EXPLANATORY MEMORANDUM TO THE

The Social Security (Incapacity) (Miscellaneous Amendments) Regulations 2004
No.2301

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

The regulations increase from £72.00 to £78.00 the weekly limit for earnings from work which may be undertaken by a person without being treated as being capable of work for Incapacity Benefit and other benefits. The regulations increase the weekly earnings limit for councillor's allowance from £72.00 to £78.00. The regulations increase from £3,744 to £4,056 the amount which can be earned in a year before a person is disqualified from receiving unemployability supplement to disablement benefit.

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

None

4. Legislative Background

The power has been used annually since 1999 to increase the earnings limits for Incapacity Benefit and related benefits in line with the National Minimum Wage when it increases on 1st October each year.

5. Extent

This instrument applies to Great Britain.

6. European Convention on Human Rights

Not applicable

7. Policy background

One of the qualifying conditions for Incapacity Benefit is that a person is incapable of work. However some work can be done within limits to encourage people to return to work or to encourage social contact (this is known as permitted work). A weekly earnings limit applies in some cases which is set so that is does not fall below the rate which is the weekly equivalent of 16 hours work at the national minimum wage rate. If the rate

was not linked to the national minimum wage some people would lose entitlement to benefit simply because their earnings increased each October and the value of the earnings limits would be eroded over time. Corresponding increases and considerations apply to Councillors receiving benefit because of incapacity for work and to recipients of Unemployability Supplement under the Industrial Injuries Scheme Benefits.

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

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