EXECUTIVE NOTE

THE POLICE PENSIONS AMENDMENT (SCOTLAND) REGULATIONS 2010 SSI/2010/85

The above instrument is made in exercise of the powers conferred by section 1 of the Police Pensions Act 1976. Functions under that Act as regards Scotland have been executively devolved to the Scottish Ministers. The instrument is subject to negative resolution procedure. Certain of the provisions of the instrument have retrospective effect, which is permitted by section 1(5) of the Act. The instrument applies only to Scotland.

The instrument makes amendments to both the Police Pensions Regulations 1987 (S.I. 1987/257) (which provide for the Police Pension Scheme (PPS) for officers recruited before 6 April 2006) and the Police Pensions (Scotland) Regulations 2007 (S.S.I. 2007/201) (which provide for the New Police Pension Scheme (NPPS) for officers recruited from 6 April 2006 and those PPS members who chose to transfer over). The provision amending regulation B1 of the PPS requires being in force by 5 April. This has meant that this amendment has had to be introduced before the planned UK wide consolidation of the Police Pensions Regulations 1987 which is scheduled for later in the year.

Policy Objectives

The instrument amends the PPS to make its language more consistent with that of the NPPS, to make corrections, to update references to tax legislation and other enactments, and to replace all references to the Government Actuary with references to the Scheme actuary (this change is because public service pension schemes are now able to appoint someone other than the Government Actuary to provide them with actuarial services).

The instrument also amends the PPS to allow a police authority to disapply the regulation which limits the size of lump sum for which a police officer with less than 30 years' service who retires before their normal retirement age for their rank can commute from his or her pension. This will only apply in the limited circumstance where the officer retires one day before reaching 30 years' service and is below the age of 50. This provision will assist a police authority to manage the orderly retirement and replacement of a chief officer who joined the service before the age of 20 and has had the expectation of being able to retire before 50, by allowing him or her to retire as planned but to defer his or her 30-year pension (albeit very slightly reduced) to 50 in order to meet HMRC requirements for an authorised payment free from tax charges.

The instrument also amends the PPS to give chief officers of police the right to retire with a full pension at the age of 50, having given six months' notice. This gives effect to an agreement reached by the PNB in 2004 and adopted from that date by police forces in Scotland. It was not thought necessary at that time to reflect the agreement in pensions legislation. However, subsequent changes to tax legislation have made the question of whether or not a chief officer had the right to retire with a full pension before the age of 55, as at 5 April 2006, relevant to the determination of his or her later tax liability. The amendment to the PPS is designed to make it clear that such a right did exist. This provision has retrospective effect, commencing on the date of the PNB agreement (1st April 2004) and ending the day the PPS regulations formally recognised this right.

Sensitivity

The Regulations are not contentious and simply aim to align the language between the PPS and NPPS as well as recognise an agreed right for chief officers to retire before age 55 with effect from 1 April 2004. This instrument is being laid with retrospective effect to cover the period 1 April 2004 to 30 September 2006 as mentioned above.

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. It has also been the subject of consultation with other Government departments, Scottish stakeholders and other interested parties. Similar changes are being introduced to the scheme in England and Wales.

Financial implications

The impact is limited to those areas involved with the provision of police pensions and it is not anticipated to result in any increased costs.

Regulatory Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no adverse impact on business, charities or voluntary bodies.

Scottish Public Pensions Agency

March 2010