EXPLANATORY MEMORANDUM TO

THE INSOLVENCY (AMENDMENT) (No. 2) RULES 2009

2009 No. 2472

1. This explanatory memorandum has been prepared by the Department for Business, Innovation & Skills and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 To give effect to changes (including changes to Forms) consequential upon the coming into effect of amendments made to the Insolvency Act 1986 (c.45) by the Companies Act 2006 (c.46).

2.2 To effect amendments to Forms 7.8, 7.9 and 9.1 so as to extend their application to warrants and the examination of persons in relation to debt relief orders under section 251N of the Insolvency Act 1986.

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

3.1 None.

4. Legislative Context

4.1 The power to make the Insolvency (Amendment)(No.2) Rules 2009 is in sections 411 and 412 of the Insolvency Act 1986. The Rules are made by the Lord Chancellor with the concurrence of the Secretary of State, and of the Chancellor of the High Court (by authority of the Lord Chief Justice under section 411(7) and section 412(6) of that Act) in relation to those Rules which affect court procedure.

4.2 A statutory instrument made under these sections is subject to annulment in pursuance of a resolution of either House of Parliament.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

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

- ***What is being done and why***

7.1 The statutory instrument will update the references in the Insolvency Rules 1986 as a consequence of the changes made to the Insolvency Act 1986 by the Companies Act 2006.

7.2 The statutory instrument will also amend the titles of Forms 7.8, 7.9 and 9.1 which also apply to warrants and to the examination of persons in relation to debt relief orders under section 251N of the Insolvency Act 1986

Consolidation

7.3 The Insolvency Rules (Amendment) (No. 2) Rules 2009 amend the Insolvency Rules 1986. The Insolvency Rules 1986 are being modernised and those changes are planned to come into force on 6 April 2010. Work is already underway to consolidate the Rules, planned to come into force on 6 April 2011.

8. Consultation outcome

8.1 As the change is purely to correct information that is now out of date, no consultation has been entered into.

9. Guidance

9.1 An article will be placed in a future edition of The Insolvency Service publication 'Dear IP', informing practitioners of the changes to the Rules.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11 Regulating small business

11.1 The legislation will have a negligible effect on small business.

12 Monitoring & review

12.1 The Insolvency Service monitors the efficient working of the insolvency legislation.

13. Contact

Katherine Parker at the Insolvency Service Tel: 020 7637 6651 or email: katherine.parker@insolvency.gsi.gov.uk can answer any queries regarding the instrument.