EXPLANATORY MEMORANDUM

THE POLICE PENSIONS (AMENDMENT) (NO. 3) REGULATIONS 2004 NO.2354

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

This instrument will, subject to annulment in pursuance of a resolution of either House, come into force on 1st October 2004 and make revisions to the Police Pensions Regulations 1987 (S.I. 1987/257). The revisions relate to a new arrangements for a health standard applied to those seeking appointment to membership of a police force, under which those with an identified risk of ill-health retirement which would lead to disproportionately high pensions costs are excluded from the ill-health benefits of the Police Pension Scheme.

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

None

4. Legislative Background:

The instrument is made under section 1 of the Police Pensions Act 1976 as amended.

5. Extent

The instrument applies to England and Wales.

6. European Convention on Human Rights:

The Minister of State for the Home Department, Hazel Blears, has made the following statement regarding Human Right:

In my view the provisions of the Police Pensions (Amendment) (No. 3) Regulations 2004 are compatible with the Convention Rights.

7. Policy background:

7.1 In October 2004 the police service will be brought further within the scope of the Disability Discrimination Act 1995 (DDA), in implementation of Council Directive 2000/78/EC which established a general framework for equal treatment in employment and occupation. The DDA will apply to the medical standards on entry into the police service. While those who are unable to meet the fitness criteria at the time of application may still be refused entry to the service, there will be others, eg with progressive conditions, who are fit for immediate service but whose risk of later ill-health retirement makes their likely pensions costs significantly higher than those without an identified risk of such

retirement. The Regulations provide a means of allowing such applicants to join the Police Pension Scheme without incurring a disproportionate burden on it.

7.2 Regulation 2(2) to (4) specifies the ill-health pension benefits payable from which an officer is to be excluded where his or her pension costs are assessed as likely to be disproportionately high due to a risk of medical retirement.

7.3 Regulation 2(5) provides for the pension contributions of an officer excluded from ill-health benefits to be reduced from 11% to 7.5% of pensionable pay.

7.4 Regulation 2(6) provides that the officers who have opted out of the Police Pension Scheme cannot be debarred from re-joining the scheme on ill-health grounds but are liable to be excluded from its ill-health benefits in the same way as applicants to join the service.

7.5 Regulation 2(7) inserts new regulations G7 and G8 into the Police Pensions Regulations 1987. New regulation G7 provides for applicants to join the police, those seeking to re-join after a break in service, and those applying to re-join the scheme after opting out to be examined by a medical practitioner selected by the police authority (selected medical practitioner – SMP) in order to assess whether there is a significantly increased risk of the applicant becoming permanently disabled for police duties. The SMP will report his or her decision to the police authority who will then use the report issued by the SMP in conjunction with reference tables produced by the Government Actuary's Department to determine whether the applicant is eligible to be admitted to the full benefits of the Police Pension Scheme, or would have to be excluded from the ill-health benefits of the scheme on the ground that his or her pension costs, are likely to be disproportionately high, which is defined as being more than 50% greater than the costs of a person with no identified risk of medical retirement.

7.6 Regulation G8 lays down an appeal procedure. An appeal must be in the form of evidence that a medical practitioner has examined the applicant and disagrees with the SMP's opinion. If the SMP's review of the medical evidence produced by the applicant results in the applicant gaining access to ill-health benefits, no further appeal action is necessary. In any other case the police authority will arrange for a third medical practitioner to examine. The police authority will then use the third medical practitioner's report in conjunction with the GAD reference tables to determine afresh whether the applicant is eligible for ill-health benefits.

7.7 Regulation 3 provides for amendments to the Police Pensions (Purchase of Increased Benefits) Regulations 1987 to ensure that the added years of benefits bought by officers excluded from ill-health benefits are paid at a suitably reduced level of contributions and to exclude automatic credit of the amount of added benefits being purchased in the event of medical retirement.

8. Consultation:

In accordance with the provisions of section 1 of the Police Pensions Act 1976 this instrument was sent in draft to the Police Negotiating Board for

consultation. The instrument takes account of the responses received from the Police Negotiating Board.

9. Impact:

No Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen. The effect of the instrument is to protect public sector resources.

10. Contact:

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