EXPLANATORY MEMORANDUM TO THE

IMMIGRATION (LEAVE TO REMAIN) (PRESCRIBED FORMS AND PROCEDURES) (AMENDMENT No. 2) REGULATIONS 2004

2004 No.2576

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

2. Description

2.1 These Regulations amend the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2003 to prescribe an application form for limited leave to remain in the United Kingdom as a participant in the Science and Engineering Graduates Scheme. This is a new scheme under the immigration rules which will commence on 25 October 2004 and will enable third country nationals with specific science and engineering degrees obtained from UK educational institutions to remain in the UK for up to one year following their graduation in order to seek employment.

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

3.1 None

4. Legislative Background

4.1 Section 31A of the Immigration Act 1971 provides that if a form is prescribed (in regulations made by the Secretary of State) for a particular kind of application under the Act, any application of that kind must be made in the prescribed form. The Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2003 (S.I. 2003 No. 1712) prescribe forms which are to be used for applications for limited or indefinite leave to remain in the United Kingdom. Each form relates to specific categories of applicant under the immigration rules. An application for limited or indefinite leave to remain which is not made on the correct prescribed form is invalid.

4.2 These Regulations amend S.I. 2003 No. 1712 to prescribe an additional form. This form (which is set out in the Schedule to these Regulations) is to be used for applications for limited leave to remain in the United Kingdom as a participant in the Science and Engineering Graduates Scheme.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Not applicable

7. Policy background

7.1 Sir Gareth Roberts' review of April 2002, "The Supply of People with Science, Technology, Engineering and Mathematics Skills" highlighted that the United Kingdom was suffering from a shortage of physical science, engineering and mathematics students at university and skilled workers in the labour market. He said that the shortage could do serious damage to the United Kingdom's future growth.

7.2 As a proactive response to this, in the Budget 2003 the Government announced that, from Summer 2004, foreign students at universities in the United Kingdom who graduate from specific physical science, engineering and mathematics courses would be permitted to stay in the United Kingdom for one year following their graduation in order to take up employment. A recent change to the immigration rules makes provision for this scheme (known as the Science and Engineering Graduates Scheme) which will commence on 25 October 2004.

7.3 This scheme has been widely welcomed by the United Kingdom education sector.

7.4 In order to operate the new scheme effectively, a specific form for in-country applications for leave to remain as a participant in the scheme is required. These Regulations make provision for the new application form.

8. Impact

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

8.2 The impact on the public sector is minimal as applications for leave to remain as a participant in the Science and Engineering Graduates scheme will be charged at the normal leave to remain consideration fee which is calculated at a full costs recovery basis.

9. Contact

Andy Smith at the Home Office (e-mail: andy.smith16@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.