EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (LEAVE TO REMAIN)(PRESCRIBED FORMS AND PROCEDURES) REGULATIONS 2007

2007 No. 882

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 prescribe new application forms to be used in connection with applications for limited or indefinite leave to remain in the United Kingdom and set out the correct procedures to be followed when making those applications. In doing so these Regulations revoke the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2006.

2.2 It has been necessary to revise and re-prescribe the application forms to reflect recent changes in the Immigration Rules.

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

3.1 The Regulations must come into force on 2 April to coincide with the coming into force of significant changes in the Immigration Rules for the applications to which they relate. Changes in the prescribed fees for such applications also come into force on the same date. The late date at which matters affecting the Schedules to the Regulations have been resolved, combined with technical and administrative delays associated with the production of those Schedules, has resulted in the 21 day rule being breached. The Department regrets this breach.

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 enter or remain in the United Kingdom.

4.2 Forms and procedures were first prescribed in the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2003 (the "2003 Regulations"). The 2003 Regulations were replaced by the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2005 (the "2005 Regulations"). The 2005 Regulations were replaced by the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2006 (the "2006 Regulations"). Amendments to the 2006 Regulations were made by later sets of Regulations.

4.3 These Regulations revoke and replace the 2006 Regulations.

4.4 Changes to the Immigration Rules necessitate changes to the application forms. Under section 31A of the 1971 Act changes to the application forms are to be done by way of Regulations.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 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 revised application forms prescribed in these Regulations reflect recent changes to the Immigration Rules – in particular, the introduction, subject to specified exemptions, of a requirement that anyone aged 18 to 64 must have a sufficient knowledge of the English language and a sufficient knowledge about

life in the United Kingdom in order to qualify for indefinite leave to remain in the UK. This requirement takes effect on 2 April.

7.2 The Regulations introduce one new application form – for persons applying for indefinite leave to remain in the UK as victims of domestic violence. This category has until now been included in the form entitled "SET(O)". . Because of the nature of these applications and the range of information and evidence needed in order to decide them, a dedicated application form is more efficient than the existing arrangement.

7.3 A change being made in these Regulations means that dependants as defined in the Regulations may be included in an application by the main applicant irrespective of whether the relevant immigration rules under which the application is being made include provision for dependants. This change is being made to simplify procedures.

7.4 There are no changes to the prescribed application procedure. The need for such changes will be reviewed when new provisions contained in the Immigration, Asylum and Nationality Act 2006 are implemented

7.5 These Regulations contain a transitional provision. This is so that applicants who apply on the old forms during the period when the transitional provision is in force will be deemed not to have made an invalid application. For a period of 21 days after these Regulations are brought into force, applicants may apply using either the old application forms (prescribed by the 2006 Regulations), or the new application forms (prescribed by these Regulations). After that date all applicants should apply using the new application forms.

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.