EXPLANATORY MEMORANDUM TO THE ORDERS FOR THE DELIVERY OF DOCUMENTS (PROCEDURE) (AMENDMENT) REGULATIONS 2007

2007 No. 881

1. This explanatory memorandum has been prepared by Her Majesty's Revenue & Customs and is laid before Parliament by Command of Her Majesty.

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

2. Description

The Orders for the Delivery of Documents (Procedure) Regulations 2000 (SI 2000/2875) require a number of procedural steps to be taken in connection with applications to the courts to obtain orders for the delivery of documents under section 20BA of the Taxes Management Act 1970. One of those requirements is that a member of the Senior Civil Service in certain parts of Her Majesty's Revenue & Customs (HMRC) (formerly the Inland Revenue) must authorise such applications to the courts. As a result of the revised structure of HMRC, these Regulations amend those references to refer to the Criminal Investigation Directorate of HMRC.

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

None

4. Legislative Background

Following the separation of the responsibilities of the former Inland Revenue's Special Compliance Office (SCO) within HMRC, these Regulations reflect the passing of the former SCO's responsibility for criminal investigations to the Criminal Investigation Directorate of HMRC.

5. Territorial Extent and Application

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 Orders for the delivery of documents under section 20BA of the Taxes Management Act 1970 are used as an investigative tool by HMRC when carrying out criminal investigations into cases of suspected tax or tax credit fraud.

7.2 The continued use of orders under section 20BA of the Taxes Management Act 1970 is being examined as part of the HMRC Review of Powers; a consultation document published on 17 January 2007 proposed that section 20BA should be repealed and replaced by similar powers under the Police & Criminal Evidence Act 1984. The Commissioners for Revenue & Customs nonetheless consider it important to ensure that the legislation currently in force is updated until such time as Parliament makes any changes to those powers.

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 There is no impact on the public sector; the Regulations merely update the terminology to refer to the Criminal Investigation Directorate of HMRC.

9. Contact

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