EXPLANATORY MEMORANDUM TO

THE EUROPEAN PARLIAMENT (PAY AND PENSIONS) REGULATIONS 2009

2009 No. 1485

1. This explanatory memorandum has been prepared by Cabinet Office 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 The European Parliament (Pay and Pensions) Regulations 2009 ("the Instrument") amend the European Parliament (Pay and Pensions) Act 1979 so as to exclude from the ambit of the Act those members of the European Parliament who, from the commencement of the next European Parliamentary term (14 July 2009), will be paid their salary and pension by the European Parliament. This is as a result of the entry into force of the Stature for Members of the European Parliament (2005/684/EC, Euratom) ("the Statute").

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

3.1 None.

4. Legislative Context

4.1 The Lord Privy Seal is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 (S.I. 2008/3117) and makes this Instrument in the exercise of that power.

4.2 Under the Statute, Representatives of the European Parliament will be paid a salary, pension, transitional allowance and expenses by the European Parliament from the first day of the European Parliamentary term beginning in 2009 (14 July). The Statute also provides for MEPs elected to the Parliament before it comes into force (and who are re-elected in 2009) to retain their national system regarding salary, transitional allowance and pensions. In the UK, this is provided through the 1979 Act. The pay and pension provisions of the 1979 Act must therefore continue to have effect in respect of MEPs who choose to exercise this right but, from 14 July, apply *only* in respect of such MEPs. The Instrument therefore amends the Act so that the substantive provisions cease to apply to an MEP who will be paid in accordance with the new European Parliamentary system.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Lord Privy Seal has made the following statement regarding Human Rights:

In my view the provisions of the European Parliament (Pay and Pensions) Regulations 2009 are compatible with the Convention rights.

7. Policy background

7.1 The European Parliament (Pay and Pensions) Act 1979 sets the salary for MEPs at the same level as that for Members of Parliament and provides for the money to be paid by HM Government from the Consolidated Fund. It also gives the Leader of the House of Commons the power to make provision by order with respect to pensions for MEPs (provision has been made by the European Parliamentary (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994). The Statute creates arrangements for MEPs to be paid by the European Parliament at the rate of 38.5% of the salary of a Judge at the Court of Justice of the European Communities and create new pension arrangements. These arrangements will begin from the first day of the European Parliamentary term beginning in 2009 (14 July). Members of the European Parliament (MEP) who are re-elected to the European Parliament in 2009 may opt to retain their national system in respect of salary, pensions etc. as long as they do so within 30 days of the Statute coming in to force.

7.2 This instrument amends the European Parliament (Pay and Pensions) Act 1979 so that those who receive a salary from the European Parliament will no longer receive a salary from the Consolidated Fund or be covered by the pension arrangements for UK MEPs. The provisions of the Act will continue in force for any MEPs who do opt out of the European arrangements and will also operate to preserve any accrued pension rights for existing MEPs.

8. Consultation outcome

8.1 The Statute was subject to prolonged discussion between national Governments and within the European Parliament. The Select Committee on European Scrutiny considered the Statute at various points in 2003, 2004 and 2005. The Committee cleared an earlier version of the Statute and the Minister for Europe wrote to the Chair of the Committee to explain the differences between the original draft Statute and the version finally passed. MEPs have been fully informed of the impact of the changes.

8.2 It is the Statute itself which introduces new pay and pension arrangements for MEPs. The amendments made by the Instrument operate only to remove the possibility of an MEP receiving two salaries or pension for the same work and to preserve the existing national system for any MEPs that opt-out of the European system. For this reason, a separate, formal, consultation was not carried out in respect of the amendments made by the Instrument.

9. Guidance

9.1 MEPs have been individually informed in writing of the changes that will follow from the introduction of the Statute. In addition, each query from MEPs has been answered and officials have met with MEPs to discuss the implications of the changes.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

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 The success criteria for this instrument is that no MEP should be in receipt of a salary from both HM Government and the European Parliament in respect of their work as an MEP.

13. Contact

Mike Watkins at the Cabinet Office Tel: 020 7276 1518 or email: Mike.Watkins@cabinet-office.x.gsi.gov.uk can answer any queries regarding the instrument.