EXPLANATORY MEMORANDUM TO

THE EMPLOYERS' LIABILITY (COMPULSORY INSURANCE) (AMENDMENT) REGULATIONS 2011

2011 No. 686

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 Employers' Liability Compulsory Insurance is a compulsory form of insurance. It insures employers against claims from employees arising from personal injury or disease sustained as a consequence of their employment.

2.2 This instrument removes specific Parliamentary bodies from the legal obligation to obtain Employers' Liability Compulsory Insurance.

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

None.

4. Legislative Context

The instrument is being made to exempt the Electoral Commission, the Parliamentary Commissioner for Administration, the Health Service Commissioner for England, the Comptroller and Auditor General, the National Assembly for Wales Commissioner for Standards, the Auditor General for Wales, the Public Services Ombudsman for Wales and the Independent Parliamentary Standards Authority from the requirement to obtain Employers' Liability Compulsory Insurance under the Employers' Liability (Compulsory Insurance) Act 1969. They are in a position to meet any employer liability claims out of their public funding, and such cover, represents better value for the exchequer than commercial cover. Therefore Employers' Liability Compulsory Insurance is not appropriate for these bodies.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

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

7.1 Since 1 January 1972, with some exceptions, such as government departments and local authorities, the Employers' Liability (Compulsory Insurance) Act 1969 (the 1969 Act) has required employers carrying on business in Great Britain to insure against liability to their employees for bodily injury or disease sustained in the course of their employment in Great Britain. There is a penalty of up to £2,500 for failure to insure on any day.

7.2 Crown bodies and a number of other bodies are exempted from the 1969 Act's requirements, either individually or as a class, through provisions in the Act itself or in the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI 2573)

7.3 These exemptions do not apply to the Electoral Commission, the Parliamentary Commissioner for Administration, the Health Service Commissioner for England, the Comptroller and Auditor General, the National Assembly for Wales Commissioner for Standards, the Auditor General for Wales, the Public Services Ombudsman for Wales and the Independent Parliamentary Standards Authority. This is because they are neither crown bodies nor, as they have no sponsoring government department, are they suitable to be issued with a certificate of exemption from a government department.

7.4 These bodies should be exempted from Employers' Liability Compulsory Insurance requirements as they will meet any compensation claims out of their public funding. These regulations ensure that the bodies listed are treated in the same way as crown bodies for Employers' Liability Compulsory Insurance purposes.

- ***Consolidation***

7.5 This instrument corrects a technical omission in the 1998 regulations and therefore consolidation is not appropriate.

8. Consultation outcome

These regulations correct a previous technical omission, they do not represent any policy change, and will have no adverse effect on the general public. For this reason we considered that no formal public consultation was necessary. We have consulted informally with the bodies involved and have given them the opportunity to comment. They were in agreement with these draft regulations.

9. Guidance

The Electoral Commission, the Parliamentary Commissioner for Administration, the Health Service Commissioner for England, the Comptroller and Auditor General, the National Assembly for Wales Commissioner for Standards, the Auditor General for Wales, the Public Services Ombudsman for Wales and the Independent Parliamentary Standards Authority will be notified in writing once the Regulations come into force. They will be asked to notify their employees of this change.

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies. The instrument formalises the obviation of employers liability insurance premiums for eight small public bodies that would otherwise be payable to insurance businesses.

10.2 The impact on the public sector is negligible as the Regulations formalise the current situation and these bodies, who are able to meet any liability which might arise from public funds, will not be required to obtain Employers' Liability Compulsory Insurance.

10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring and Review

This instrument exempts the Electoral Commission, the Parliamentary Commissioner for Administration, the Health Service Commissioner for England, the Comptroller and Auditor General, the National Assembly for Wales Commissioner for Standards, the Auditor General for Wales, the Public Services Ombudsman for Wales and the Independent Parliamentary Standards Authority from the requirement to obtain Employers' Liability Compulsory Insurance, so monitoring and review are not necessary.

13. Contact

Bobby Towers at the Department for Work and Pensions Tel: 0191 2252567 or email to robert.towers@dwp.gsi.gov.uk can answer any queries regarding the instrument.