EXPLANATORY MEMORANDUM TO

THE POLICE PENSIONS (AMENDMENT) REGULATIONS 2011

2011 No. 3063

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 various regulations concerned with police pensions in consequence of changes made to policing governance in England and Wales by the Police Reform and Social Responsibility Act 2011 ("the 2011 Act").

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. In the City of London, the Common Council retains its role as the police authority.

4.2 In relation to police pensions, paragraphs 128 to 133 of Schedule 16 to the 2011 Act amend the Police Pensions Act 1976. The amendments introduce the concept of the "police pension authority", which, in forces with a PCC and in the Metropolitan Police, will be the Chief Officer of Police, and the "pension supervising authority", which, in respect of those forces, will be the PCC or the MOPC.

4.3 In the City of London, the Common Council will be both the police pension authority and the pension supervising authority – there will be no change to its role in relation to police pensions.

4.4 The Secretary of State will act as both police pension authority and pension supervising authority in respect of persons who are no longer members of a police force but who remain eligible for police pensions because they continue to carry out duties related to policing, such as Her Majesty's Inspectors of Constabulary. The Serious Organised Crime Agency and the National Policing Improvement Agency will carry out both functions in

relation to those employees of theirs who also retain their eligibility for police pensions.

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 The intention behind the amendments made to the Police Pensions Act 1976 by the 2011 Act is that the functions of the police authority in relation to police pensions will generally be discharged by the police pension authority, while the pension supervising authority will have a limited role, retaining responsibility for pension forfeiture, and for decisions in relation to the Chief Officer of Police's own pension (which it would not be appropriate for the Chief Officer to take himself). A separate police pension fund will still be maintained, but it will be kept by the Chief Officer of Police using money provided by the PCC or MOPC for that purpose.

7.2 This instrument carries the amendments made by the 2011 Act through to the various instruments governing the police pension schemes, by replacing references to police authorities with references to police pension authorities or pension supervising authorities as appropriate.

7.3 The Regulations come into force on 16 January 2012, when the MOPC will replace the Metropolitan Police Authority. They will come into force across England and Wales on that date, but outside London police authorities will retain their police pension functions as before until 22 November 2012. This is achieved by means of the commencement order bringing into force paragraphs 128 to 133 of Schedule 16 to the Act – that order contains transitional provision to the effect that, until PCCs replace police authorities, the police authority will be both the police pension authority and the pension supervising authority.

- ***Consolidation***

7.4 These Regulations make limited amendments to the regulations concerning police pensions 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. Accordingly this is not regarded as a suitable opportunity to consolidate these and other amendments that have been made to the various regulations.

8. Consultation outcome

8.1 The Police Negotiating Board has been consulted and changes have been made to the draft as a result of points raised by the Board.

9. Guidance

9.1 It is not intended to issue any specific guidance in relation to this instrument.

10. Impact

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

10.2 There is no net impact on the public sector, since functions are being transferred from one body to another rather than being created. At present police pensions are already administered by police staff under the direction and control of the Chief Officer of Police (to whom the police authority delegates the relevant functions). Formally conferring these pensions functions on the Chief Officer of Police via this instrument, in accordance with the Act, will make little practical difference.

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 Regulations being amended make extensive provision about the terms and conditions of service of police officers in England and Wales, and the effective operation of those Regulations is the subject of ongoing attention by the Home Office.

13. Contact

13.1 Sara Alderman at the Home Office Tel: 020 7035 1882 or email: sara.alderman@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.