EXPLANATORY MEMORANDUM TO

THE EUROPEAN REGIONAL DEVELOPMENT FUND (NORTH EAST OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS 2007
2007 No.3621

THE EUROPEAN REGIONAL DEVELOPMENT FUND (NORTH WEST OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS 2007
2007 No.3622

THE EUROPEAN REGIONAL DEVELOPMENT FUND (YORKSHIRE AND THE HUMBER OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS 2007
2007 No.3619

THE EUROPEAN REGIONAL DEVELOPMENT FUND (EAST MIDLANDS OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS 2007
2007 No. 3625

THE EUROPEAN REGIONAL DEVELOPMENT FUND (WEST MIDLANDS OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS 2007
2007 No. 3618

THE EUROPEAN REGIONAL DEVELOPMENT FUND (EAST OF ENGLAND OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS 2007
2007 No. 3624

THE EUROPEAN REGIONAL DEVELOPMENT FUND (SOUTH EAST OPERATIONAL PROGRAMME) (IMPLEMENTATION) REGULATIONS 2007
2007 No. 3620

THE EUROPEAN REGIONAL DEVELOPMENT FUND (SOUTH WEST OPERATIONAL PROGRAMMES) (IMPLEMENTATION) REGULATIONS 2007
2007 No.3623

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government ("the Department") and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. Each of these statutory instruments is made for a region for which a development agency is responsible under the Regional Development Agencies Act 1998. Each instrument designates the regional development agency for the region concerned to carry out functions relating to the management and implementation of a development strategy adopted by the Commission of the European Communities (two such strategies have been adopted for the South West region).

2.2. The regions concerned do not include the London region, for which a separate statutory instrument is to be made. The arrangements for London will take account of the different institutional framework for governing Greater London, particularly the role of the Mayor and the relationship between the Greater London Authority and the London Development Agency.

2.3. The development strategies (known as operational programmes) set out the activities of the European Regional Development Fund. Each programme covers the period starting on 1 January 2007 and ending on 31 December 2013.

2.4. Each instrument entrusts functions to the designated agency and makes provision for matters arising out of or related to the designation.

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

3.1. None

4. Legislative Background

The Council Regulation

4.1. Council Regulation (EC) No.1083/2006 ("the Council Regulation") lays down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (together known as the

Structural Funds). These statutory instruments implement general provisions relating to the European Regional Development Fund ("the ERDF").

4.2. In this memorandum, a reference to an Article is a reference to an Article of the Council Regulation.

4.3. The ERDF may contribute towards achieving three objectives, namely:

4.3.1. speeding up the economic convergence of the least developed Member States and regions (the Convergence objective);

4.3.2. strengthening competitiveness and employment outside the least developed areas of the Community (the Regional competitiveness and employment objective); and

4.3.3. strengthening cross-border and trans-national co-operation (the European territorial co-operation objective).

4.4. The activities of the ERDF in each Member State are set out in operational programmes adopted by the Commission. Unless the Commission agrees otherwise, an operational programme covers a single objective of the ERDF. Disregarding programmes covering the European territorial co-operation objective, the Commission has adopted for England:

4.4.1. a programme covering the Regional competitiveness and employment objective for each of the nine regions in England for which a regional development agency has statutory responsibilities; and

4.4.2. a programme covering the Convergence objective for Cornwall and the Isles of Scilly, which are part of the South West region.

4.5. With one exception, each instrument makes provision for implementing a single programme aimed at strengthening regional competitiveness and employment. The instrument for the South West concerns the regional

programme for strengthening competitiveness and employment and the sub-regional programme covering the Convergence objective.

4.6. The Commission adopted the first of these programmes on 3 December 2007 and the last on 17 December 2007.

4.7. The amount allocated from the ERDF for England is 2.927 billion Euros (currently about £2.1 billion), of which 406 million Euros (currently about £300 million) has been allocated to the Convergence programme for Cornwall and the Isles of Scilly, and 2.521 billion Euros (currently about £1.8 billion) is the total for the Regional competitiveness and employment programmes [amounts in Euros are rounded to the nearest million].

4.8. Article 37.1 requires each programme to contain implementing provisions, which include, among other things, the designation of bodies under Article 59.

4.9. Article 59.1 obliges the Member State to designate a managing authority to manage the programme. The functions of the managing authority are specified in Article 60. The Secretary of State for Communities and Local Government is designated in the implementing provisions as the managing authority for every programme adopted by the Commission for England.

4.10. Article 59.2 authorises the Member State to designate one or more intermediate bodies to carry out some or all of the functions of the managing authority under the responsibility of that authority. The implementing provisions for each programme (except the London programme) provide that the regional development agency will be designated as a single intermediate body for the programme.

4.11. Article 58 requires the Member State to set up a management and control system. The system must define the functions of the bodies concerned in the management and control of the programme.

4.12. Article 42 authorises the managing authority to entrust the management and implementation of a part of a programme:

4.12.1. to one or more bodies ("global grant bodies") designated by the managing authority for the purposes of that article; and

4.12.2. in accordance with the provisions of an agreement concluded between the managing authority and the body or each body designated.

4.13. Chapter 1 of Title VII of the Council Regulation (Articles 75 to 97) make provision about financial management. Articles 82 to 87 make provision about the payment of the contribution from the ERDF to a programme by way of pre-financing and interim payments.

5. Extent

5.1. This instrument applies in relation to England only.

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

Policy

7.1. The Government's policy is that each programme shall be managed and implemented by the regional development agency for the region for which the programme has been adopted. Each agency will exercise most of the functions of the managing authority under the responsibility of that authority (the Secretary of State for Communities and Local Government).

7.2. For this purpose each agency is designated as the intermediate body for its region's programme (or programmes), and the relevant instrument makes provision for matters arising out of or related to the designation, including:

7.2.1. the modification of the Regional Development Agencies Act 1998 ("the 1998 Act"); and

7.2.2. the payment of the contribution from the ERDF and the certification and audit of payments.

7.3. The intermediate body for each programme is required to carry out the managing authority functions specified in section 3 of the Schedule of Managing Authority Functions published for the programme concerned. The Schedule for every programme is being laid with the relevant instrument, and a copy will be placed in the libraries of both Houses of Parliament.

7.4. Each instrument and the relevant Schedule make provision to enable the managing authority to fulfil over-arching responsibilities and ensure that the programme is managed efficiently and that funds are properly handled and accounted for.

7.5. Each intermediate body is under a duty to carry out its managing authority functions in accordance with the management and control system set up for the programme by the Secretary of State.

7.6. Each instrument modifies the 1998 Act to empower the managing authority to give guidance and directions about the exercise of managing authority functions.

7.7. Each instrument makes provision supplementary to the designation of global grant bodies under Article 42, and provision to aid the recovery of sums paid by way of financial assistance.

7.8. Each instrument requires the Secretary of State to make provision in the management and control system for handling payments from the ERDF and for the certification and audit of payments. The contribution from the ERDF is to be accounted for and expended separately from other funds handled by the intermediate body.

Special features for the South West instrument

7.9. The instrument for the South West region makes provision for two programmes. It designates the regional development agency separately for each programme, so that each one will be managed independently and the scope of the functions conferred for one programme can be altered without reference to the performance of functions for the other.

Consultation

7.10. On 28 February 2006 the Department for Trade and Industry issued a consultation paper on a draft of the United Kingdom's National Strategic Reference Framework, which would establish the priorities for the future development strategies to be carried out with the aid of the ERDF and the European Social Fund during the years 2007-2013.

7.11. The paper invited comments on proposals for distributing the resources allocated under the Regional competitiveness and employment objective and for administering the ERDF. One administrative aim was to bring the ERDF programmes more into line with the economic strategies of the regional development agencies. A related aim was to secure greater operational efficiency. The deadline for submitting responses was 22 May 2006.

7.12. Responses were received from a range of local, regional and national organisations representative of stakeholders in regeneration and economic development, including local government and the voluntary and business sectors. Approximately half of those who commented on the aims of better alignment and greater efficiency were broadly supportive. A small number expressed disagreement.

7.13. An analysis of responses can be viewed at http://www.berr.gov.uk/consultations/page28796.html.

7.14. The National Strategic Reference Framework was published on 23 October 2006. The Government decided that the best way to achieve the

stated aims would be to designate the regional development agencies as intermediate bodies to carry out specified functions of the managing authority.

7.15. In July 2007 the Department issued to the regional development agencies a consultation paper on draft regulations, and in August 2007 the Department sought their views on a draft Schedule of Managing Authority Functions, which proposed an allocation of managing authority functions between the managing authority and the intermediate body.

7.16. The regional development agencies co-ordinated responses to the consultation paper. They were broadly supportive of the policy implemented by the draft documents. A number of changes were made in response to comments from the agencies about matters of detail, particularly about the specification of intermediate body functions contained in the draft Schedule.

7.17. Every agency was supportive of the proposal to designate it as an intermediate body for the programme (or programmes) for its region, and the proposal to make all designations on the same terms.

8. Impact

8.1. An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1. Phil Alker at the Department for Communities and Local Government (email: phil.alker@communities.gsi.gov.uk or telephone 020 7944 3004) can answer any queries regarding the instrument.