EXPLANATORY MEMORANDUM TO

THE POLICE AUTHORITY (AMENDMENT No. 3) REGULATIONS 2010

2010 No. 3030

1. 1.1 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 purpose of the Police Authority (Amendment No. 3) Regulations 2010 is to allow police authorities to retain experienced independent members during the transitionary phase between now and the anticipated introduction of Police and Crime Commissioners in May 2012, and the consequent and concurrent abolition of police authorities. The intention is to ensure that independent members, and their skills and experience, may be retained whilst still ensuring that members can be removed, resign, or be disqualified from serving. Should a replacement have already have agreed to be appointed to the police authority, the incumbent member will not have their term extended under these Regulations (to ensure that newly recruited members, who may have acted in good faith on acceptance of an offer of appointment, are not unfairly affected).

2.2 This instrument makes amendments to the Police Authority Regulations 2008. It will automatically extend the terms of all independent members of police authorities in England and Wales (outside London) through until 10 May 2012 (subject to some exceptions). This will not affect: members whose terms expire after 10 May 2012; or members whose terms are coming to an end and for whom a replacement member has already agreed to be appointed to the police authority.

2.3 Members affected will retain the option of resigning if they do not wish to continue their term through to May 2012 (under regulation 21 of the Police Authority Regulations 2008). Police authorities will retain the right to remove members under regulation 21 of the 2008 Regulations. Members will remain subject to disqualification under regulations 14 to 17 of the 2008 Regulations.

2.4 Arrangements for recruiting new independent members (in the event of resignation, disqualification or removal) remain unchanged.

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

3.1 None.

4. Legislative Context

4.1 Schedule 2 to the Police Act 1996, as amended by the Police and Justice Act 2006, provides that the Secretary of State will make regulations governing police authority membership. Previously, (as set out in regulation 19 of the Police Authority Regulations 2008) independent members' terms were limited to four years, or a

shorter term as determined by the police authority, and to a maximum of two terms (though they could serve for additional terms with the consent of the Secretary of State). These Regulations will amend regulation 19 of the Police Authority Regulations 2008 and insert a new regulation 19A to include the provisions as set out in paragraphs 2.1-2.3 of this document.

4.2 The Police Reform and Social Responsibility Bill, which was introduced in the House of Commons on 30 November 2010, provides for police authorities to be abolished, and elections for Police and Crime Commissioners to be held in 2012. If the Bill is approved by Parliament it is likely that the elections will be held on 3 May 2012 and Police and Crime Commissioners' terms of office will begin on 10 May 2012.

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.

7.2 Following consultation with partners – in particular, the Association of Police Authorities – the decision was made to extend the two year limit on revisiting old applications to four (through the Police Authority (Amendment) Regulations 2010), and subsequently five years (through the Police Authority (Amendment No. 2) Regulations 2010). 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 it would be beneficial to the transitionary process to retain independent members in the interests of retaining vital experience, as well as further reducing the financial burden imposed through expensive recruitment procedures (which may fail to attract a high calibre of candidates due to the impending abolition of police authorities). The decision was made to regulate further to extend existing members' terms when due to expire before May 2012.

7.4 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 and, subsequently, the Police Authority (Amendment No. 2) Regulations 2010.

8.2 The Home Office has consulted again on the Police Authority (Amendment No. 3) Regulations 2010 with the Association of Police Authorities and Local Government Association. In response to representations received, the Home Office has ensured that there is to be no automatic extension of a member's appointment if another person has already accepted an offer of appointment to that vacancy by the time the Regulations come into force.

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

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 reduction in time and resources dedicated by police authorities to filling police authority member vacancies between the commencement of these Regulations, in the period leading up to the expected 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.