EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS)(No. 2) REGULATIONS 2008

2008 No. 1042

1. This explanatory memorandum has been prepared by the Department for Work and Pensions 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. These regulations contain a number of provisions which are of a purely corrective nature, rectifying typographical errors and clarifying the wording of existing provisions in the Housing Benefit (HB) and Council Tax Benefit (CTB) Regulations. Otiose references have also been removed. These amendments therefore do not represent changes in policy.
- 2.2. The drafting of a provision in the Social Security and Child Support (Decisions and Appeals) Regulations 1999 is improved in line with a commitment by the Department to the Joint Committee on Statutory Instruments.
- 2.3. A full disregard of child maintenance in HB and CTB is introduced from October 2008.

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

3.1. The amendment to the Decisions and Appeals Regulations follows the Department's response to the joint Committee on Statutory Instruments which accepted the amendment made by regulation 3(7) of the Social Security (Miscellaneous Amendments) (No. 4) Regulations 2007 should have been made by a free standing paragraph as opposed to a new sub-paragraph within regulation 7(2) of the Child Support (Decisions and Appeals) Regulations 1999. The Department undertook to correct it at the next available opportunity.

4. Legislative background

- 4.1. The purpose of these regulations is to:
 - correct typographical errors, clarify drafting and remove otiose references in the HB and CTB Regulations without affecting the existing policy;
 - amend a provision in the Social Security and Child Support (Decisions and Appeals) Regulations to honour a commitment made by the Department to the Joint Committee on Statutory Instruments (see paragraph 3);
 - introduce a full disregard of child maintenance in the calculation of HB and CTB in line with commitments made in the Pre-Budget Report.

5. Extent

5.1. This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

Child Maintenance Disregard

- 7.1. The White Paper, "A New System of Child Maintenance", proposes to redesign child maintenance arrangements. The Child Maintenance and Other Payments Bill introduces a number of measures that affect the income-related benefits.
- 7.2. The Bill includes the extension of the application of the child maintenance disregard to all payments of child maintenance, regardless of the source of that income. An increase in the child maintenance disregard was announced in the October 2007 Pre Budget Report:
 - from £10 to £20 per week in Income Support, income-based Jobseeker's Allowance and income-related Employment and Support Allowance. This will be increased again to £40 from April 2010;
 - from £15 per week to a full disregard to a full disregard in HB and CTB.

7.3. To comply with the Pre Budget Report, the child maintenance disregard in HB and CTB will be changed from £15 to a full disregard.

Decisions and Appeal Regulations

7.4. Regulation 2 amends the structure of regulation 7(2) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 in line with the Department's response to the Joint Committee on Statutory Instruments.

Other proposed amendments to the HB and CTB Regulations

7.5. The remainder of the provisions are all of a corrective nature, correcting errors, clarifying provisions, updating references and removing otiose references.

Benefit Simplification

7.6. The changes simplify the administration of the HB and CTB schemes.

Consultation

7.7. The Department has consulted the Local Authority Associations, who expressed their support for these changes.

Consolidation

7.8. There are no plans for consolidation of the legislation. We are not intending to consolidate the existing Regulations once this S.I. has been laid. Our reasons being that the Blue Volumes provide this function and will eventually incorporate this S.I. into the existing Regulations. They are held on line and are available to the public free of charge. The Housing Benefit and Council Tax Benefit regulations were consolidated in 2006.

Guidance

7.9. Guidance will be available to Local Authorities concerning the amendments made by the Regulations.

8. Impact

8.1. An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or the voluntary sector.

8.2. The impact on the public sector is negligible.

9. Contact

Richard Metcalfe at The Department for Work and Pensions: telephone 020 7962 8687; or email Richard.metcalfe@dwp.gsi.gov.uk can answer any queries regarding this instrument.