EXPLANATORY MEMORANDUM TO

THE PUBLIC INTEREST DISCLOSURE (PRESCRIBED PERSONS) (AMENDMENT) ORDER 2016

2016 No. 968

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the list of prescribed persons in the Public Interest Disclosure (Prescribed Persons) Order 2014 ("the 2014 Order") to include some persons not previously included, the deletion of others and some amendments to the description of matters for which certain persons are prescribed.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Part 4A of the Employment Rights Act 1996 ("the 1996 Act") provides employment protection for workers who make certain disclosures of information.

4.2 The 1996 Act defines the categories of disclosure which qualify for protection ("qualifying disclosures", which include public interest disclosures about environmental damage and miscarriages of justice, for example) and the circumstances in which such disclosures will be protected. Section 43F of the Act provides that a qualifying disclosure is a protected disclosure where, subject to certain requirements, the worker makes the disclosure to a person prescribed by an order made by the Secretary of State for the purpose of receiving disclosures about the matters concerned.

4.3 The 2014 Order was made pursuant to section 43F and includes a Schedule of prescribed persons and descriptions of matters for which they are prescribed.

4.4 This instrument makes amendments to the Schedule to the 2014 Order to keep it up to date.

5. Extent and Territorial Application

5.1 The extent of this instrument is England & Wales and Scotland.

5.2 The territorial application of this instrument is Great Britain.

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 Government continues to review the list of prescribed persons on an annual basis and make any amendments as maybe necessary. In this Order the following amendments and additions are made:

7.2 An amendment to the list of matters relating to a number of functions carried out by the Bank of England to make the list easier to follow and to add a new matter in relation to the custody, distribution and processing of Bank of England banknotes.

7.3 The entry relating to the Food Standards Agency is amended to reflect its territorial extent.

7.4 An amendment to account for the machinery of Government changes which abolished the Department for Business, Innovation and Skills and created the Department for Business, Energy and Industrial Strategy.

7.5 The Order implements a recommendation made by the Communities and Local Government Select Committee that the Commissioners appointed under the Local Government Act be added to the list of prescribed persons. The addition of the Commissioners is to encourage workers in local authorities where it has been necessary to appoint a Commissioner to come forward with concerns.

7.6 The Order adds Food Standards Scotland following the creation of that body by section 1 of the Food (Scotland) Act 2015.

7.7 The Order also adds the Older People's Commissioner, Qualification Wales and Wales Audit Office as Welsh devolved equivalents of similar bodies in England and Scotland enabling workers in these areas to raise concerns to the Welsh bodies.

8. Consultation outcome

8.1 No formal consultation for these changes has been undertaken as these measures do not grant any new powers or impose any new obligations. The bodies were each consulted informally and agreed that it was appropriate for the amendments in relation to their various entries be made and for the new bodies to be listed as a prescribed person.

9. Guidance

9.1 The Department will update Government's published guidance, *"Blowing the whistle: list of prescribed people and bodies"* to include the new bodies that have been added to the list of prescribed persons and reflect changes made to some of the description of matters.

10. Impact

10.1 There is no quantifiable impact on business, charities or voluntary bodies and the instrument imposes no new obligations on those organisations.

10.2 The impact on the public sector is limited to the extent to which the prescribed bodies may receive disclosures of information from workers who might not otherwise have made them had that body not been prescribed.

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

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 This instrument does not impose additional burdens on business and therefore there is no need to minimise the impact of the requirement on small businesses.

12. Monitoring & review

12.1 The Department will continue to subject the prescribed persons list to internal review at least annually to ensure the prescribed persons on the list remain relevant. At the time of the annual review in 2017, the efficacy of the changes made by this instrument will be considered and further amendments may be made.

13. Contact

13.1 Deborah Persaud (deborah.persaud@beis.gov.uk or 020 7215 1695) at the Department for Business, Energy and Industrial Strategy can answer any queries regarding the instrument.