EXPLANATORY MEMORANDUM TO

THE DEFENCE SCIENCE AND TECHNOLOGY LABORATORY TRADING FUND ORDER 2011

2011 No. [XXXX]

1. This explanatory memorandum has been prepared by the Ministry of Defence and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this Order is to:

(a) consolidate four previous Orders relating to the operation of the Defence Science and Technology Laboratory (DSTL)

(b) extend the funded operations of DSTL

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

3.1 A draft Order with the same title was laid on 9 February and considered at a meeting of the Select Committee on 16 February. That draft was recently withdrawn as the coming into force date of 1 April 2011 was no longer achievable. This draft Order is a replacement and the only differences between the draft Order laid on 9 February and this Order relate to the removal of the 1 April 2011 date.

4. Legislative Context

4.1 DSTL was established as a Trading Fund in 2001 under the Government Trading Funds Act 1973, out of those operations of the Defence Evaluation and Research Agency (DERA) which were to be retained within government.

4.2. In April 2010, DSTL assumed responsibility for the formulation of the MOD's non-nuclear research programme. Whilst this did not entail a change to the operations carried out by DSTL, the opportunity has been taken to consolidate the previous legislation and clarify the funded operations to remove any ambiguity. In doing this, the funded operations have been technically extended.

4.3 The four Orders currently governing the operation of DSTL are: the Defence Research Agency Trading Fund Order 1993; the Defence Evaluation and Research Agency Trading Fund Order 1995; the Defence Evaluation and Research Agency Trading Fund (Amendment) Order 1996; and the Defence Science and Technology Laboratory Trading Fund Order 2001.
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5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Parliamentary Under Secretary of State for Defence Equipment Support and Technology has made the following statement regarding Human Rights:

> 'In my view the provisions of the Defence Science and Technology Laboratory Trading Fund Order 2011 are compatible with the Convention rights'.

7. Policy background

7.1 DSTL was established as a Trading Fund in 2001 to undertake those functions of the DERA (which was itself a Trading Fund) that had to be carried out within government. QinetiQ was created at the same time as a government owned company to carry out the remainder of DERA's activities and subsequently floated on the Stock Exchange.

7.2 The DSTL Trading Fund Order 2001 provided that DSTL should assume responsibility for the work of DERA's Security Division comprising the Centre for Defence Analysis, the Chemical and Biological Defence Sector, the Chemical and Electronic Systems Sector, the Defence Research Information Centre, the Defence Radiological Protection Service and the Integrated Systems Sector. The first five units were based on existing staff within DERA, with the staff transferred into DSTL. The Integrated Systems Sector was created to support DSTL's role as MOD adviser on all aspects of S&T and to carry out those aspects of the wider programme which had to be retained in government.

7.3 Following a review of the internal arrangements for formulating and delivering Science and Technology to the UK Armed Forces, in April 2010 DSTL assumed responsibility for the planning and delivery of the non-nuclear defence research programme. A programme office has been established in DSTL to this end, which is responsible for developing the research programme, working to the MOD's Chief Scientific Adviser. The Programme Office is then responsible for allocating delivery of the programme to either DSTL departments or industry and academia.

7.4 It is believed that in themselves these changes do not extend the funded operations of DSTL since there were already programme staff embedded within DSTL charged with overseeing the design and co-ordination of DSTL's programme, including placing work with industry and universities and because DSTL does not make any profit from the additional work going through the Programme Office. Neither has the reorganisation involved any transfer of assets or liabilities to DSTL.

7.5 Given however that there is an element of uncertainty as to whether the work of the Programme Office does fall within the funded operations and that the Security Division ceased to exist as an organisational unit once DSTL was established, it was concluded that the opportunity should be taken to consolidate the existing legislation and remove any ambiguity by describing the funded operations by reference to the work carried out by the fund. This necessitates a technical extension of the funded operations, although the general principle remains that DSTL will only carry out work that needs to be undertaken within government.

8. Consultation outcome

8.1 Because there is no change to existing policy or practice, a public consultation exercise has not been undertaken.

9. Guidance

9.1 Because there is no change to existing policy or practice, guidance is not required.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The status of DSTL as a Trading Fund will be subject to periodic review.

13. Contact

13.1 Stuart Brearley of the Business Strategy and Governance Team at the Ministry of Defence, Main Building Whitehall, London SW1A 2HB (telephone 020 7218 7539) can answer any queries regarding the instrument.