EXPLANATORY MEMORANDUM TO

THE REDUNDANCY PAYMENTS (CONTINUITY OF EMPLOYMENT IN LOCAL GOVERNMENT, ETC.) (MODIFICATION) ORDER (AMENDMENT) ORDER 2010

2010 No. 903

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government ("CLG") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 (S.I. 1999/2277) ("the Order").

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

3.1 None.

4. Legislative Context

4.1 Under the Employment Rights Act 1996 (c.18) ("ERA"), an employee can count service with an 'associated employer' towards the service requirement for a redundancy payment (i.e. two years) and, if appropriate, for calculating that payment. Under s.155 of ERA, an employee must have at least two years' continuous service with the employer in order to qualify for a redundancy payment. Section 162 of the ERA provides that a redundancy payment will be calculated on the basis of the period of continuous employment. The effect of the Order is that this will include continuous employment with bodies listed in the Order.

4.2 The Order was last consolidated in 1999 and since then there have been three amending orders in 2001, 2002 and 2004[1], in addition to some amendments made as result of other enactments. Because there is no formal definition of what constitutes local government employment it is necessary to list all the bodies with whom service is reckonable, and the list has to be updated regularly to keep pace with legislative and other changes. This instrument is the latest of these updating measures.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background.

7.1 In November 2009, CLG agreed to the formal transfer of responsibility, from the Department for Business, Innovation and Skills, for amending and updating the Order. Since the last amending Order in 2004, a number of organisations have applied to be added to it. The Order has no retrospective effect because the relevant employment would only be used for redundancy calculations made after the SI adding the organisation came into effect. Therefore, the need to amend the Order has taken on some urgency.

[1] S.I.2001/866, 2002/532 and S.I. 2004/1682

7.2 Each application from a body seeking inclusion on the Order is considered on its merits against certain criteria. Non-local authority bodies on the Order are generally those that at some point have been funded wholly or partly by the local authority or provide a service that used to be entirely provided by an authority. As such, a body would need to be able to demonstrate firm links with local government and have significant funding (equal or greater than 70%) from local authorities, be a 'not for profit' organisation and if the body were to cease, the relevant local authority would then have to ensure their functions continued to be carried out.

7.3 Local authority employees who move employment *voluntarily* between different local authorities have their continuity of service for redundancy purposes protected by a generic provision in the Order. Local authority employees who are transferred to non-local authority bodies, which have tendered to undertake local authority services or functions, do not move on a voluntary basis. If those employees had not been transferred to a new employer all of their continued employment with the local authority employer would be counted as reckonable service for the purposes of continuous employment and the calculation of redundancy payments. Therefore, approving the new employer to be listed as an 'associated employer' on the Order ensures that the employees are not disadvantaged by being transferred to the new employer.

7.4 Interest in the Order has been limited to local authorities, their employees and non-local authority bodies which undertake local authority services or functions. There has been no media or public interest in the Order. The number of potential applications from non-local authority bodies to be listed on the Order in future is difficult to estimate because applying to be listed is done on a voluntary basis.

7.5 Of those bodies listed below which are discharging local authority services or functions, all employ former local authority staff that have transferred to them.

7.6 The following bodies have applied and been accepted to be named in Schedule 1, section 1 (local government) of the Order:

National Park Authority (Scotland) – A National Park Authority (NPA) established under sections 6 to 8 of the National Parks (Scotland) Act 2000 (asp. 10). Two Scottish NPAs (Cairngorms NPA and Loch Lomond and The Trossachs NPA) have applied to be listed on the Order. This is a generic provision which will cover all National Parks in Scotland which fall within the relevant sections of the Act.

Audit Scotland - The *Accounts Commission for Scotland* was formerly listed in section 1, Schedule 1 to the Order. Under paragraph 8 of Schedule 2 to the Public Finance and Accountability (Scotland) Act 2000 (asp. 1.), all the staff of the Accounts Commission for Scotland were transferred to Audit Scotland on 1 April 2000. The *Accounts Commission for Scotland* is now listed in Part 2 of Schedule 2 to the Order (see paragraph 7.13).

Improvement Service Company – Established to meet the need for advice, consultancy and programme support to assist in the delivery of the improvement agenda for local government in Scotland.

7.7 The following bodies have applied and been accepted to be named in Schedule 1, section 2 (planning and development) of the Order:

Olympic Park Legacy Company Limited – Established to assume the responsibilities for Olympic legacy previously undertaken by the London Development Agency (LDA). Employees of the LDA's Olympic Legacy Division have transferred to the Olympic Park Legacy Company

Limited (the LDA is a functional body of the Greater London Authority and thus falls within the list in section 1 of Schedule 1 to the Order – paragraph 6C).

City Building (Glasgow) LLP- Established to provide building services and repair maintenance work for Glasgow City Council.

7.8 The following body has applied and been accepted to be named in Schedule 1, section 3 (education) of the Order:

Shetland Arts Development Agency – The *Shetland Arts Trust* was formerly listed in Schedule 1 to the Order. The Shetland Arts Trust was dissolved on 11 December 2006. Its functions and staff transferred to the Shetland Arts Development Agency. The *Shetland Arts Trust* is now listed in Schedule 2 – (see paragraph 7.13) because it was an employer with whom employment may constitute relevant service.

7.9 The following bodies have applied and been accepted to be named in Schedule 1, section 6 (police, fire and civil defence) of the Order:

Regional Fire Control Centres - A company the members of which comprise fire and rescue authorities in England and whose objects include the operation of a regional fire control centre. Eight Regional Fire Control Centre companies (Yorkshire and Humberside Fire and Rescue Control Centre Limited, North East Fire Control Company Limited, NW Fire Control Limited, West Midlands Fire and Rescue Services Regional Control Centre Limited, East Midlands Fire and Rescue Control Centre Limited, South West Fire Control Limited, South East Fire and Rescue Control Centre Limited and East of England Regional Control Centre Limited) have applied to be listed on the Order. This is a generic provision which will cover all Regional Fire Control Centres.

7.10 The following bodies have applied and been accepted to be named in Schedule 1, section 8 (social services) of the Order:

Essex Cares Limited – A holding company for Essex Community Support Limited, Essex Employment and Inclusion Limited and Essex Equipment Service Limited.

Essex Community Support Limited – Established to provide domiciliary support, reablement and older Peoples Day Services for Essex County Council.

Essex Employment and Inclusion Limited – Established to provide services to adults with a learning disability, day centres, training centres, supported employment, inclusion support and employment counselling for Essex County Council.

Essex Equipment Services Limited – Established to provide a full range of services in respect of equipment for independent living for Essex County Council.

7.11 The following body has applied and been accepted to be named in Schedule 1, section 9 (museums) of the Order:

Woodhorn Charitable Trust– Established to manage the Woodhorn Museum and the Northumberland Archives. With the formation of the Trust, employees of Northumberland County Council transferred into the employment of the Trust.

7.12 The following bodies have applied and been accepted to be named in Schedule 1, section 10 (miscellaneous bodies) of the Order:

Community Justice Authorities under section 3 of the Management of Offenders (Scotland) Act 2005 – Eight Community Justice Authorities have been established to develop partnership working between local authorities, Scottish Provision Service, Police, Health Boards and other

key agencies in order to more effectively tackle the problem of reoffending. Most of the posts have been filled by ex-local authority staff.

Active Stirling Limited – Established to provide sport and physical activity on behalf of Stirling Council.

Ardroy Outdoor Learning Trust – established to enhance the provision of outdoor education for Fife primary school children and other clients.

Arts and Theatres Trust Fife Limited – Established to provide arts, culture and entertainment across Fife.

City Markets (Glasgow) LLP – Established to operate and develop city markets for Glasgow City Council.

City Parking (Glasgow) LLP – Established to manage the off-street parking provision for Glasgow City Council.

City Property (Glasgow) LLP – Established to manage Glasgow Council's surplus property assets.

Cordia (Services) LLP – Established for the management and delivery of home care, cleaning, janitorial, catering and related services in Glasgow.

Culture and Sport Glasgow – Established to manage and deliver the full range of cultural services in Glasgow.

Culture and Sport Glasgow (Trading) Community Interest Company – A trading arm of Culture and Sport Glasgow responsible for commercial development activities such as retail and venue hire.

Enjoy East Lothian Limited – Established to manage the sports and leisure centres of East Lothian Council.

Fife Coast and Countryside Trust – Established to enhance the provision of countryside access and activities for communities in Fife including the management of local authority functions in respect of the Lomond Hills Regional Park, The Fife Coastal Path, Local Nature Reserves and various countryside sites for Fife Council.

Fife Sports and Leisure Trust Limited – Established to manage and deliver Fife Council's sport and leisure services.

Forth Valley GIS Limited – Established for the provision of geographical information services to Clackmannanshire Council, Falkirk Council and Stirling Council.

Glasgow Community and Safety Services Limited - Established to lead on community safety, anti-social behaviour and security issues in Glasgow.

North Lanarkshire Leisure Limited – Established to deliver sport, recreational and health improving services to the community of North Lanarkshire.

Nuneaton and Bedworth Leisure Trust – Established for the delivery of leisure services for Nuneaton and Bedworth Borough Council.

Pendle Leisure Limited – Established to provide leisure service for Pendle Borough Council.

Sandwell Arts Trust – Established to manage an arts facility for Sandwell Metropolitan Borough Council.

Somerset Leisure Limited – Established to manage thirteen dual use sports centres for Somerset County Council.

Sport Aberdeen – Established to provide or assist in the provision of indoor and outdoor sporting, recreational and leisure facilities in the Aberdeen.

7.13 The following bodies are listed in Part 2 of Schedule 2 to the Order (employers with whom employment may constitute relevant service);

The Accounts Commission for Scotland – The staff of the Accounts Commission for Scotland were transferred to Audit Scotland (which is listed in Schedule 1 – see paragraph 7.6). The Accounts Commission for Scotland still exists and is serviced by Audit Scotland. All of the Accounts Commission for Scotland staff were transferred to Audit Scotland and therefore the Accounts Commission for Scotland is listed in Part 2 of Schedule 2 as it was an employer with whom employment may constitute relevant service.

Shetland Arts Trust - The staff of the Shetland Arts Trust were transferred to the Shetland Arts Development Agency (which is listed in Schedule 1 – see paragraph 7.8). Although the Shetland Arts Trust was dissolved in 2006 it is listed in Part 2 of Schedule 2 as it was an employer with whom employment may constitute relevant service.

The Traffic Director for London - The Traffic Director for London was established under the Road Traffic Act 1991, principally for the introduction and management of the Priority Red Route network in London. In 1999, the Traffic Director for London was abolished (section 294 of the Greater London Authority Act 1999 c. 29) and its functions were transferred to Transport for London. Transport for London is listed in paragraph 6B of section 1 of Schedule 1 to the Order and accordingly the Traffic Director for London is listed in Schedule 2 to provide continuous service for ex-Traffic Director for London staff.

7.14 CLG aims later this year to consult widely on a proposal to make a consolidation order, so that all the bodies are listed in one single order. While there is no requirement to consult interested parties, a 12 week consultation is proposed so as to give associated local authority bodies the opportunity to check that they are either correctly listed, or should be listed in the Order.

8. Consultation outcome

8.1 No formal consultation exercise has been carried out and there is no statutory requirement to consult interested parties about proposed amendments to the Order. However, applications from organisations for inclusion in the instrument have been approved on the basis of consultation with the devolved administrations and Local Government Employers - the leading local government representative body on pay, pensions and employment.

9. Guidance

9.1 There is no guidance associated with this instrument.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that potentially a payment of statutory redundancy in respect of an employee whose previous employer is listed in the Order, would be higher than a payment where service with a former employer does not count for the purposes of calculating redundancy pay.

10.2 The impact on the public sector is the same as that for business, charities and voluntary bodies.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is to only accept applications from those bodies that meet the criteria and for them to confirm that they are aware of the potential financial implications of being listed on the Order.

11.3 There is no requirement for CLG to exempt or regulate small businesses because applications from bodies to be listed on the Order are made on a voluntary basis.

12. Monitoring & review

12.1 The list of bodies contained in this instrument will be reviewed as part of the consultation exercise mentioned in paragraph 7.14.

13. Contact

13.1 Siobhan Prill at the Department for Communities and Local Government Tel: 0303 44 42180 or email: Siobhan.prill@communities.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
Communities and Local Government	**Impact Assessment of adding bodies to the Redundancy Modification Order**	
Stage: Final proposal	**Version:** 1	**Date:** 18 **March 2010**
Related Publications: The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 [SI 1999/2277]		

Available to view or download at:

http://www.opsi.gov.uk

Contact for enquiries: Siobhan Prill **Telephone:** 0303 444 2180

What is the problem under consideration? Why is government intervention necessary?

The Redundancy Payments (Continuity of Employment in Local Government,etc.) (Modification) Order 1999 (RMO) was last amended in 2004. A number of bodies have since applied and been approved to be added but have yet to be placed formally on the RMO. An amending Order, the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Amendment) Order 2010, is necessary to place those approved bodies on the RMO. Failure to include successful applicants on the RMO could result in their employees potentially receiving a reduced redundancy payment in the event they are made redundant.

What are the policy objectives and the intended effects?

The primary purpose of the RMO is in relation to redundancy payments for local authority employees or employees of associated employers. The effect of the RMO is to make consecutive employment with employers named on the Order count as 'relevant service' for the purposes of qualifying for a redundancy payment and, where applicable, the redundancy payment calculation.

What policy options have been considered? Please justify any preferred option.

The policy options considered included:

1) A 'do nothing' option. Not updating the RMO when applications have been received and approved.
2) Amend the RMO to include recent applications for inclusion.

The preferred option is 2. The period of employment with a body on the RMO should count for statutory redundancy purposes and where bodies cease to exist or new bodies take on functions, it is right that the Order is amended to reflect this.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The RMO amends sections of the Employment Rights Act 1996. The Employment Rights Act 1996 and the policy on statutory redundancy falls within the responsibility of the Department for Business, Innovation and Skills. The effect of the RMO would be included as part of a wider review of statutory redundancy policy or in light of any changes in CLG. As part of its policy responsibility for the RMO, CLG will review the effectiveness of the RMO as part of a consultation exercise later in the year.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Barbara Follett

.....Date: 22nd March 2010

Summary: Analysis & Evidence

Policy Option: 2	Description: Adding non-local authority bodies to the Redundancy Modification Order

COSTS

ANNUAL COSTS

One-off (Transition) **Yrs**

£

Average Annual Cost (excluding one-off)

£

Description and scale of **key monetised costs** by 'main affected groups'

Due to significant uncertainties it has not been possible to provide an estimate of the total monetised cost to employers. The total cost will depend on the total number of employees made redundant over the next few years, and the average payment per employee will depend on the circumstances and length of service of those involved. See the evidence base for a worked example to illustrate possible additional redundancy costs for an example employee.

Total Cost (PV) **£**

Other **key non-monetised costs** by 'main affected groups' As noted above, the main affected groups are non-local authority bodies who apply to be named on the Redundancy Modification Order (RMO). Employers named on the RMO must ensure they have administrative procedures in place to identify the employees to which previous continuous service would apply.

BENEFITS

ANNUAL BENEFITS

One-off **Yrs**

£

Average Annual Benefit (excluding one-off)

£

Description and scale of **key monetised benefits** by 'main affected groups'

As above due to significant uncertainties it has not been possible to provide an estimate of the total monetised benefit to employees. See the evidence base for a worked example to illustrate possible additional redundancy benefits for an example employee.

Total Benefit (PV) **£**

Other **key non-monetised benefits** by 'main affected groups'

Employees of the bodies named on the RMO made redundant could receive greater statutory redundancy payments. Their total benefit is equal to the total cost to employers mentioned above. Therefore, the benefits received by the redundant employee equal the redundancy amount paid by the body named on the RMO. The greater statutory redundancy payments received by employees, takes into account periods of service with previous employers, their age and length of continuous service etc.

Key Assumptions/Sensitivities/Risks

There is a risk, albeit unlikely, that the bodies may not be able to meet the cost of the additional amount of redundancy payments. Bodies that choose to apply to be on the list are made aware of their potential financial liabilities.

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) £	**NET BENEFIT** (NPV Best estimate) £

What is the geographic coverage of the policy/option?	Eng, Scot & Wales
On what date will the policy be implemented?	15 April 2010
Which organisation(s) will enforce the policy?	CLG
What is the total annual cost of enforcement for these organisations?	£ 0
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£ 0

What is the value of changes in greenhouse gas emissions?			£ 0	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase £ Decrease £ **Net** £ 0

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

The Redundancy Payments (Continuity of Employment in Local Government, etc.)(Modification) Order 1999

1. The primary significance of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 (RMO) is in relation to redundancy payments. Under the Employment Rights Act 1996 (ERA), continuous employment with one employer, or continuous employment with two or more 'associated employers', is used to calculate the service requirement for a redundancy payment (i.e. two years or more) and, if appropriate, to calculate the amount of the payment. Local authorities are not associated employers under the definition in the ERA but the effect of the RMO is to make consecutive employment with employers named in the RMO count as 'relevant service' (that is, continuous employment) for the purposes of redundancy calculations.

2. Technically, any Department's Secretary of State can approve an application and amend the RMO but, by convention, amending and updating of the RMO has been handled by one Department. The Secretary for State for Business, Innovation and Skills had responsibility for the RMO with his responsibilities for employment matters and statutory redundancy. However, the majority of applications for inclusion on the RMO were made by bodies which had taken on a function previously undertaken by a local authority, and there was a strong case for responsibility for maintenance of the RMO to be transferred to CLG. In November 2009, CLG Ministers agreed to CLG assuming formal responsibility for the RMO. The RMO covers England, Wales and Scotland.

3. The RMO was last consolidated in 1999 and since then there have been three amending orders in 2001, 2002 and 2004, in addition to some amendments made as result of other enactments. Because there is no formal definition of what constitutes local government employment it is necessary to list all the bodies with whom service is reckonable, and the list has to be updated regularly to keep pace with legislative and other changes. The amending Order is the latest of these updating measures.

The Order

4. Paragraph 6 of section 1 of Schedule 1 of the RMO provides generic cover for all local authorities which means that changes as a result of local government reorganisations do not require applications from, say, new Unitary authorities, to be included on the RMO. In addition, employees' service, if they move between local authorities, counts towards service required for redundancy payments.

5. The remaining sections of Schedule 1 list individual employers which have met the criteria for inclusion on the RMO. Non-local authority bodies on the RMO are generally those that at some point have been funded wholly or partly by the local authority or provide a service that used to be entirely provided by an authority. As such, a body would need to be able to demonstrate firm links with local government and have significant funding (equal or greater than 70%) from local authorities, be a 'not for profit' organisation and if the body were to cease, the relevant local authority would then have to ensure their functions continued to be carried out.

6. Part 2 of Schedule 2 lists those organisations which have ceased operation but where earlier service with this organisation can be included, and Schedule 3 deals with consequential amendments made in other statutes.

Statutory redundancy

7. By law, employees with more than two years' continuous employment, who are made redundant, are entitled to a number of weeks' pay. Their entitlement will depend on their age, their length of service (up to a maximum of 20 years), and their weekly pay (up to a current maximum of £380 per week). Consecutive employment with any local authority or body listed on the RMO would count towards continuous employment.

Evidence for amendment to the RMO

8. The RMO is updated periodically to include new approved bodies but has not been updated since 2004. The RMO does not have retrospective effect because the relevant employment would only be used for redundancy calculations from the date the Statutory Instrument adding the organisation came into effect. Therefore, there is a need for the RMO to be amended to include the 36 recently approved bodies.

9. A list of the 36 bodies being added to the RMO is at Annex A and the size of organisations varies from employing 20 staff to over 2,000. The majority fall into the 'large' category (more than 250 staff) with a handful of bodies falling in the 'medium' (between 50 and 249) and 'small' (up to 50 staff) categories. The range of activities the organisations undertake also varies. The majority (22) of the 36 applications from bodies fall in the 'miscellaneous' section on the RMO ranging from managing sports and leisure facilitates, operating city markets, enhancing the provision of outdoor education and managing off-street parking provision. Other activities range from social service functions to the management of museums and planning and development.

10. It is important to note that the 36 organisations mentioned above voluntarily applied to join the RMO. The bodies are keen that their ex-local authority employees continue to be able to make consecutive employment with employers named on the RMO count as 'relevant service'. This is in recognition that the employees are continuing to provide local authority functions and services dispute having a different employer. The protection of continuity of service could also be a retention issue for both the employees and the employer. A couple of the bodies have said that they seek to employ ex-local authority staff, therefore the protection provided by the RMO could also be a recruitment issue. Trade unions would also welcome the continued 'protection' offered by the RMO.

11. Government has not required bodies to be named on the RMO. An application will have been received from the body seeking inclusion on the RMO and, if the criteria was satisfied, the application would have been approved by, primarily, CLG or another Government Department. Until a body is named on the RMO, the period of employment with that body cannot be included as being continuous service for the purposes of the redundancy payment calculation.

The formula for calculating redundancy payments

The redundancy payment is a one off payment.

12. The cost of a redundancy payment is determined on the following factors:

i) How long the employee had been continuously employed

ii) The employee's age

iii) The employee's weekly pay, up to a certain limit (£380 current maximum)

The employee will get:

i) 0.5 week's pay for each full year of service where the age is under 22

ii) 1 week's pay for each full year of service where the age was 22 or above, but under 41

iii) 1.5 week's pay for each full year of service where the age is 41 or above.

The maximum potential redundancy payment per employee is £11,400 which is made up as follows:

1.5 weeks x 20 full years of service x £380 (max weekly income) = **£11,400**

Options

Option 1 - Do nothing

If nothing were done to update the RMO, it would have the effect that bodies which would have been included on the RMO but for the delay in updating the Order, would not be included. Any employment with that body could not be included towards the qualifying period for a redundancy payment or the redundancy payment calculation. This would result in an employee receiving either no redundancy payment as they do not meet the qualifying period of 2 years or a smaller redundancy payment than would otherwise have been payable. If those employees had not been transferred to a new employer all of their continued employment with their previous local authority employer would be counted as reckonable service for the purposes of continuous employment and the calculation of redundancy payments. To not add the bodies to the RMO could be viewed as unfair to ex-local authority employees.

Option 2 - Amending the policy

Amending the RMO now would have the effect of including all the new bodies that have applied and been approved for inclusion since the last amending Order in 2004. Any employment with any of these bodies can be included towards the qualifying period for a redundancy payment and the redundancy payment calculation.

Analysis of costs

13. **Transition costs.** There are minimal transition costs for organisations if they are named on the RMO. Employers named on the RMO must ensure they have administrative procedures in place to identify the employees to which previous continuous service would apply. This could be as part of the normal personnel function of keeping personnel records up to date and could be as simple as placing a note on relevant employees' personal files.

14. At the point at which a body makes an employee redundant, it will take account of the employee's past employment history and consider whether continuity of service, for the purposes of redundancy payments, applies. Costs involved with a redundancy payment calculation would form part of a body's normal personnel function for the recruitment, retention or termination of employment.

15. **Redundancy payment costs for employers.** The total cost of this policy in comparison to the 'do nothing' scenario will depend upon:

i) the number of people made redundant by the 36 bodies in future years ,
ii) of these the number where employment with a RMO body would count and
iii) the different circumstances (length of service, pay etc) of the employees involved.

Where bodies do not make employees redundant, being named on the RMO would not incur any costs.

Example to illustrate potential per employee costs for employers beyond the 'do nothing' redundancy cost

For example, Person A (aged 45) worked for a County Council from 1990 until 1995; then worked for a Broads Authority from 1995 until 2006, and then a county leisure company from 2006 until being made redundant in 2010. All these bodies are included, or eligible to be included, on the RMO. But because the county leisure company is not currently on the RMO list, which hasn't been updated since 2004, the 16 years service with the County Council and Broads Authority cannot be counted towards the redundancy payment.

Redundancy payment for person A in the 'do nothing' scenario: The 2 year qualifying period has been satisfied for a redundancy payment but only the 4 years (2006 to 2010) with the county leisure company can be included for the redundancy payment calculation. In this case the payment is **£2,280** (1.5 weeks (where age is 41 or above) x 4 full years service x £380 (max weekly pay)).

Redundancy payment for person A under option 2: If the county leisure was included on the RMO, the qualifying period would be1990 to 2010 = 20 years.

1 week (where age is 22 or above but below 41) x 16 full years service x £380 = payment of **£6,080**
1.5 weeks (where age is 41 or above) x 4 full years service x £380 = payment of **£2,280**
Total for 20 full years service = £8,360

Cost to the employer of policy option 2 in the case of person A.
In the illustrative example above the increased cost of having the county leisure company on the RMO would be **£6,080** (the redundancy payment to person A if the county leisure company is on the RMO £8,360 minus the redundancy payment to person A if the company stays off the list £2,280). Of course this is just in the case of person A and the costs to the company could be higher if other employees are made redundant. This cost to the county leisure company is of course a benefit to person A.

Due to significant uncertainties it has not been possible to provide an estimate of the total monetised cost to employers of this policy because future redundancies cannot be predicted. The total cost will depend on the total number of employees made redundant over the next few years by the 36 bodies involved and the average payment per employee which will depend on the circumstances and length of service of those involved.

Analysis of benefits

16. The employees of the named bodies can receive statutory redundancy payments taking into account periods of service with previous employers named on the RMO, and based on their age and length of continuous service, and subject to the maximum currently of £11,400 per redundant employee.

17. Local authority employees who move employment *voluntarily* between different local authorities have their continuity of service for redundancy purposes protected by a generic provision in the Order. Local authority employees who are transferred to non-local authority bodies, which have tendered to undertake local authority services or functions, do not move on a voluntary basis. If those employees had not been transferred to a new employer all of their continued employment with the local authority employer would be counted as reckonable service for the purposes of continuous employment and the calculation of redundancy payments. Therefore, approving the new employer to be listed as an 'associated employer' on the Order ensures that the employees are not disadvantaged by being transferred to the new employer.

18. In the illustrative example above the benefit to person A of the policy is £6,080 above the level of redundancy payment they would have received if no change is made.

Offsetting measure

19. None.

Impact on Competition

20. Government has not required bodies to be named on the RMO. Bodies apply to be on the RMO voluntarily. Being a named body on the RMO should not affect the competitiveness of a body. The provisions of the RMO only take effect when a body named on the RMO makes its employees redundant.

Impact on different size businesses

21. The size of organisations applying to be named on the RMO varies from employing 20 staff to over 2,000. The majority fall into the 'large' category (more than 250 staff) with a handful of bodies falling in the 'medium' (between 50 and 249) and 'small' (up to 50 staff) categories. The range of activities the organisations undertake also varies. The majority (22) of the 36 applications from bodies fall in the 'miscellaneous' section on the RMO ranging from managing sports and leisure facilitates, operating city markets, enhancing the provision of outdoor education and managing off-street parking provision. Other activities range from social service functions to the management of museums and planning and development.

22. The impact of including earlier periods of employment would apply to all bodies on the RMO regardless of size but the impact should not be great as the maximum amount currently payable for statutory redundancy is £11,400 per redundant employee subject to their age, length of service and amount of pay – see the formula above.

23. When organisations apply to be named on the RMO they need to demonstrate that they are aware of the potential financial implications and obligations of being named on the RMO.

Impact on Legal Aid

24. There is no impact on Legal Aid.

Impact on Sustainable Development

25. There is no impact on sustainable development.

Impact on Carbon Assessment

26. There is no impact on carbon assessment.

Impact on Other Environment

27. There is no impact on other environment.

Health Impact Assessment

28. There is no impact on health.

Impact on Race Equality

29. An Equalities Screening questionnaire has been completed and agreed by the Mainstreaming Equalities Team in CLG.

Impact on Disability Equality

30. An Equalities Screening questionnaire has been completed and agreed by the Mainstreaming Equalities Team in CLG.

Impact on Gender Equality

31. An Equalities Screening questionnaire has been completed and agreed by the Mainstreaming Equalities Team in CLG.

Human Rights

32. There is no impact on human rights.

Rural proofing

33. There is no impact on rural communities.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

Annex A

The following bodies have applied and been accepted to be named in Schedule 1, section 1 (local government) of the Order:

National Park Authority (Scotland) – A National Park Authority (NPA) established under sections 6 to 8 of the National Parks (Scotland) Act 2000 (asp. 10). Two Scottish NPAs (Cairngorms NPA and Loch Lomond and The Trossachs NPA) have applied to be listed on the Order. This is a generic provision which will cover all National Parks in Scotland which fall within the relevant sections of the Act.

Audit Scotland - The *Accounts Commission for Scotland* was formerly listed in section 1, Schedule 1 to the Order. Under paragraph 8 of Schedule 2 to the Public Finance and Accountability (Scotland) Act 2000 (asp. 1.), all the staff of the Accounts Commission for Scotland were transferred to Audit Scotland on 1 April 2000. The *Accounts Commission for Scotland* is now listed in Part 2 of Schedule 2 to the Order (see paragraph 7.13).

Improvement Service Company – Established to meet the need for advice, consultancy and programme support to assist in the delivery of the improvement agenda for local government in Scotland.

The following bodies have applied and been accepted to be named in Schedule 1, section 2 (planning and development) of the Order:

Olympic Park Legacy Company Limited – Established to assume the responsibilities for Olympic legacy previously undertaken by the London Development Agency (LDA). Employees of the LDA's Olympic Legacy Division have transferred to the Olympic Park Legacy Company Limited (the LDA is a functional body of the Greater London Authority and thus falls within the list in section 1 of Schedule 1 to the Order – paragraph 6C).

City Building (Glasgow) LLP- Established to provide building services and repair maintenance work for Glasgow City Council.

The following body has applied and been accepted to be named in Schedule 1, section 3 (education) of the Order:

Shetland Arts Development Agency – The *Shetland Arts Trust* was formerly listed in Schedule 1 to the Order. The Shetland Arts Trust was dissolved on 11 December 2006. Its functions and staff transferred to the Shetland Arts Development Agency. The *Shetland Arts Trust* is now listed in Schedule 2 – (see paragraph 7.13) because it was an employer with whom employment may constitute relevant service.

The following bodies have applied and been accepted to be named in Schedule 1, section 6 (police, fire and civil defence) of the Order:

Regional Fire Control Centres - A company the members of which comprise fire and rescue authorities in England and whose objects include the operation of a regional fire control centre. Eight Regional Fire Control Centre companies (Yorkshire and Humberside Fire and Rescue Control Centre Limited, North East Fire Control Company Limited, NW Fire Control Limited, West Midlands Fire and Rescue Services Regional Control Centre Limited, East Midlands Fire and Rescue Control Centre Limited, South West Fire Control Limited, South East Fire and Rescue Control Centre Limited and East of England Regional Control Centre Limited) have applied to be listed on the Order. This is a generic provision which will cover all Regional Fire Control Centres.

The following bodies have applied and been accepted to be named in Schedule 1, section 8 (social services) of the Order:

Essex Cares Limited – A holding company for Essex Community Support Limited, Essex Employment and Inclusion Limited and Essex Equipment Service Limited.

Essex Community Support Limited – Established to provide domiciliary support, reablement and older Peoples Day Services for Essex County Council.

Essex Employment and Inclusion Limited – Established to provide services to adults with a learning disability, day centres, training centres, supported employment, inclusion support and employment counselling for Essex County Council.

Essex Equipment Services Limited – Established to provide a full range of services in respect of equipment for independent living for Essex County Council.

The following body has applied and been accepted to be named in Schedule 1, section 9 (museums) of the Order:

Woodhorn Charitable Trust– Established to manage the Woodhorn Museum and the Northumberland Archives. With the formation of the Trust, employees of Northumberland County Council transferred into the employment of the Trust.

The following bodies have applied and been accepted to be named in Schedule 1, section 10 (miscellaneous bodies) of the Order:

Community Justice Authorities under section 3 of the Management of Offenders (Scotland) Act 2005 – Eight Community Justice Authorities have been established to develop partnership working between local authorities, Scottish Provision Service, Police, Health Boards and other key agencies in order to more effectively tackle the problem of reoffending. Most of the posts have been filled by ex-local authority staff.

Active Stirling Limited – Established to provide sport and physical activity on behalf of Stirling Council.

Ardroy Outdoor Learning Trust – established to enhance the provision of outdoor education for Fife primary school children and other clients.

Arts and Theatres Trust Fife Limited – Established to provide arts, culture and entertainment across Fife.

City Markets (Glasgow) LLP – Established to operate and develop city markets for Glasgow City Council.

City Parking (Glasgow) LLP – Established to manage the off-street parking provision for Glasgow City Council.

City Property (Glasgow) LLP – Established to manage Glasgow Council's surplus property assets.

Cordia (Services) LLP – Established for the management and delivery of home care, cleaning, janitorial, catering and related services in Glasgow.

Culture and Sport Glasgow – Established to manage and deliver the full range of cultural services in Glasgow.

Culture and Sport Glasgow (Trading) Community Interest Company – A trading arm of Culture and Sport Glasgow responsible for commercial development activities such as retail and venue hire.

Enjoy East Lothian Limited – Established to manage the sports and leisure centres of East Lothian Council.

Fife Coast and Countryside Trust – Established to enhance the provision of countryside access and activities for communities in Fife including the management of local authority functions in respect of the Lomond Hills Regional Park, The Fife Coastal Path, Local Nature Reserves and various countryside sites for Fife Council.

Fife Sports and Leisure Trust Limited – Established to manage and deliver Fife Council's sport and leisure services.

Forth Valley GIS Limited – Established for the provision of geographical information services to Clackmannanshire Council, Falkirk Council and Stirling Council.

Glasgow Community and Safety Services Limited - Established to lead on community safety, anti-social behaviour and security issues in Glasgow.

North Lanarkshire Leisure Limited – Established to deliver sport, recreational and health improving services to the community of North Lanarkshire.

Nuneaton and Bedworth Leisure Trust – Established for the delivery of leisure services for Nuneaton and Bedworth Borough Council.

Pendle Leisure Limited – Established to provide leisure service for Pendle Borough Council.

Sandwell Arts Trust – Established to manage an arts facility for Sandwell Metropolitan Borough Council.

Somerset Leisure Limited – Established to manage thirteen dual use sports centres for Somerset County Council.

Sport Aberdeen – Established to provide or assist in the provision of indoor and outdoor sporting, recreational and leisure facilities in the Aberdeen.

The following bodies are listed in Part 2 of Schedule 2 to the Order (employers with whom employment may constitute relevant service);

The Accounts Commission for Scotland – The staff of the Accounts Commission for Scotland were transferred to Audit Scotland (which is listed in Schedule 1 – see paragraph 7.6). The Accounts Commission for Scotland still exists and is serviced by Audit Scotland. All of the Accounts Commission for Scotland staff were transferred to Audit Scotland and therefore the Accounts Commission for Scotland is listed in Part 2 of Schedule 2 as it was an employer with whom employment may constitute relevant service.

Shetland Arts Trust - The staff of the Shetland Arts Trust were transferred to the Shetland Arts Development Agency (which is listed in Schedule 1 – see paragraph 7.8). Although the Shetland Arts Trust was dissolved in 2006 it is listed in Part 2 of Schedule 2 as it was an employer with whom employment may constitute relevant service.

The Traffic Director for London - The Traffic Director for London was established under the Road Traffic Act 1991, principally for the introduction and management of the Priority Red Route network in London. In 1999, the Traffic Director for London was abolished (section 294 of the Greater London Authority Act 1999 c. 29) and its functions were transferred to Transport for London. Transport for London is listed in paragraph 6B of section 1 of Schedule 1 to the Order and accordingly the Traffic Director for London is listed in Schedule 2 to provide continuous service for ex-Traffic Director for London staff.