EXPLANATORY MEMORANDUM TO THE

PARLIAMENTARY COMMISSIONER ORDER

2005 No. 249

1. This explanatory memorandum has been prepared by the Cabinet 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 The Parliamentary Commissioner Order 2005 updates the list of departments and public bodies within the jurisdiction of the Parliamentary Commissioner for Administration, otherwise known as the Parliamentary Ombudsman. The Order updates Schedules 2 and 4 of the Parliamentary Commissioner Act 1967 which lists the Government departments and certain other public bodies within the jurisdiction of the Ombudsman. This Order also acts a consolidating Order, effectively incorporating all amendments made by previous Orders in Council, and therefore providing a comprehensive alphabetical list of all the bodies currently within the Ombudsman's jurisdiction.

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

3.1 None.

4. Legislative Background

4.1 As set out in paragraph 2.1 the purpose of this Order is to update Schedules 2 and 4 of the Parliamentary Commissioner Act 1967. The Ombudsman's jurisdiction was last updated in 2004 by the Parliamentary Commissioner Order 2004 which added the Government Actuary's Department to the list of bodies the Ombudsman can investigate.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister for the Cabinet Office has made the following statement regarding Human Rights:

In my view the provisions of the Parliamentary Commissioner Order 2005 are compatible with the Convention rights.

7. Policy background

7.1 Under the Parliamentary Commissioner Act 1967, as amended by the Parliamentary and Health Service Commissioners Act 1987 and the Parliamentary Commissioner Act 1994, the Parliamentary Commissioner for Administration investigates complaints of maladministration against Government Departments and certain other public bodies. Schedule 2 and 4 of the 1967 Act lists the Government departments and bodies currently within the Ombudsman's jurisdiction. The Ombudsman's jurisdiction is updated annually by an Order in Council. This Order is part of that process.

7.2 To be considered for inclusion within the Ombudsman's jurisdiction any body under consideration must meet the relevant criteria as set out in Sections 4 and 5 of the 1967 Act. These include:

- A Government department or body that performs functions on behalf of the Crown; or

- At least half of its revenue is funded by monies provided Parliament; and
- Set up by virtue of primary legislation or prerogative; and
- Appointments to the body are made by Ministers/Departments.

No bodies may be included if the specified activities below is their sole or one of their main functions:

- The provision of education or training;
- The development of curricula, the conduct of examinations or the validation of educational courses;
- The control of entry to any profession or the regulation of the conduct of members of any profession;
- The investigation of complaints by members of the public (ie other complaint handling bodies)

In 1998, the Government made a commitment to bring all executive NDPBs within the Ombudsman's jurisdiction unless there are exceptional reasons for not doing so. It was also proposed to bring in those Advisory NDPBs that had direct dealings with the public. However, the policy is now to bring all Advisory NDPBs within the Ombudsman's jurisdiction unless there are good reasons for not doing so.

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 will be no impact on the public sector.

9. Contact

Paul Ballinger at the Cabinet Office Tel: 020 7276 2473 or e-mail: paul.ballinger@cabinet-office.x.gsi.gov.uk can answer any queries regarding the instrument.