EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND (APPLICATION FOR REVIEW) (AMENDMENT) REGULATIONS 2006

2006 No.961

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument amends the Social Fund (Application for Review) Regulations 1988 ("the 1988 Regulations").

2.2 Its provisions mean that an application for further review by a social fund inspector may (from the coming into force of the instrument) and must (from April 2007) be made by sending or delivering it to the office of the Independent Review Service instead of to an office of the Department (Jobcentre Plus).

2.3 The instrument allows for an application for further review by a social fund inspector to continue also to be made by sending or delivering it to an office of the Department (Jobcentre Plus) until April 2007.

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

3.1 None

4. Legislative background

4.1 When someone applies for a social fund payment, his application is determined by an appropriate officer. If he is dissatisfied with the decision he may apply for a review under section 38 of the Social Security Act 1998 (the provisions on review were formerly in the Social Security Act 1986 and then included in the consolidating measure, the Social Security Administration Act 1992).

4.2 The 1988 Regulations continue in effect under the later legislation. They contain the rules on the time, and the manner of making applications for:

- review by an appropriate officer (within Jobcentre Plus), and

- further review by a social fund inspector (within the Independent Review Service).

4.3 The Social Fund (Application for Review) (Amendment) Regulations 2006 amend the 1988 Regulations to provide for a change to the address to which an application for a further review by a social fund inspector is to be sent or delivered.

4.4 Currently such an application must be sent or delivered to an office of DWP.

4.5 The amendment allows an application to be made, before 2 April 2007 , by sending or delivering it to the office of the Independent Review Service instead of to an office of DWP. It provides that, from 2 April 2007, an application may be made only to the office of the Independent Review Service.

4.6 The impetus for the change is to remove the potential for delay in the review application reaching the Independent Review Service, and to foster greater customer confidence in the independence of the social fund inspector's review.

5. Extent

5.1 This instrument applies to 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

7.1 Currently the regulations require that an application for a further review by a social fund inspector be made in writing, within a specified time and *by sending or delivering it to an office of the Department for Work and Pensions.* This means that although an application for independent review is dealt with by the Independent Review Service, it is required to be made to a local (Jobcentre Plus) office. On receipt of such an application, local Jobcentre Plus officers then prepare and dispatch the papers for the decision to which the application relates, together with the application, to the Independent Review Service.

7.2 The Independent Review Service has no knowledge of the application - and consequently no control over the process - until the package of documents is

received by them. The Social Fund Commissioner of the Independent Review Service (Sir Richard Tilt) believes that the current regulations requiring the making of an independent review application to a DWP office undermine an applicant's confidence in the independence of the inspector's review. He has provided evidence that delays exist in the dispatch of review cases from some Jobcentre Plus offices.

7.3 In order to remedy this, the Department's Ministers have agreed to a change in the procedure. It is now intended that an application for further review by an inspector should be made by sending or delivering it to the office of the Independent Review Service (instead of to an office of the Department).

7.4 The regulations allow a temporary choice for the applicant: up to and including 1st April 2007, an application for further review can be made by sending or delivering it either to an office of DWP or to the office of the Independent Review Service. This is to give applicants and their representatives the time to become accustomed to the new system and for all publicity and notifications to be fully compliant with the change in procedure.

7.5 No formal consultation has taken place. DWP is, however, acting on concerns of the Social Fund Commissioner, and the Social Security Advisory Committee has considered the proposed amendments and agrees that they need not formally be referred to it.

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. (The Independent Review Service are joint proposers of this policy change and have already made changes to absorb them into their day to day business).

8.2 The impact on the public sector is negligible. There is no extra cost to the Exchequer as the changes are part of a range of social fund administrative improvements for which funding is already approved.

9. Contact

9.1 Chris Etty at the Business and Design Directorate (Jobcentre Plus) of the Department for Work and Pensions Tel: 0113 2324811 or email: chris.etty@jobcentreplus.gsi.gov.uk can answer any queries regarding the instrument.