EXPLANATORY MEMORANDUM TO

THE HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003 (SAVINGS) ORDER 2005

2005 No. 2279

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

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

2. Description

2.1 The Health and Social Care (Community Health and Standards) Act 2003 (Savings) Order 2005 ("the Savings Order") is one of a group of instruments made or to be made under powers in the Health and Social Care (Community Health and Standards) Act 2003 ("the 2003 Act") or under section 13 of the Social Security Act 1988 as amended by the 2003 Act. They are intended to establish the Healthy Start scheme, which is being introduced to reform the current Welfare Food Scheme set out in the Welfare Food Regulations 1996 ("the 1996 Regulations") (made under section 13 of the 1988 Act).

2.2 The purpose of the Savings Order is to ensure that certain provisions contained within the Social Security Act 1988 and the Welfare Food Regulations 1996 are not superseded by the coming into force of section 185 (replacement of the Welfare Food Schemes: Great Britain) of the 2003 Act, and so continue to apply.

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

3.1 None

4. Legislative Background

4.1 The 2003 Act set in place enabling powers to allow the Secretary of State to introduce one or more schemes to replace the Welfare Food Scheme. To implement phase 1 of Healthy Start three instruments are required. The Health and Social Care (Community Health and Standards) Act 2003 Commencement) (No. 7) Order 2005 ("the Commencement Order") will commence the necessary powers in the 2003 Act. The Savings Order will preserve the 1996 Regulations so as to enable the Healthy Start scheme to be phased in. This is in response to Parliamentary undertakings given during the passage of the 2003 Act to test the scheme before it is

implemented throughout Great Britain. The detail of Healthy Start for phase 1 is intended to be set out in regulations that will be subject to an affirmative resolution procedure as required by the new powers, the (draft) Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005.

The Savings Order is the first savings order to be made under the powers in section 200 of the 2003 Act.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 No statement is required.

7. Policy background

7.1 The Welfare Food Scheme was established in 1940 as a wartime measure. The scheme currently provides free milk and vitamins for pregnant women and children under 5 years old in families on qualifying benefits. Following a scientific review conducted by COMA (the Committee on Medical Aspects of Food and Nutrition Policy) in 1999, recommendations to reform the scheme were taken forward. The policy objectives have been pursued by making provision in the 2003 Act to replace the powers in the 1988 Act. The Savings Order fulfils the policy objective by retaining parts of the current Welfare Food Scheme while phase 1 of Healthy Start is being tested in Devon and Cornwall. The Department received over 500 responses to a consultation on the proposals to reform the Welfare Food Scheme and 80 responses to a consultation on the draft Regulations.

7.2 The new Healthy Start scheme that is intended to replace the Welfare Food Scheme will continue to provide free milk, dried milk and vitamins to beneficiaries in receipt of qualifying benefits, but the scheme is intended to be broadened to include provision of fresh fruit and vegetables. This will give beneficiaries greater choice and flexibility and will help to meet their broader nutritional needs.

7.3 About 750,000 beneficiaries, in receipt of a qualifying benefit, currently receive milk tokens under the existing Welfare Food Scheme. Under Healthy Start it is intended that all pregnant under 18 year olds will receive Healthy Start vouchers regardless of whether they are in receipt of a qualifying benefit. Children under the age of one will receive 2 vouchers per week to provide a safety net for those mothers who are unable or who choose not to breastfeed. Consultation responses also highlighted support for a higher value

voucher for babies. It is also intended to remove entitlement to milk tokens under the existing Welfare Food Scheme for beneficiaries in receipt of Pension Credit Guarantee which will no longer be recognised as a qualifying benefit. This is because Pension Credit Guarantee is slightly more generous than other qualifying benefits. In addition, a proportion of beneficiaries currently receiving milk tokens because they are part of a family receiving Pension Credit Guarantee will be entitled to receive Healthy Start vouchers, if they are pregnant and under 18.

7.4 Disabled children aged 5-16 and not attending school as a result of their disability will no longer receive milk tokens. This is because the review of the Welfare Food Scheme, undertaken by COMA, concluded that there was no nutritional justification for continuing to provide free milk for this group of beneficiaries.

7.5 Those currently entitled to purchase low cost infant formula will no longer be able to do so. This is due to the changes in benefit provision from Family Credit to Working Families Tax Credit which is more generous.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for the Savings Order. However a Regulatory Impact Assessment is intended to accompany the related draft Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005 when they are laid before Parliament. The draft regulations are expected to be laid in October.

8.2 The Savings Order has no financial impact on beneficiaries.

9. Contact

9.1 For further information please contact Justine Currell at the Department of Health, Wellington House, 133-155 Waterloo Road, London, SE1 8UG. Tel: 020 7972 4434 or e -mail: Justine.currell@dh.gsi.gov.uk.