to the 2006 Act on 15 January 2007, also saves the existing provisions in the Police Act 1996 in respect of police authorities until, in the case of police authorities established under section 3 of the Police Act 1996, 31 March 2008 and, in the case of the Metropolitan Police Authority, 2 July 2008. This Order ensures that, under that saving, existing lay justice members whose appointments would otherwise expire between the making of this Order and the coming into operation of the new regime shall be extended so as to avoid, where possible, the need to run an appointments process for the purposes of a short period of time only. This will be the case even where the lay justice is no longer assigned to the relevant local justice area as a result of his name being entered on the supplemental list under section 13 of the Courts Act 2003 or where, consequently, he no longer principally resides or works within the police area of that police authority. Other provision in the Police Act 1996 regarding disqualification and resignation will continue to apply.

5. Extent

5.1 This instrument applies to England and Wales.

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 White Paper 'Building Communities, Beating Crime' published in November 2004, proposed to strengthen the skills and experience base of police authorities, partly by removing the separate category of lay justice members (currently there must be 3 lay justice members on a police authority of 17 members). The 2006 Act gives effect to this change and provides for at least one member of a police authority to be a lay justice.

7.2 Police authorities are conducting a major selection round for independent member vacancies to be filled by 1 April 2007. For the majority of police authorities this would also involve recruiting lay justices for appointment in April 2007. However, these appointments would only be for one year because of our aim to implement from April 2008 the membership provisions in Schedule 2 to the Police and Justice Act 2006. In addition the training involved for new members and the loss of experience on police authorities will add a burden to police authorities. The Order will remove the need for new appointments to be made in April 2007 and require existing lay justice appointments to be extended to 31 March 2008.

7.3 In the case of the Metropolitan Police Authority the lay justice terms currently run until 30 June 2008. The appointments of existing independent members are due to expire on 2 July 2008. In order to avoid two sets of recruitment processes taking place so close together the Order will allow for the lay justices' term of appointment to be extended to 2 July 2008.

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 The impact on the public sector is that it will obviate the need for police authorities to appoint lay justice members for one year only and therefore avoid the work and unnecessary bureaucracy involved. The administration costs related to extending the period of appointment is negligible.

9. **Contact**

9.1 Narinder Tamana at the Home Office (tele: 020 7035 1955 or email: Narinder.tamana@homeoffice.gsi.gov.uk) can answer any queries regarding this instrument.