EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (LEAVE TO REMAIN) (PRESCRIBED FORMS AND PROCEDURES) (AMENDMENT) REGULATIONS 2006

2006 No. 1548

1. This explanatory memorandum has been prepared by the Home Office 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 These Regulations amend the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2006 (the "2006 Regulations") by substituting the forms set out in Schedules 1, 2, 3 and 4 to these Regulations for the forms respectively set out in Schedules 1, 3, 8 and 9 of the 2006 Regulations.

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

3.1 This statutory instrument breaches the 21-day rule. The reason for this is because the forms prescribed in regulations 3, 5, 10 and 11 and which are respectively set out in Schedules 1, 3, 8 and 9 of the 2006 Regulations contain errors that must be corrected before the 2006 Regulations come into force on 22 June 2006. The forms set out in the Schedules to these Regulations must therefore be substituted for the forms set out in Schedules 1, 3, 8 and 9 of the 2006 Regulations at the same time as the 2006 Regulations come into force. In order to do so these Regulations must also come into force on 22 June 2006.

4. Legislative Background

4.1 Section 31A of the Immigration Act 1971 (the "1971 Act") enables the Secretary of state by Regulations to prescribe forms and procedures for applications for leave to remain in the United Kingdom. Under section 31A of the 1971 Act changes to the application forms are to be done by way of Regulations.

4.2 Forms and procedures were first prescribed in the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2003 (S.I. 2003/No. 1712) (the "2003 Regulations"). Amendments to those Regulations (for example, adding new application forms) were made by later sets of Regulations.

4.3. The 2003 Regulations were revoked in 2005 and replaced by the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2005 (S.I. 2005/771). Because of a defect in that Instrument, those Regulations were revoked and replaced in the same year by the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations (No. 2) 2005 (S.I. 2005/2358) (the "2005 Regulations").

4.4 The 2006 Regulations revoked and replaced the 2005 Regulations. This was due to changes to the Immigration Rules which necessitated changes to the application forms.

4.5 These Regulations amend the 2006 Regulations.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The forms prescribed in regulation 3, 5, 10 and 11 and which are respectively set out in Schedule 1, 3, 8 and 9 of the 2006 Regulation contain errors. In particular section 6 I of the form set out in Schedule 1 of the 2006 Regulations was not sufficiently clear in respect of the documentary evidence which it asked for. In addition in a tick box in the form set out in Schedule 3 of the 2006 Regulations *"indefinite leave to remain"* was referred to whereas it should have been *"extension of stay"*. In section 6, note 4 of the form set out in Schedule 8 of the 2006 Regulations the word "times" was mistakenly used whereas it should have been "items". Finally in the sponsor's undertaking in section 9 of the form set out in Schedule 9 of the 2006 Regulations the first reference to "income support" should have been to "public funds", and the words "or an income-based jobseeker's allowance" should have been included after the second reference to "income support".

7.2 The forms set out in the Schedules to these Regulations correct these errors and are to be substituted for the forms set out in Schedules 1, 3, 8 and 9 of the 2006 Regulations.

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 expected to be none.

9. Contact

John Evans at the Immigration and Nationality Directorate of the Home Office (Tel: 020 8196 3743 or email John.Evans@ind.homeoffice.gsi.gov.uk) can answer any queries regarding this Instrument.