EXPLANATORY MEMORANDUM TO

THE ASYLUM SUPPORT (AMENDMENT) REGULATIONS 2011

2011 No. 907

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

2.1 The Asylum Support (Amendment) Regulations 2011 set the rates of asylum support that will be paid to different categories of asylum seekers, dependent on age or status from April 2011. They amend Regulation 10(2) of the Asylum Support Regulations 2000 (SI 704/2000), which sets out the amount of cash support provided weekly to these categories.

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

3.1 None.

4. Legislative Context

4.1 There is no requirement in legislation to review or uplift asylum support rates but practice has been to review annually and increase the rates in line with inflation.

4.2 Regulation 10 of the Asylum Support Regulations stipulates the support which may be provided by the Home Office to supported asylum seekers and their dependants in respect of essential living needs (i.e. their subsistence support). This Statutory Instrument amends the table at regulation 10(2) by applying a 3.1% increase to the level of support from 18 April 2011, in line with the practice established in 2008. The increase is based on the Consumer Price Index for September 2010. This increase will be applied to all categories with the exception of the over 25 rate which was closed to new applicants in 2009 and will be frozen until the cases of its remaining recipients are concluded.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 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 Section 95 of the Immigration and Asylum Act 1999 provides for the Secretary of State to support destitute asylum seekers and their dependants. The policy objective of this provision is to ensure those who have sought protection in the United Kingdom are not left destitute whilst their claim is being determined. This statutory instrument fulfils that objective by ensuring the rate provided to asylum seekers to meet their essential living needs is increased in line with the general level of consumer prices.

7.2 The Asylum Support Regulations 2000 which came into force on 3 April 2000 make provision (in regulation 10) for the amounts to be paid as a general rule, in respect of their essential living needs, to destitute asylum seekers and their dependants. The practice is to use annual regulations to set the asylum support rates for the coming year.

7.3 In line with the practice established in 2008, rates will increase on 18 April 2011 in line with the Consumer Price Index for September 2010, the same month used as a basis for DWP increases in income support for 2011-12. This increase will be applied to all categories with the exception of the over 25 rate which was closed to new applicants in 2009 and will be frozen until the cases of its remaining recipients are concluded. The over 25 rate has been closed because all asylum seekers have access to rent free accommodation with utilities included. As a result, their essential living needs do not change as they get older and therefore we are moving to a unified rate of support for single adults.

7.4 The Consumer Price Index is a measure of inflation, based on the average price of a sample of goods that a typical household may buy including food and household goods but excluding most housing related costs. It is therefore a suitable index for assessing the rate of subsistence support for asylum seekers whose housing costs are fully met through the provision of accommodation.

7.5 The effects of this statutory instrument are confined to those eligible for asylum support. There will be little public interest in the policy, interest coming primarily from those organisations concerned with the welfare of asylum seekers.

7.6 Last year's regulations, The Asylum Support (Amendment) Regulations 2010, Statutory Instrument 2010 No. 784, are being revoked.

- ***Consolidation***

7.7 We are substituting the table at regulation 10(2) of the Asylum Support Regulations 2000, rather than amending policy or procedure substantively so we consider that there is no need for consolidation.

8. Consultation outcome

8.1 There has been no formal consultation but informal discussions with partners in the voluntary sector have taken place. A review of rates is carried out on an annual basis.

8.2 The new rates will be available on UKBA's website from 18 April 2011. Partners will be advised of the new rates before they are implemented.

9. Guidance

9.1 No separate guidance is considered necessary at this time, as the Regulations, Explanatory Note and this Explanatory Memorandum provide full information. In terms of practical application, the new asylum support rates will be achieved through an information technology change request. Caseworkers assessing applications for support will be notified of the new rates for support before this is introduced on 18 April 2011.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument because no impact on the public, private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Asylum support rates are reviewed annually by department officials. The review takes into account essential living needs of asylum seekers, inflation and department budget allocation for the forthcoming year. The findings of any review are not published but rates will be adjusted as deemed necessary.

13. Contact

13.1 Fiona Couper, Asylum Policy Tel. 0114 207 3277 or e-mail: Fiona.Couper@homeoffice.gsi.gov.uk can answer any queries regarding this instrument.