EXPLANATORY MEMORANDUM TO

THE DISABLED PEOPLE'S RIGHT TO CONTROL (PILOT SCHEME) (ENGLAND) (AMENDMENT) REGULATIONS 2012

2012 No.

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

2. Purpose of the instrument

2.1 This instrument extends the provisions of The Disabled People's Right to Control (Pilot Scheme) (England) Regulations 2010[1] for a further twelve months, until 12th December 2013.

2.2 It also amends the list of local authorities delivering the Right to Control, by removing the metropolitan district of Oldham.

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

3.1 None.

4. Legislative Context

4.1 Part 2 of the Welfare Reform Act 2009[2] ("the Act") established the Right to Control and the circumstances in which it could operate. Under the Act, the purpose of the Right to Control is to enable disabled people aged 18 or over to exercise greater choice in relation to, and control over, the way in which certain services are provided to or for them by central government and by local authorities. Part 2 of the Act allows pilot schemes to be set up with a view to ascertaining the extent:-

- to which the provisions of the scheme contribute to the purpose of Part 2 of the Act; and,
- of any beneficial effects on the lives of disabled people; and
- of any financial burden imposed on the authorities to which the scheme relate.

4.2 The Disabled People's Right to Control (Pilot Scheme) (England) Regulations 2010 ("the 2010 Regulations") were made in November 2010 under Part 2 of the Act. They prescribed the detailed operation of the current pilot scheme and the geographical areas in which it would operate.

4.3 A pilot scheme under the Act can run for a maximum of 36 months. As at 13th December 2012, which under the 2010 Regulations is the date that the current pilot scheme is set to expire, that scheme will have run for 24 months. This instrument amends the 2010 Regulations so that the current pilot scheme will expire 12 months later, so on 13th December 2013 rather than on 13th December 2012 as originally provided for.

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1 http://www.legislation.gov.uk/uksi/2010/2862/contents/made

2 http://www.legislation.gov.uk/ukpga/2009/24/part/2

5. Territorial Extent and Application

5.1 The regulations extend to England and Wales.

5.2 The regulations apply in England only.

6. European Convention on Human Rights

The Minister of State for Disabled People, Esther McVey has made the following statement regarding Human Rights:

In my view the provisions of the Disabled People's Right to Control (Pilot Scheme) (England) (Amendment) Regulations 2012 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 The pilot scheme which is currently delivering the Right to Control is due to come to an end on 13th December 2012. A great deal of progress has been made since the pilot scheme was set up and over 34,000 disabled people have benefited from the Right to Control, as of June 2012.

7.2 The overall results of the interim evaluation of the Right to Control[3], published in February 2012, were that the Right to Control had not been extended to sufficient numbers of people to enable firm, evidence-based decisions to be made about the future of Right to Control. Examples of good practice were identified, as well as some areas for further work.

7.3 The Government concluded that extending the Right to Control for a further twelve months would enable more disabled people to benefit from the Right to Control and for local authorities and partners delivering it to identify further good practice in the delivery to individuals and in the administration of their services.

- ***Consolidation***

7.4 This instrument amends The Disabled People's Right to Control (Pilot Scheme) (England) Regulations 2010. Informal consolidation will be included in due course in the Department's "The Law Relating to Social Security" (the Blue Volumes) which is available on the internet at no cost to the public.[4]

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3 http://odi.dwp.gov.uk/docs/wor/rtc/rtc-process-evaluation.pdf

4 http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/

8. Consultation outcome

8.1 The Government response to the consultation on these draft regulations was published on 15 October 2012[5]. The consultation period ran for a period of just over 12 weeks, from 28 June 2012 to 21 September 2012. A total of forty responses were received from individuals and organisations. All respondents who expressed a view (thirty-six) were in favour of extending the pilot schemes.

8.2 All the local authorities currently delivering the Right to Control were invited to participate in the extension period and all agreed, with the exception of the metropolitan district of Oldham.

9. Guidance

9.1 Statutory Guidance exists and an updated version will be made available to take account of the changes made by these Regulations.

10. Impact

10.1 The impact on business, charities or voluntary bodies remains as set out in the Impact Assessment published in 2010. [6]

10.2 The impact on the public sector also remains the same as in 2010.

10.3 Accordingly, a new 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 A comprehensive evaluation of the existing pilot schemes is being conducted by an independent research organisation who will consider the impact not only on disabled people and the relevant authorities taking part, but also the impact on service providers and advocacy and brokerage services as it is recognised that the Right to Control may also affect these groups.

12.2 The evaluation will use information collected by funding stream authorities on all customers eligible for support. A survey will be conducted among a group of people who participate in the Right to Control and a group of people eligible for the same funding streams but living in non-Right to Control local authorities to understand and compare their experiences and whether they felt that they had more choice and control over the funding they received.

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[5] The consultation document can be found here, http://www.dwp.gov.uk/docs/right-control-consultation-2012.pdf and the Government response can be found here,

[6] http://odi.dwp.gov.uk/docs/wor/rtc/rtc-consultation-trailblazer.pdf

12.3 The full evaluation report will be published in spring 2013 and the evidence will be used to inform any decision to offer the Right to Control more widely.

12.4 In addition, during the twelve-month extension period, information will continue to be collected to ensure the impact of Right to Control has been fully understood.

13. Contact

Marianne Dempster at the Department for Work and Pensions. Tel: 020 7449 5486 or email: Marianne.dempster@dwp.gsi.gov.uk can answer any queries regarding the instrument.