EXPLANATORY MEMORANDUM TO

THE ENERGY SUPPLY COMPANY ADMINISTRATION (AMENDMENT) RULES 2013

2013 No. 2950

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 This explanatory memorandum has been prepared for the Energy Supply Company Administration (Amendment) Rules 2013 ("the Amendment Rules"). The Amendment Rules amend the Energy Supply Company Administration Rules 2013 (2013/1046), which implement provisions in the Energy Act 2011 for a special administration regime for energy supply companies in England and Wales.

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

3.1 The Amendment Rules amend Rule 10(6)(a) of the Energy Supply Company Administration Rules 2013 to reflect the repeal of Part 4 of the Financial Services and Markets Act 2000 ("FSMA 2000") and its replacement by Part 4A following the fourth report of the Joint Committee on Statutory Instruments of the Session 2013-2014. The Amendment Rules also amend Rule 10(6)(b) of the Energy Supply Company Administration Rules 2013 to include a reference to the new Part 4A.

4. Legislative Context

4.1 The Amendment Rules are made under the Insolvency Act 1986 ("the 1986 Act"), as applied by the Energy Act 2004 and the Energy Act 2011. Section 411(1)(a) of the 1986 Act empowers the Lord Chancellor, with the concurrence of the Secretary of State, to make rules for the purpose of giving effect to Parts 1 to 7 of the 1986 Act. Schedule B1 to the 1986 Act provides for administration.

4.2 The Amendment Rules amend Rule 10 of the Energy Supply Company Administration Rules 2013 in order to reflect the repeal of Part 4 of FSMA

2000, and its replacement by Part 4A of the Financial Services Act 2012 on 1 April 2013.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

7.1 The purpose of the Amendment Rules is to correct an error in the Energy Supply Company Administration Rules 2013.

7.2 Rule 10 of the Energy Supply Company Administration Rules 2013 deals with the manner in which service of an application for an energy supply company administration order is to be made. Paragraph (5) makes provision about the proper address of an authorised deposit-taker or former authorised deposit-taker which has appointed, or is or may be entitled to appoint, an administrative receiver of the energy supply company and has not notified an address for service. Paragraph (6)(a) defines "authorised deposit-taker" by reference to having permission under Part 4 of FSMA 2000 to accept deposits. Part 4 of FSMA 2000 was repealed by the Financial Services Act 2012 and replaced by Part 4A. The Rules substitute the reference to Part 4 in paragraph 6(a) with a reference to Part 4A.

7.3 Rule 10(6)(b) of the Energy Supply Company Administration Rules 2013 defines "former authorised deposit-taker", the Amendment Rules extend that definition to include a person who was at a former time a person with permission under Part 4A and continues to have a liability in respect of any deposit for which it had a liability at that time.

8. Consultation Outcome

8.1 The Government has not consulted on the Amendment Rules. It published a consultation on the Energy Supply Company Administration Rules 2013 and the outcome of the consultation is recorded in the Explanatory Memorandum accompanying those Rules.

9. Guidance

9.1 The Government does not intend to introduce guidance to accompany the Amendment Rules nor, at this time, to consolidate with the Energy Supply Company Administration Rules 2013.

10. Impact

10.1 No impact assessment has been prepared as no impact on business, charities or voluntary bodies is foreseen from the Amendment Rules. A full impact assessment was prepared for the Energy Supply Company Administration Rules 2013.

11. Regulating small business

11.1 No impact on small business is foreseen from the Amendment Rules.

12. Monitoring & review

12.1 There are no formal monitoring or review requirements, as the Amendment Rules are correcting an error.

13. Contact

13.1 **Dawn Armstrong** at the Department of Energy and Climate Change; Tel: 0300 068 6755 or email: dawn.armstrong @decc.gsi.gov.uk can answer any queries regarding the instrument.