EXPLANATORY MEMORANDUM TO

THE PARLIAMENTARY STANDARDS ACT (STAFF TRANSFER) ORDER 2010

2010 No. [XXXX]

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before the House of Commons by Command of Her Majesty. It relates to the draft Parliamentary Standards Act (Staff Transfer) Order 2010 which supersedes the draft Order of the same name which was laid before the House of Commons and published on 19 May 2010. Accordingly this is the second explanatory memorandum laid before the House of Commons in relation to a draft Order of that name.

Under section 13(9) of the Parliamentary Standards Act 2009 this draft Order must be laid before and approved by resolution of the House of Commons. The preamble to the draft Order laid before the House of Commons and published on 19 May 2010 did not include the words "In accordance with section 13(9) of that Act a draft of this Order was laid before and approved by resolution of the House of Commons", as required by paragraph 2.4.7 of Statutory Instrument Practice.

Accordingly, the draft Order is now being re-laid so that the preamble contains the required text. It also now also contains a headnote confirming that it will be issued free to all known recipients of the previous draft Order laid and published on 19 May 2010.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 Powers to transfer staff employed by the House of Commons to the Independent Parliamentary Standards Authority (the IPSA) were included in the Parliamentary Standards Act 2009 (the Act). Under these powers such a transfer maybe accomplished by a scheme provided for in an order made by a Minister of the Crown. This is such an order and provides for a statutory scheme to authorise the transfer of staff from the Department of Resources of the House of Commons to the Independent Parliamentary Standards Authority.

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

3.1 None

4. Legislative Context

4.1 The order is made in exercise of the power in section 13(1) and (6)(a) of the Act and is the first exercise of that power.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Sir George Young has made the following statement regarding Human Rights:

In my view the provisions of the Parliamentary Standards Act (Staff Transfer) Order 2010 are compatible with the Convention rights.

7. Policy background

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

7.1 The Act created the IPSA to take over the administration of the pay and allowances of Members of Parliament from the House of Commons Service. It is normal practice for any transfer of work between public bodies to be accompanied by a transfer of staff who were previously engaged in this work. The order will transfer 29 such staff.

7.2 The Cabinet Office Statement Of Practice on staff transfers in the public sector (COSOP) requires public authorities to follow the principles of the Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) (SI 2006/246) when making transfers such as this. TUPE aims to preserve an employee's existing terms of conditions in respect of their new employer. The order therefore provides for the preservation of the terms and conditions of employment of those staff being transferred.

7.3 COSOP further requires that, where possible, a transfer such as this should be achieved by legislation rather than informal agreement.

8. Consultation outcome

8.1 The Order and Scheme have been agreed with the management of the House of Commons Service, the IPSA, and the PCS union representing the affected staff.

9. Guidance

9.1 The IPSA and the House of Commons Service have kept staff and the House of Commons Commission informed of this transfer and its impact on them in the manner and format required by TUPE. Such guidance will be continually available over the period of the transfer to all staff concerned.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is minimal.

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 Not applicable as the transfer is a one-off event.

13. Contacts

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can answer any policy queries regarding the instrument.