EXPLANATORY MEMORANDUM TO

THE POLICE PENSIONS (DESCRIPTIONS OF SERVICE) ORDER 2010

2010 No. 899

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

The instrument amends the Police Pensions Act 1976 to allow a former police officer taking up the post of the independent Chief Inspector of the UK Border Agency to retain his or her membership of the relevant police pension scheme.

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

None.

4. Legislative Context

4.1 The post of Chief Inspector of UK Border Agency was created by section 48 of the UK Borders Act 2007, as amended by section 28 of the Borders, Citizenship and Immigration Act 2009.

4.2 Section 11 of the Police Pensions Act 1976 (interpretation) lists various descriptions of service which are taken to be service as a member of a police force for the purposes of the Act. The effect of the section is that a person serving in one of the capacities listed can be or remain a member of one of the police pension schemes created by regulations made under the Act.

4.3 Section 10 of the Policing and Crime Act 2009 inserted a new section 11A into the 1976 Act, allowing the Home Secretary to amend section 11 by order, and including the power to make supplemental or consequential amendments to other sections of the 1976 Act. Section 10 came into force on 29 January 2010.

4.4 This Order amends section 11(1) of the 1976 Act by the addition of service as Chief Inspector of the UK Border Agency to the kinds of service which constitute membership of a police force. It also makes supplementary amendments to section 7 and 11 of the 1976 Act to allow police pensions regulations to make provision in relation to the payment of the Chief Inspector's contributions and pension, to provide that the Secretary of State is treated as the police authority and the Home Office is treated as the police force in relation to the Chief Inspector for the purposes of the 1976 Act, and to provide that the reference to service as Chief Inspector in section

11(1) only applies to a person who was a member of a police force (within the wide meaning of that term in section 11) immediately before he was appointed as Chief Inspector, and has previously served in the office of constable.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales

6. European Convention on Human Rights

The Rt Hon David Hanson MP, Minister of State has made the following statement regarding Human Rights:

In my view the provisions of the Police Pensions (Descriptions of Service) Order 2010 are compatible with the Convention rights.

7. Policy background

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

7.1 Senior police officers represent a valuable pool of candidates for appointment to the post of Chief Inspector. Indeed the current Chief Inspector (the first to be appointed) is a former chief constable. The change at this time will enable his service to contribute to his police pension. The ability to retain membership of a police pension scheme while serving as Chief Inspector will make the post more attractive to candidates from the police service in the future, just as the absence of such a provision may act as a disincentive.

7.2 The categories of service that count as membership of a police force for pension purposes have been extended a number of times by primary legislation, most recently last year. Equivalent provision to the one in this order has already been made in respect of HM Inspectorate of Constabulary, certain members of SOCA, NPIA and the Independent Safeguarding Authority. This instrument will remove an inconsistency between the position of the Chief Inspector and holders of similar offices such as Inspectors of Constabulary.

- ***Consolidation***

7.3 Not applicable.

8. Consultation outcome

8.1 The instrument was the subject of statutory consultation with the Police Advisory Board for England and Wales (PABEW) under section 63(3) of the Police Act 1996 (as amended by section 10(3) of the Policing and Crime Act 2009). Responses were received from the independent Chair of the Board, from the Association of Chief Police Officers, the Chief Police Officers' Staff Association, the Police Superintendents' Association of England and Wales and the Police Federation. All of the responses either supported the proposal or were neutral. No member of the Board objected to the proposal.

9. Guidance

9.1 No specific guidance is proposed given the limited scope of the proposed provision

10. Impact

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

10.2 The impact on the public sector is limited to the area of police pensions provisions. Any increased cost will be minimal, bearing in mind that the instrument affects only one post, and some public sector pension provision would have been made for the post-holder in any event.

10.3 An Impact Assessment has not been prepared for this instrument. This is because no impact on business, charities or voluntary bodies is foreseen and the impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Police pensions policy is kept under review by the Home Office. If necessary changes are identified, the legislation will be amended accordingly.

13. Contact

Jeremy Johnston at the Home Office Tel: 02070354606 or email: Jeremy.Johnston@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.