EXPLANATORY MEMORANDUM TO THE

INSOLVENT PARTNERSHIPS (AMENDMENT) ORDER 2005

2005 No. 1516

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

2. Description

2.1 The provisions of the Insolvency Act 1986 (c.45) which relate to the insolvency of companies and individuals were applied to partnerships by the Insolvent Partnerships Order 1994 ("the 1994 Order"). This instrument updates that Order to take account of changes made to the 1986 Act by the Enterprise Act 2002 (c.40)

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

3.1 None.

4. Legislative background

4.1 The powers to make the Insolvent Partnerships (Amendment) Order 2005 is contained in section 420 of the Insolvency Act 1986 and section 21 of the Company Directors Disqualification Act 1986. Those powers are exercised by the Lord Chancellor with the concurrence of the Secretary of State. A statutory instrument made under those sections is subject to annulment in pursuance of a resolution of either house of Parliament.

4.2 The Insolvent Partnerships Order 1994 applies, with necessary modifications, the provisions of the Insolvency Act 1986 relating to the insolvency of companies and individuals to partnerships. The 1994 Order was modified twice in 2002 to take account of changes to the Insolvency Act as a result of the EC Insolvency Regulation and the Insolvency Act 2000. This instrument amends that Order to take account of changes to the Insolvency Act 1986 made by the Enterprise Act 2002 (c.40).

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 The Parliamentary Under-Secretary of State for Employment Relations and Consumer Affairs has made the following statement regarding human rights.

6.2 In my view the provisions of the Insolvent Partnerships (Amendment) Order 2005 are compatible with the Convention rights.

7. Policy background

7.1 This Order follows on from the package of reforms to corporate insolvency law introduced by Part 10 of the Enterprise Act 2002 that aim to encourage the rescue of viable companies that get into financial difficulty.

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.

9. Contact

9.1 Tom Phillips at The Insolvency Service Tel: 020 7637 6421 or e-mail: tom.phillips@insolvency.gsi.gov.uk can answer any queries regarding the instrument.