EXPLANATORY MEMORANDUM TO
THE RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS (UNITED STATES OF AMERICA) ORDER 2007

2007 No. 2005

and

THE RECOVERY OF MAINTENANCE (UNITED STATES OF AMERICA) ORDER 2007

2007 No. 2006

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

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

2. Description

These Instruments enable the reciprocal enforcement of maintenance orders and facilitation of maintenance claims between the United Kingdom and the United States of America on a federal basis instead of the State by State arrangement which currently applies.

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

These instruments remove the power of courts in the United Kingdom to vary or revoke incoming orders which makes the application consistent as the competent authorities in the United States do not have a power to vary orders from the United Kingdom. Since these powers are currently exercised mostly in Magistrates Courts, the Magistracy and the Association of District Judges were consulted and have raised no objection.

4. **Legislative Background**

Parts I and II of the Maintenance Orders (Reciprocal Enforcement) Act 1972.

5. **Territorial Extent and Application**

These Orders apply to England, Wales and Northern Ireland and to Scotland except for matters devolved to Scotland under the Scotland Act 1998, which are dealt with in matching simultaneous Scotland Orders (SSI 2007/354 and 355).

6. European Convention on Human Rights

As the Instrument is subject to negative resolution procedure and does not amend primary legislation (but applies the 1972 Act to a specific case with modifications), no statement is required.

7. Policy Background

These Orders establish a new bilateral agreement with the United States of America to enable us to reciprocate more effectively in the mutual recognition and enforcement of child (and spousal) family maintenance. This means that a maintenance order made in one country can be enforced through the courts or administrative systems of the other and that new maintenance obligations can be established in a cross border setting. The agreement will work at a federal level, replacing the current arrangements with individual States.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Michael Smith at the Ministry of Justice Tel: 020 7210 8559 or email: Michael.Smith@justice.gsi.gov.uk can answer any queries regarding the instrument.