EXPLANATORY MEMORANDUM TO

THE POLICE AUTHORITY (AMENDMENT NO. 2) REGULATIONS 2010

2010 No. 2826

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 instrument

2.1 The Police Authority Regulations 2008 were amended by the Police Authority (Amendment) Regulations 2010, allowing police authorities to reconsider previously recorded applications for police authority member positions, where a vacancy on the authority arises within four years of the police authority advertising vacancies. Regulation 41(5) of the Police Authority Regulations 2008 previously stipulated that police authorities could only use previously recorded applications for police authority member positions where a vacancy arose within two years of advertising for vacancies.

2.2 The Police Authority (Amendment No. 2) Regulations will further amend the Police Authority Regulations 2008, extending the four year limit to five.

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

3.1 None.

4. Legislative Context

4.1 Schedules 2 and 2A to the Police Act 1996, as amended by the Police and Justice Act 2006, provide that the Secretary of State will make regulations governing police authority membership. The Police Authority Regulations 2008 provide for circumstances in which a police authority can fill a vacancy by relying on old applications rather than having to advertise for new independent members. There is no requirement to advertise if a selection panel decides to nominate candidates who have previously applied, if there are at least twice as many candidates as appointments to be made, and if the vacancy occurs within a specified period after an advertisement was last published. The Police Authority (Amendment) Regulations 2010 increased that maximum period from two to four years.

5. Territorial Extent and Application

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 In June 2010, the Government announced its intention to replace police authorities with directly elected police and crime commissioners in England and Wales by 2012. As part of policy development, arrangements are required to ensure that police authorities will continue to operate effectively during the transitional period. It has been acknowledged that present regulatory requirements on police authorities to re-advertise following two years since a previous recruitment campaign would be at disproportionate cost given that any new members may only serve up until 2012.

7.2 In order to reduce costs in a proportionate manner, the decision was made to extend the two year limit on revisiting old applications to four. This means that police authorities will be able to save time and resources that would otherwise have been dedicated to an expensive advertisement process.

7.3 We have since received further representations from the Association of Police Authorities, indicating that the regulations as they stood would benefit sixteen police authorities, but extending the four year limit to five could potentially benefit 34 of the 41 police authorities outside London. The decision was therefore made to regulate further.

7.3 We do not intend to consolidate these regulations with previous legislation.

8. Consultation outcome

8.1 The Home Office consulted with both the Association of Police Authorities and the Local Government Association on the Police Authority (Amendment) Regulations 2010.

8.2 After the Police Authority (Amendment) Regulations 2010 were made and laid in Parliament, the Association of Police Authorities produced further evidence as outlined above. The Home Office followed up on the summer consultation exercise with a further targeted consultation of both the Association of Police Authorities and the Local Government Association prior to making these new regulations – no further suggestions were made.

8.3 No wider consultation was deemed necessary due to the proximity in time between the two statutory instruments and similarity in their effect.

9. Guidance

9.1 Updated guidance on revisiting police authority member applications will be issued by the Association of Police Authorities.

10. Impact

10.1 These regulations do not apply to businesses, charities or voluntary bodies.

10.2 The impact on the public sector will be a proportionate reduction in time and resources dedicated by police authorities to filling police authority member vacancies between the commencement of these regulations and the introduction of directly elected police and crime commissioners.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating Small Business

11.1 The provisions of this instrument do not impact on small businesses.

12. Monitoring and Review

12.1 It is anticipated that the provision under which this instrument is made will be repealed by the Police Reform and Social Responsibility Bill, and the consequential introduction of Police and Crime Commissioners in 2012, which will replace police authorities as the body of policing governance in England and Wales.

13. Contact

13.1 Benedict Collins at the Home Office (tele: 020 7035 1896 or email: benedict.collins11@homeoffice.gsi.gov.uk) can answer any queries regarding this instrument.