EXPLANATORY MEMORANDUM TO

THE POLICE PENSIONS AND POLICE (INJURY BENEFIT) (AMENDMENT) REGULATIONS 2015

2015 No. 2057

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office ("The Department") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Police Pensions Regulations 1987 and the Police (Injury Benefit) Regulations 2006 to allow surviving widows, widowers and civil partners of police officers who die or have died as the result of an injury received without the officer's own default in the execution of their duty to continue receiving their survivor benefits in the event of a remarriage, formation of a civil partnership or cohabitation with another partner. The term 'survivor benefits' includes pensions or gratuities under the 1987 Scheme and any special or augmented award under the 2006 Regulations. Special and augmented awards for adult survivors under the Police (Injury Benefit) Regulations 2006 do not depend on the payment of pensions contributions under the 1987 Scheme but are in effect compensation for the officer's surviving spouse or civil partner following the officer's death, without their own default, in the execution of their duty. An injury shall be treated as received without the default of the officer concerned unless the injury is wholly or mainly due to the officer's own serious and culpable negligence or misconduct.

2.2 This amendment applies to surviving widows, widowers and civil partners, who remarry, form a civil partnership or begin cohabitation on or after 1 April 2015, provided they were in receipt of their survivor benefits immediately before that date, or those benefits were reinstated after that date and prior to their remarriage, formation of a civil partnership or cohabitation (and those benefits included a special or augmented award).

2.3 These Regulations also amend regulation 16(1) of the Police (Injury Benefit) Regulations 2006 in order to correct a minor error made in the original version of those Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 As indicated at paragraph 2.2 above, these Regulations correct a minor error in Regulation 16(1) of the Police (Injury Benefit) Regulations 2006. The free issue procedure has not been applied in this case. This is because the correcting provision forms a small part of a wider instrument making significant other changes to the Police Pensions Regulations 1987 and the Police (Injury Benefit) Regulations 2006 such that the Department considers that the other changes form the main purpose of the instrument. The Department therefore considers that it would be disproportionate in these particular circumstances to apply the free issue procedure. In addition, as both the correcting provision and other provisions relate to survivor benefits, the

Department considers that the target audience for both the correcting provision and other provisions in the instrument are the same.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The Regulations are being made to amend the Police Pensions Regulations 1987 and the Police (Injury Benefit) Regulations 2006 in order to implement a change in policy about the effect of remarriage, formation of a civil partnership or cohabitation on the pension entitlement of those who were married or in civil partnerships with police officers who have died or will die on duty.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Under the Police Pensions Regulations 1987 and the Police (Injury Benefit) Regulations 2006, the surviving widow, widower or civil partner of a police officer who dies will be entitled to survivor benefits. Under these Regulations, survivor benefits cease to be payable if the widow, widower or civil partner remarries, forms a civil partnership or begins to cohabitat with another partner. Survivor benefits can be reinstated, at the discretion of the police pension authority (i.e. the police force) responsible for administering the pension (or award) if the remarriage, civil partnership or cohabitation subsequently ceases.

7.2 In November 2014, the Prime Minister announced his decision to remove the restrictions placed on survivor members of the Armed Forces Pensions Scheme 1975 and the War Pensions Scheme whose pensions ended upon remarriage or cohabitation.

7.3 As a result, this policy has attracted a considerable amount of public interest which is reflected in the high volume of correspondence received at the Home Office. An online petition was also set up seeking an amendment to these provisions. In his Budget on 18 March 2015, the Chancellor announced that widows, widowers, and surviving civil partners of police officers who died or die on duty in England and Wales will no longer lose their survivor benefits if they remarry, form a civil partnership or begin cohabitation. This announcement also included widows, widowers and civil partners of fire-fighters. On 12 October 2015, the Home Secretary announced in the House of Commons that these changes will be applied retrospectively from 1 April 2015.

7.4 The changes will apply to all widows, widowers and civil partners of police officers who die or have died as the result of an injury received without the officer's own default in the execution of their duty. Deaths on duty are rare and the anticipated costs associated to this policy amendment are expected to be low for Police Forces and taxpayers. Any survivor benefits which have already ceased as a result of remarriage, formation of a civil partnership or cohabitation, and the police pension authority has not reinstated them so that they are payable immediately before the 1 April 2015, will not be reinstated. The Regulations will continue to allow the police pension authority the discretion to reinstate survivor benefits if the remarriage, civil partnership, or cohabitation subsequently ends. Once restored, these survivor benefits will remain for life, provided that the police officer died or dies as the result of an injury received without the officer's own default in the execution of their duty, even if the recipient subsequently remarries, forms a civil partnership or begins to cohabit with another partner after 1 April 2015.

Consolidation

7.5 The Home Office does not intend to consolidate the relevant legislation.

8. Consultation outcome

8.1 In accordance with section 1(1) of the Police Pensions Act 1976, the Home Office consulted with the Police Advisory Board of England and Wales (PABEW). The consultation period ran from 4 August 2015 to 1 September 2015. As this is a relatively small amendment, which will only have an advantageous impact or maintain the status quo for those in receipt of survivor benefits, it was deemed unnecessary to provide a longer consultation period.

8.2 Responses were received from the Police Federation of England and Wales ("PFEW") and the Police Superintendents' Association of England and Wales ("PSAEW") on 28 August 2015, 15 September 2015 and 16 October 2015. The PFEW and the PSAEW felt that the Home Office should introduce this amendment to apply to all widows, widowers and civil partners of police officers and not limit this to those surviving spouses and civil partners of police officers who die or have died as the result of an injury received without the officer's own default in the execution of their duty. They also suggested that all widows, widowers and civil partners of police officers who died on duty and have already remarried, formed a civil partnership or began cohabitation before the implementation date should have these survivor benefits restored.

8.3 In the consultation response letter, the Home Office stated that the Government continues to have a duty to ensure that public service pensions are affordable, sustainable and fair, both for the members of those schemes and for other taxpayers. In recognition of the high risk faced as an everyday part of policing, the Home Office believed that it was justified to apply these changes to surviving spouses and civil partners of police officers who die or have died as the result of an injury received without the officer's own default in the execution of their duty. Further to this the Home Office confirmed that the reason why survivor benefits were not reinstated for those surviving spouses and civil partners who had already ceased to receive these survivor benefits due to remarriage, formation of a civil partnership or cohabitation was to remain in line with the policy applied for the Armed Forces. As a result of responses to the consultation, the Home Office did agree to amend the draft Regulations to ensure that those who were not in receipt of their survivor benefits

immediately prior to 1 April 2015, but subsequently had them reinstated, would not lose those benefits on a subsequent re-marriage, civil partnership or cohabitation provided that the police officer died or dies as the result of an injury received without the officer's own default in the execution of their duty.

9. Guidance

9.1 The Home Office will be communicating with police pensions administrators about the changes, and they will in turn inform those who are affected.

10. Impact

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

10.2 The impact on the public sector is that different provisions will be applied to Police widows, widowers and civil partners. The provision set out in the 1987 Police Pension Scheme relating to survivor benefits is in common with other public sector pension schemes of that time. The amendments to the 1987 Police Pension Scheme and the Police (Injury Benefit) Scheme 2006 will mean that widows, widowers and civil partners of police officers are treated differently to the widows, widowers and civil partners of members of other public sector pension schemes. The Home Office believes that the arguments for making this change in respect of police officers who died on duty are sufficiently compelling, due to the high risk of danger as part of everyday policing, to allow a limited exception in this case.

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

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 There are no proposals to monitor or review the outcome of the changes to this Statutory Instrument.

13. Contact

13.1 Sara Soleymani at the Home Office Telephone: 0207 035 3073 or email: Sara.Soleymani@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.