EXPLANATORY MEMORANDUM TO

THE SUPERANNUATION (ADMISSION TO SCHEDULE 1 TO THE SUPERANNUATION ACT 1972) ORDER 2006

2006 No. 3374

1. 1.1 This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This instrument adds employments and offices to Schedule 1 to the Superannuation Act 1972 ("the Act"), enabling people serving in those employments or offices to be members of the schemes made under section 1 of the Act. The Principal Civil Service Pension Scheme, the Civil Service Additional Voluntary Contribution Scheme, the Civil Service Compensation Scheme and the Civil Service Injury Benefits Scheme are schemes that have been made under section 1 of the Act and are collectively referred to below as "the PCSPS".

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

3.1 Please see paragraph 7.2.

4. Legislative background

4.1 Section 1 of the Act gives to the Minister for the Civil Service powers to make, maintain and administer schemes to provide pensions, allowances or gratuities to civil servants and other persons whose employments or offices are listed in Schedule 1 to the Act. The Act further permits the Minister to add employments or offices to Schedule 1, conditional on the employment or office being paid out of moneys provided by Parliament, the Consolidated Fund, or the Scottish Consolidated Fund. By virtue of section 1(7) of the Act, the Minister may also add to Schedule 1 persons serving in employment which is remunerated out of a fund established by or under an Act of Parliament and specified in the order. An employment or office may also be removed from Schedule 1.

4.2 Section 1 of the Act also gives the Minister for the Civil Service powers to include transitional and other supplemental provisions; for example, provide access to PCSPS to ease the movement of staff between public service employers.

4.3 This Instrument adds and removes a number of employments and offices to Schedule 1; these are listed an Annex A of this memorandum.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister for the Civil Service has made the following statement regarding Human Rights:

6.2 The Superannuation (Admission to Schedule 1 to the Superannuation Act 1972) Order 2006 amends Schedule 1 to the Superannuation Act 1972. In my view, the provisions of this instrument are compatible with the Convention rights.

7. Policy background

7.1 The bodies added to Schedule 1 by this instrument wish to join the PCSPS rather than run their own pension arrangements. Membership of the PCSPS avoids the administration and associated costs of setting up separate arrangements, and makes available the economies of scale provided by the PCSPS. In all cases the bodies will be required to make contributions to the PCSPS at a level set to meet the full costs of the accruing superannuation liability associated with their staff. Civil Service Pensions Division ensures that admitted employments or offices are within the public sector and have suitable controls over pay to protect the Civil Superannuation Vote, from which pensions are paid.

7.2 Article 5 of this instrument adds, exceptionally, certain specified employees of HM Customs and Excise (now HM Revenue and Customs, "HMRC") to Schedule 1 for a specified period of time. As a result of the 11 recruitment exercises listed in article 5, 192 staff were recruited to HM Customs and Excise in Northern Ireland between 2000 and 2004 in a manner that was fair and open but which did not at every stage of the recruitment process involve selection on merit, since random sifting was also used. HMRC informed the Civil Service Commissioners of this irregularity and, on 4 May 2006, the Commissioners approved and thereby regularised the appointments. The Commissioners' approval, however, was not retrospective. As a consequence, for the period between the initial appointments and the Commissioners' approval on 4 May 2006, the employees were not employed in the civil service of the State and, accordingly, section 1 of the Act could not automatically apply to them in respect of that period of service. In order to ensure that these employees' pension entitlement is not adversely affected in respect of their service before 4 May 2006, therefore, Article 5 of this instrument provides that section 1 of the Act shall apply in respect of their service before 4 May 2006.

7.3 There has been no public interest in these changes and they are not politically sensitive.

8. Impact

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

8.2 The outcome of this legislation is to effect a saving in administration to public sector bodies by enabling them to join existing pension arrangements and benefit from the support provided by the Scheme Managers, Civil Service Pensions Division.

9. Contact

Ken Pike (Head of Employers and Complaints Branch) at the Cabinet Office Civil Service Pensions can answer any queries regarding the instrument. Tel: 01256846570 or e-mail: kenneth.pike@cabinet-office.x.gsi.gov.uk

Annex A

Employments and Offices to be added to Schedule 1 of the Superannuation Act 1972

Commonwealth Parliamentary Association (United Kingdom Branch)
Employment by the Trustees of the Independent Living (Extension) Fund and the Independent Living (1993) Fund"
NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG)
Employment by the Adjudicator to Her Majesty's Land Registry
Quality Improvement Agency
The School Food Trust
Employment by the Scottish Parliamentary Standards Commissioner
Employment by Her Majesty's Customs and Excise (now Her Majesty's Revenue and Customs) as a result of the following recruitment exercises—
PERMSGB2/2000;
NIPERMJB2/2000;
FTAJB4/2001;
MERCJB2/2002;
MERCJB3/2002;
MERCJB4/2002;
MERCJB6/2002;
EKCAS/2003;
LDCAS/2003;
NIJB2/2004; and
NIJB4/2004
Offices

Chief Electoral Officer for Northern Ireland

Scottish Parliamentary Standards Commissioner

Amendments:

Other Bodies

The NHS Confederation (Employers) Company Limited

And the removal of:

Other Bodies

The Greater London Magistrates' Courts Authority
NHS Pensions Agency (NHS Pensions Agency (Asiantaeth Pensiynau'r GIG)
Wine Standards Board
Employment by Her Majesty's Customs and Excise (now Her Majesty's Revenue and Customs) as a result of the following recruitment exercises—
PERMSGB2/2000;
NIPERMJB2/2000;

FTAJB4/2001;
MERCJB2/2002;
MERCJB3/2002;
MERCJB4/2002;
MERCJB6/2002;
EKCAS/2003;
LDCAS/2003;
NIJB2/2004; and
NIJB4/2004