EXPLANATORY MEMORANDUM TO THE

COMMISSION FOR SOCIAL CARE INSPECTION (FEES AND FRQUENCY OF INSPECTIONS) (AMENDMENT) REGULATIONS 2005

2005 No.575

1. This explanatory memorandum has been prepared by the Department of Health 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 Commission for Social Care Inspection (Fees and Frequency of Inspections) (Amendment) Regulations 2005 set out revised fee levels for social care establishments and agencies that are regulated by the Commission (CSCI).

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

3.1. Section 51(1) of the Care Standards Act 2000 allows the Secretary of State to set the fee in relation an inspection of a local authority's fostering services. Section 51 of the Care Standards Act 2000 was amended by the Health and Social Care (Community Health and Standards) Act 2003, the amendment being brought into force on 11th March 2004 by S.I. 2004/759, but its repeal was brought into force on 1st April 2004 by the same instrument. This was an inadvertent repeal which only came to light whilst amending the Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004. As a result of the repeal, there has been no legal authority for CSCI to charge such fees since 1st April 2004 and, accordingly, the amounts paid to CSCI by local authority fostering services in respect of annual fees in 2004/05 are in the process of being refunded. The relevant provisions in the Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004 are being revoked for the avoidance of doubt.

4. Legislative Background

4.1. CSCI is required under the Health and Social Care (Community Health and Standards) Act 2003 to inspect social care establishments and agencies according to established annual frequencies. Regulated establishments and agencies within the scope of the Care Standards Act 2000 are required, where appropriate, to pay

fees for registration, variations of registration, and annual fees as prescribed by the Secretary of State for Health. These requirements are set out in regulations.

5. Extent

5.1. This instrument applies to England.

6. European Convention on Human Rights

6.1. Not applicable.

7. Policy background

7.1 The policy objective of raising fee income from social care providers is twofold. Firstly, it helps the Commission to be properly funded and able to discharge its responsibilities and statutory obligations effectively. Secondly, the charging of fees is also intended to make the costs of regulation transparent, ensuring that these are borne by those who stand to benefit from the regulatory process.

7.2. The longer-term objective is for improved regulatory effectiveness and efficiency through full cost recovery. The Government's policy is to continue to move towards full cost recovery in stages. Because the amount recovered in fees was originally set at a low level, and is still well short of the full cost, these increases need to be above the rate of inflation. No decision has been taken on the time it should take to achieve full cost recovery, but further annual increases to move in that direction remain the Government's policy.

8. Impact

8.1. A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department of Health's website www.doh.gov.uk/regulatoryimpact/index.htm.

9. Contact

9.1. Tony Bennett at the Department of Health, Tel: 020 7972 4126 or e-mail: tony.bennett@dh.gsi.gov.uk can answer any queries regarding the instrument.