EXPLANATORY MEMORANDUM TO

THE ASYLUM AND IMMIGRATION TRIBUNAL (FAST TRACK PROCEDURE) (AMENDMENT NO. 2) RULES 2006

2006 No. 2898

1. This explanatory memorandum has been prepared by the Tribunals Service of the Department for Constitutional Affairs 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 The Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment No. 2) Rules 2006 ("the corrective instrument") amends a minor error in Rule 6 of S.I. 2006/2789, the Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment) Rules 2006 ("the 2006 Rules").

2.2 The 2006 Rules amend the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 ("the Fast Track Rules"), which prescribe the procedure to be followed for appeals and applications to the Asylum and Immigration Tribunal ("the AIT") where the appellant is in detention under the Immigration Acts at locations specified in the Fast Track Rules.

2.3 The 2006 Rules are subject to negative resolution, and were laid before Parliament on 17th October 2006. They are due to come into force on 13th November 2006.

2.4 This corrective instrument is also subject to negative resolution, and is to come into force on 27th November 2006.

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

3.1 The corrective instrument corrects a minor drafting error in the 2006 Rules. The error was noted by the Department before the commencement date of 13th November 2006. The corrective instrument will be issued free of charge to all who have already bought or who subsequently buy hard copies of the 2006 Rules.

4. Legislative Background

4.1 The Fast Track Rules are made under sections 106 and 112(3) of the Nationality, Immigration and Asylum Act 2002 ("the NIA Act"). The procedures only apply to a particular category of appeals (where the appellant is in detention at specified locations). Section 112(3) of the NIA Act provides that Rules made under various provisions of the NIA Act (including section

106) may make provision which applies only in specified circumstances, or make different provision for different circumstances.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention of 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

7.1 One of the amendments to the Fast Track Rules made by the 2006 Rules is to de-prescribe appeal forms in those appeals where the Fast Track Rules apply. Schedule 1 to the Fast Track Rules contains the prescribed appeal forms, and it is intended that these should be removed from the Rules. Rule 6 of the 2006 Rules currently states that "the Schedule" to the Fast Track Rules should be omitted. However, there are two Schedules to the Fast Track Rules, and it is intended that only Schedule 1 should be omitted. Schedule 2, a list of immigration detention centres which fall within the remit of the Fast Track Rules, should remain in force. The corrective instrument therefore amends Rule 6 of the 2006 Rules to provide that only Schedule 1 should be omitted.

7.2 This correction is required as soon as possible to avert any confusion, as the Fast Track Rules apply only to appeals to the AIT where the appellant is in detention at one of the four locations specified in Schedule 2.

7.3 There are no other amendments to the 2006 Rules.

7.4 In accordance with section 8 of the Tribunals and Inquiries Act 1992 the Department has consulted the Council on Tribunals on this minor amendment to the 2006 Rules. The Council has confirmed that it does not have any comments on the proposed amendment. No further consultation has been undertaken, on the basis that the proposed amendment is a correction and will not impact upon the AIT's stakeholders. The Department therefore considers that, in light of the urgent nature of the proposed amendment, further consultation is not necessary.

8. Impact

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

9. Contact

9.1 Jason Latham at the Tribunals Service can be contacted with queries regarding the instrument, on 0161 234 2077 or Jason.Latham@tribunals.gsi.gov.uk.