EXPLANATORY MEMORANDUM TO

THE POLICE (COMPLAINTS AND MISCONDUCT) (AMENDMENT: METROPOLITAN POLICE) REGULATIONS 2011

2011 No. 3028

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 This instrument amends the Police (Complaints and Misconduct) Regulations 2004 in consequence of changes made to policing governance in the Metropolitan Police District by the Police Reform and Social Responsibility Act 2011 ("the 2011 Act"). Further regulations will be made in 2012 to reflect the changes in relation to the rest of England and Wales.

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

3.1 None.

4. Legislative Context

4.1 The 2011 Act makes changes to the governance arrangements for policing in England and Wales, with the exception of the City of London police area. The Act abolishes the police authorities responsible for maintaining police forces outside London and replaces them with directly elected Police and Crime Commissioners ("PCCs"). The Act also abolishes the Metropolitan Police Authority and replaces it with the Mayor's Office for Policing and Crime ("MOPC") – an office held by the Mayor of London. PCCs and the MOPC are referred to collectively in the Act as elected local policing bodies.

4.2 The 2011 Act amends the Police Reform Act 2002, with the effect that the elected local policing body is the appropriate authority responsible for dealing with complaints and conduct matters in relation to the Chief Officer of Police (the Chief Constable or, in the case of the Metropolitan Police, the Commissioner). The Chief Officer of Police is the appropriate authority in relation to all other police officers. Previously, the police authority was the appropriate authority in respect of all police officers above the rank of Chief Superintendent.

4.3 The 2011 Act also establishes Chief Constables and the Commissioner of Police of the Metropolis as corporations sole, and makes provision for them to employ staff. Previously, all police staff were employed by the police authority.

4.4 The 2011 Act makes no changes to the arrangements for policing governance or the handling of police complaints in the City of London police area.

4.5 The relevant provisions of the 2011 Act come into force on 16th January 2012 in relation to the Metropolitan Police District. They will come into force on 22nd November 2012 in the rest of England and Wales. The 2011 Act also make various further amendments to the Police Reform Act 2002 with the aim of improving the efficiency and effectiveness of the police complaints process – these provisions will also be brought into force on 22nd November 2012 throughout England and Wales.

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

- ***What is being done and why***

7.1 This instrument amends the Police (Complaints and Misconduct) Regulations 2004 by inserting a definition of "police authority" which ensures that references to a police authority apply equally to the Mayor's Office for Policing and Crime. This instrument also inserts a definition of "appropriate authority" (the authority responsible for handling complaints and conduct matters) which reflects the fact that the Mayor's Office for Policing and Crime will be the appropriate authority in respect of complaints and matters concerning the Commissioner of Police of the Metropolis or a senior officer exercising his functions, while the Commissioner will himself be the appropriate authority in respect of complaints and conduct matters concerning other officers of the Metropolitan Police. Finally, this instrument amends the definition of "police staff member" to reflect the provision for employment of staff made in the 2011 Act.

7.2 A further instrument will be made in 2012 which will reflect and supplement the further provision made by the 2011 Act in relation to the establishment of PCCs and the reform of the police complaints system which are to come into force in November.

- ***Consolidation***

7.3 These regulations make limited amendments to the Police (Complaints and Misconduct) Regulations 2011 that are consequent upon provisions in the 2011 Act, and that have to be made at relatively short notice before the relevant provisions of the Act come into force in relation to the Metropolitan

Police District. Accordingly this is not regarded as a suitable opportunity to consolidate these and other amendments that have been made to the Police (Complaints and Misconduct) Regulations 2004. However, the further regulations to be made in 2012 will consolidate the existing regulations.

8. Consultation outcome

8.1 The Secretary of State consulted with the Independent Police Complaints Commission, the Association of Chief Police Officers, the Association of Police Authorities and the Police Advisory Board for England and Wales on this instrument and reflected comments made by these bodies.

9. Guidance

9.1 Bearing in mind the nature of the changes being made at this stage, and their limited geographical extent, no specific guidance is being issued at this stage. The Independent Police Complaints Commission will be revising the guidance that it issues under section 23 of the Police Reform Act 2002 in order to reflect the wider changes to the police complaints system in November 2012.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office will monitor the effect of these Regulations in the Metropolitan Police District as part of the process of developing the further amending regulations in 2012.

13. Contact

13.1 Steve Newby at the Home Office Tel: 020 7035 0715 or email: steve.newby@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.