EXPLANATORY MEMORANDUM TO

THE CHILDREN (PRESCRIBED ORDERS – NORTHERN IRELAND, GUERNSEY AND ISLE OF MAN) AMENDMENT REGULATIONS 2006

2006 No. 837

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

2. Description

This instrument amends the Children (Prescribed Orders – Northern Ireland**,** Guernsey and Isle of Man) Regulations 1991 to provide for reciprocal arrangements between England and Wales and Northern Ireland, Isle of Man and Guernsey in relation to the enforcement of certain types of child care and recovery (absconding children) orders, where a child moves jurisdiction. The amendments are simply to take account of legislation passed by Northern Ireland and Isle of Man broadly equivalent to the Children Act 1989.

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

None.

4. Legislative Background

4.1 Section 101(1)(**a**) of the Children Act 1989 allows the Secretary of State to make regulations to provide for reciprocal arrangements between Northern Ireland and England and Wales in relation to the enforcement of care and recovery orders, where a child moves jurisdiction. Section 101(3) makes provision in relation to Isle of Man.

4.2 The Department is making changes to the 1991 Regulations at the request of the Northern Ireland Office and Isle of Man Government following the implementation of new child care legislation (equivalent to the Children Act 1989).

4.3 The functions of the Secretary of State under section 101 have transferred to the National Assembly in relation to Wales. Therefore this instrument is made by the Secretary of State exercising her powers in relation to England and the Assembly exercising their powers in relation to Wales. However, in regulations 2(4) and 2(6) the Secretary of State is exercising powers under section 101(1)(b) to provide for certain orders to have effect in Northern Ireland and is therefore not exercising powers in relation to Wales. Accordingly those provisions only make reference to Secretary of State.

5. Extent

This instrument applies to England, Wales and Northern Ireland.

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

7.1 The main changes to the Regulations are detailed below. The purpose of the amendments is to update and harmonise existing child care legislation following implementation of new legislation (equivalent to the Children Act 1989) in Northern Ireland and Isle of Man. One effect of the passing of the Northern Ireland legislation was that orders made in Northern Ireland courts no longer had effect in England and Wales, where a child moved jurisdiction. These Regulations will close that loophole.

- **Regulation 2 -** amended in relation to Northern Ireland to reflect the provisions in the Children (Northern Ireland) Order 1995. As the 1991 Regulations did not provide for care and recovery orders made by a court in Northern Ireland to have effect in England and Wales, this anomaly has been rectified in the new regulations.

- **Regulation 3** - amends the Regulations in relation to the Isle of Man to reflect the coming into force of the Children and Young Person Act 2001.

Consultation

7.2 The Department consulted the Department for Constitutional Affairs, Northern Ireland Office, Scottish Office, National Assembly for Wales, Isle of Man and Guernsey Governments.

7.3 The Department also consulted local authorities in England through the Association of Directors of Social Services and the Local Government Association. The National Assembly for Wales conducted a consultation with its local authorities.

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 impact on the public sector is minimal as the instrument affects only local authorities in respect of their arrangements for children who are looked after under care orders. They will already have arrangements in place for those children who move jurisdiction. Essentially, the Regulations provide a legal framework for local authorities to operate reciprocal arrangements where necessary and close the existing loophole in respect of arrangements made in

Northern Ireland.

9. Contact

Annette Warrick at the Department for Education and Skills. Telephone 0207 273 5380 or e-mail address: Annette.Warrick@dfes.gsi.gov.uk can answer any queries regarding the instrument.