EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY AND CHILD SUPPORT COMMISSIONERS (PROCEDURE) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2007

SR 2007 No. 146

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

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

2. Description

These Regulations contain a number of relatively minor and technical amendments to the existing sets of rules ("the principal Regulations") that govern the procedure in respect of proceedings before the Social Security Commissioners and Child Support Commissioners for Northern Ireland. The instruments amended are:

- the Social Security Commissioners (Procedure) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 225);
- the Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 226);
- the Social Security Commissioners (Procedure) (Tax Credits Appeals) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 18); and
- the Social Security Commissioners (Child Trust Funds) (Regulations) (Northern Ireland) 2005 (S.R. 2005 No. 164).

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

Regulation 5 amends the Social Security Commissioners (Child Trust Funds) (Regulations) (Northern Ireland) 2005 in consequence of comments made by the Joint Committee on Statutory Instruments in their Fourth Report of Session 2005 to 2006.

This is available at:

http://www.publications.parliament.uk/pa/jt200506/jtselect/jtstatin/46/4611.htm

4. Legislative Background

Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

4.1 Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 ("the 2000 Act") (c.4) makes provision in relation to decisions on housing benefit and includes provision for a right of appeal from the decision of an appeal tribunal, on a point of law, to a Social Security Commissioner. The instrument applies the procedure for appeals to the Social Security Commissioners in respect of social security benefits to appeals to the Social Security Commissioners concerning housing benefit.

Tax Credits Act 2002

4.2 The Tax Credits Act 2002 (c.21) transferred responsibility for child benefit and guardian's allowance from the Department of Health and Social Services for Northern Ireland to Her Majesty's Revenue and Customs. The instrument therefore amends the Social Security Commissioners (Procedure) Regulations (Northern Ireland) 1999 to provide for references to the Commissioners for Her Majesty's Revenue and Customs ("the Board") where appropriate.

4.3 While there has been delay in taking forward the amendments to take account of Schedule 7 to the 2000 Act and the Tax Credits Act 2002, we are not aware that any difficulties have arisen. The procedure already prescribed for appeals to the Social Security Commissioners in respect of social security benefits could have been followed in relation to appeals concerning housing benefit and the procedure for appeals to the Social Security Commissioners concerning child benefit and guardian's allowance remains the same.

4.4 The other amendments in the instrument do not flow from primary legislation.

5. Territorial Extent and Application

5.1 This instrument applies only to Northern Ireland.

5.2 The instrument replicates in Northern Ireland the amendments made in England and Wales to the Social Security Commissioners (Procedure) Regulations 1999 (S.I. 1999/1495), the Child Support Commissioners (Procedure) Regulations 1999 (S.I. 1999/1305) and the Social Security Commissioners (Procedure) (Tax Credits Appeals) Regulations 2002 (S.I. 2002/3237) by the Social Security Commissioners (Procedure) (Amendment) Regulations 2001 (S.I. 2001/1095) and the Social Security and Child Support Commissioners (Procedure) (Amendment) Regulations 2005 (S.I. 2005/207) respectively.

6. European Convention on Human Rights

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

7. Policy Background

7.1 The Social Security Commissioners and Child Support Commissioners hear and determine appeals on points of law from appeal tribunals under the social

security, child support, housing benefit, tax credits and child trust funds legislation. The Social Security Commissioners also have jurisdiction to deal with questions arising under the Forfeiture (Northern Ireland) Order 1982.

7.2 The amendments made by the instrument are mainly procedural and technical in nature and therefore uncontroversial. They modernise the principal Regulations, for example, by providing for service of documents by e-mail and for parties to appear by live television link and bring them into line with the corresponding regulations in England and Wales. They also take account of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and the Tax Credits Act 2002 (see paragraphs 4.1 and 4.2 above).

8. Impact

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

9. Contact

Una Corrigan at the Northern Ireland Court Service (Tel: 028 9041 2205, e-mail: unacorrigan@courtsni.gov.uk) can answer any queries regarding this instrument.