EXPLANATORY MEMORANDUM TO THE EMPLOYERS' LIABILITY (COMPULSORY INSURANCE) (AMENDMENT) REGULATIONS 2004

2004 No. 2882

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. Description

2.1 Employers' Liability Compulsory Insurance (ELCI) is a compulsory form of insurance. It insures the employer against claims from employees arising from personal injury.

2.2 This instrument removes the need to obtain ELCI where a company employs only one employee and that employee owns the company.

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

3.1 None.

4. Legislative Background

4.1 The instrument is being made to create a level playing field between the self-employed who have no employees and companies that employ only their owner. At present the self employed who work alone do not need ELCI but companies that employ only their owner do.

4.2 This is not the first use of the regulation making power under the parent Act, the Employers' Liability (Compulsory Insurance) Act 1969.

4.3 The instrument relates to the Employers' Liability (Compulsory Insurance) Regulations 1998 which it amends.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Not applicable

7. Policy background

7.1 The Employers' Liability (Compulsory Insurance) Act 1969 was intended to ensure that employers who run businesses had taken out insurance to cover claims arising from personal injury to their employees.

7.2 The Act has been very successful in ensuring that employers take out insurance. However, an anomaly has been discovered in that single owner/employee companies are currently required to take out the insurance even though they have no employees. This is considered to be unfair.

7.3 The Second Stage Report into Employers' Liability committed the Government to publishing a review of the requirement for ELCI for sole owners/employees. This was issued as a Partial Regulatory Impact Assessment on 30 March 2004. Consultation on the proposal ended on 22 June 2004.

7.4 A brief analysis of the responses to the consultation is contained in the Regulatory Impact Assessment. A more detailed analysis is on the Department for Work and Pensions' website at www.dwp.gov.uk/publications/dwp/2004/ria/elci_sum_resp_final.pdf.

7.5 As 78% of respondents are in favour, and in order to create equality of treatment between sole owners/employees whether companies have been incorporated or not, the Government decided to proceed to implement the change.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is to remove the need for Health and Safety Executive Inspectors to check the requirement for ELCI from incorporated owners/sole employees.

9. Contact

Peter Schutterlin at the Department for Work and Pensions Tel: 020 7712 2082 or e-mail: peter.schutterlin@dwp.gsi.gov.uk can answer any queries regarding the instrument.