EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CLAIMS AND PAYMENTS) AMENDMENTS (NO.2) REGULATIONS 2007

2007 No. 1866

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 The regulations amend the Social Security (Claims and Payments) Regulations 1987.

2.2 The amendment provides for how loans made to refugees and others under the Integration Loans for Refugees and Others Regulations 2007 may be recovered by deductions from specified benefits.

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

3.1 None.

4. Legislative Background

4.1 Under section 13 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ('the 2004 Act') (as amended by section 45 of the Immigration, Asylum and Nationality Act 2006) the Secretary of State may make regulations enabling him to make integration loans to refugees and other classes of person as prescribed. Section 13 (3)(d)(ii) states that these regulations shall make provision about repayment of a loan (and may in particular make provision for repayment by deduction from a social security benefit or similar payment due to the person to whom the loan is made).

4.2 The Integration Loans for Refugees and Others Regulations 2007 have now been made and state that where a recipient of an integration loan is in receipt of a specified benefit under Schedule 9 of the Claims and Payments Regulations 1987 terms of repayment must specify that recovery shall be made by way of deductions from benefit in accordance with Schedule 9.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

7.1 Background to Home Office Scheme

7.1.1 When first given leave to enter or remain in the United Kingdom many of those granted refugee or humanitarian protection status will need access to funds to enable them to find and secure accommodation, undertake training or requalification or seek employment. Many of them will not however be able to access quickly more traditional sources of funds, such as bank loans. It is believed that the ability to access an interest free loan, with favourable repayment conditions, will make a considerable impact on their ability to become established in the UK. The integration loan scheme is funded through savings made by the abolition of the system of paying backdated benefit when a person is granted refugee status.

7.1.2 Decision on whether a loan should be made and the amount of the loan will be taken by the Home Office Border and Immigration Agency whilst arrangements for the payment and recovery of loans will be handled by the Department for Work and Pensions.

7.2 Home Office/DWP Partnership

7.2.1 The reason for this partnership between Home Office and Department for Work and Pensions is twofold. First, it is of undeniable importance that administration of the scheme should be as cost effective as possible. Second, the Home Office is committed to the successful integration of refugees and recognises the particular vulnerability of the client group who may have little or no experience of the culture of formal borrowing and repaying. The expertise and safeguards built into the Department for Work and Pensions process and legislation should deliver the policy intention to ensure gentle and affordable repayment of the integration loan.

7.2.2 In particular, the Home Office wishes to adopt the on benefit deduction rate set by the Department for Work and Pensions to avoid unnecessary hardship to refugees. The amount to be deducted from those on benefit is set at the lowest possible rate within the current framework.

7.2.3 Deduction from benefit is also a simple and cost-effective method of repayment for the client if he is in receipt of income-related benefits. For clients who are in employment and not claiming any benefit their rate of repayment will be negotiated in line with the circumstances of the client.

7.2.4 Clients will not be penalised or incur further debt where a change in their circumstances occurs. Where a client moves off benefits and into employment payment of the loan will be suspended while a new repayment rate and method is negotiated.

7.3 Home Office Regulations

7.3.1 The Act provides for the integration loan regulations to make provision for repayment of a loan by deductions from social security benefits. The Integration

Loans for Refugees and Others Regulations 2007 provides that integration loans may be repaid by deductions from specified benefits in accordance with the Social Security (Claims and Payments) Regulations 1987. The Home Office regulations specify the benefits from which deductions may be made: these are the benefits specified in Schedule 9 to the 1987 Regulations for the purpose of direct payments to third parties.

7.4 DWP Regulations

7.4.1 The amendments of Schedule 9 of the Social Security (Claims and Payments) Regulations 1987 made by these draft regulations limit how repayment of integration loans by deduction from specified benefit can be achieved.

7.4.2 They set a maximum rate for the deduction itself; this is 5% of the Income Support scale rate in respect of a person aged 25 or over. This is in line with the deduction rate for other third party arrears deductions under Schedule 9.

7.4.3 They provide that, when there are other deductions under Schedule 9, the maximum amount deducted will be 3 times 5% of the Income Support scale rate in respect of a person aged 25 or over.

7.4.4 They place the deduction for integration loans at the bottom of the current priority order for deductions under Schedule 9.

7.4.5 This amendment, and the corresponding provisions in the Integration Loan Regulations, allows for discretion on behalf of the Secretary of State as to whether deductions should be made. This will enable deductions to be suspended in cases where the current circumstances of the customer and their family warrant it.

7.4.6 The changes will limit the amount of the deduction for customers, with an outstanding liability for repaying an integration loan, who are in receipt of an income-based benefit. They also ensure that deductions for fuel etc. take precedence.

7.5 Consultation

7.5.1. The regulations are subject to statutory consultation with the Social Security Advisory Committee. They have indicated they are content with the draft regulations.

7.5.2 None of the amendments were the subject of consultation with outside bodies. This was not necessary as they are of a technical nature designed to reflect the policy intention.

7.6 Guidance

7.6.1 Once the regulations have been laid guidance will be issued to staff advising them of the ability to recover integration loans from specified benefits.

7.6.2 Once the Home Office have made a decision on an asylum application where appropriate they will inform the person that they are eligible for an integration

loan and provide a leaflet detailing the scheme. Further information is also available on their website at www.bia.homeoffice.gov.uk

7.7 Consolidation

7.7.1 The public will be able to read a consolidated version of the affected Regulations in The Law Relating to Social Security ("The Blue Volumes") on the DWP website.

8. Impact

8.1 A full regulatory impact assessment has not been published for this instrument as it has no impact on business, charities and the voluntary sector

8.2 The impact on the public sector is minimal. The scheme will be jointly administered by the Department for Work and Pensions and the Home Office.

9. Contact

Alan Clark at the Department for Work and Pensions can answer any queries regarding this instrument. He can be contacted on tel: 0113 2324162 or by e-mail to: alan.clark1@dwp.gsi.gov.uk