EXPLANATORY MEMORANDUM TO

THE ACCESSION (IMMIGRATION AND WORKER REGISTRATION) (AMENDMENT) REGULATIONS 2009

2009 No. 892

1. This explanatory memorandum has been prepared by The Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The Accession (Immigration and Worker Registration) Regulations 2004 ("the 2004 Regulations") set up the workers registration system ("WRS") regulating access to the United Kingdom labour market by nationals from eight of the States that acceded to the European Union on 1st May 2004. The 2004 Regulations apply during a transitional period ending on 30th April 2009. These amending Regulations extend that transitional period for a further two years so that the WRS will continue to apply until the end of April 2011.

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

3.1 None.

4. Legislative Context

4.1 The Accession Treaty signed at Athens on 16th April 2003 provides for the existing Member States to regulate access to their labour market by nationals from eight of the acceding States (the Czech Republic, the Republic of Estonia, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Poland, the Republic of Slovenian and the Slovak Republic). Under the Treaty an existing Member State can maintain such regulation for five years from the date of accession (that is, until 30th April 2009) and then for a further two year period in the case of a serious disturbance to its labour market or the threat of such a disturbance. The Government has decided, following an assessment of the United Kingdom labour market, to extend its system of regulation – WRS – for a further two years. This requires amending the definition of "accession period" in the 2004 Regulations so that the period expires on 30th April 2011 rather than 30th April 2009.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

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

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

7.1 TheWRS was introduced in the UK as a transitional measure to monitor A8 nationals' access to the UK labour market. The WRS does not place any restriction on nationals of the A8's access to the labour market in terms of numerical ceilings, resident labour market test or skills test but does make employment subject to a requirement that the worker register their employment under the WRS within one month of starting work. Workers cease to be subject to the requirement to register after 12 months continuous employment in the UK.

7.2 The 2004 Regulations provided for the WRS to continue until the end of April 2009 on the basis that any further continuation of the WRS beyond that point would need to be subject to an assessment of the labour market circumstances at that point in time. That labour market assessment has recently been undertaken by the Migration Advisory Committee (MAC) and, in the light of the MAC's advice, it is has been decided that the WRS should continue until the end of April 2011.

- ***Consolidation***

7.3 The Home Office does not intend to consolidate these Regulations.

8. Consultation outcome

8.1 The decision to extend the 2004 Regulations for a further two years is based on advice from the Migration Advisory Committee. The MAC's report, including details of the consultation it undertook in connection with it, is being made publicly available.

9. Guidance

9.1 Guidance on compliance with the existing Regulations has been available since the WRS was introduced in 2004.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible. Employers of workers subject to the registration requirement may be guilty of an offence if those workers fail to register. It is, however, for the worker, and not the employer, to apply for registration. Applications to register are subject to a fee of £90.

10.2 The impact on the public sector is the cost of continuing to administer the WRS. These costs are, however, recovered through the fee charged for applications.

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

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is that, as noted above, the requirement to apply for registration falls to the worker rather than the employer. Guidance for employers on compliance with the WRS is available on the United Kingdom Border Agency website at: http://www.ukba.homeoffice.gov.uk/workingintheuk/eea/wrs/employers

12. Monitoring & review

12.1 The continued need for WRS will be reviewed again within a year of this instrument coming into force.

13. Contact

Ragnar Clifford at the United Kingdom Border Agency Tel: 0114 207 2444 or email: Ragnar.Clifford6@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.