EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (LEBANON) AMENDMENT REGULATIONS 2006

2006 No. 1981

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

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

2. Description

2.1 This instrument makes amendments to the following income-related benefit regulations:

- the Income Support (General) Regulations 1987
- the Jobseeker's Allowance Regulations 1996
- the State Pension Credit Regulations 2002
- the Housing Benefit Regulations 2006
- the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006
- the Council Tax Benefit Regulations 2006
- the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

2.2 The Regulations, with effect from 25th July 2006 insert a category to the list of persons who are excepted from having to satisfy the habitual residence test for income-related benefits. The additional category excepts persons in Great Britain who left Lebanon on or after 12th July 2006 because of the armed conflict there. The Regulations will cease to have effect on 31st January 2007.

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

3.1 This instrument is being made under emergency procedures and breaches the 21 day rule. The Secretary of State believes that this is necessary because of the sudden and unexpected nature of the armed conflict in Lebanon and the immediate need to evacuate British nationals to Great Britain. Delay in the legislation coming into force could cause hardship to evacuees.

4. Legislative Background

4.1 The habitual residence test was introduced into income-related benefit regulations by the Income-related Benefits Schemes (Miscellaneous Amendments) (No.3) Regulations 1994. There have been a number of modifications to the test over time.

4.2 These amendments will except persons in Great Britain who left Lebanon on or after 12th July 2006 because of the armed conflict there from meeting the requirements of the habitual residence test.

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 A claimant is required to satisfy the habitual residence test to be eligible for Income Support, income-based Jobseeker's Allowance, State Pension Credit, Housing Benefit and Council Tax Benefit ("income-related benefits"). It was introduced to prevent "benefit tourism" by people who come here from abroad and immediately claim benefits. Its purpose is to ensure that income-related benefits are paid to people with reasonably close ties to the UK and an intention to settle here. From 1st May 2004, to satisfy the habitual residence test, a claimant must also have a relevant right to reside.

7.2 There are a number categories of person who are excepted from the test:

- workers, self-employed persons, persons who retain such statuses and their family members for the purposes of Council Directive No. 2004/38/EC;
- people with a right to reside permanently in the UK by virtue of Article 17 of that Directive;
- nationals from one of eight of the member States that acceded to the European Union on 1st May 2004 who are workers by virtue of the Home Office Worker Registration Scheme;
- those who have been granted refugee status or exceptional leave to enter or remain in the UK;
- those who have been deported or otherwise compulsorily removed from another country to the UK; and
- people who have left Montserrat since November 1995 because of the volcanic eruption there.

7.3 People in these categories are excepted from the habitual residence test. They thus become able to access benefit immediately if they meet the other conditions of entitlement.

7.4 This instrument adds a further category of persons to the list of exceptions so that people who have left Lebanon due to the recent armed conflict will not be prevented from accessing income-related benefits because they are not yet habitually resident.

7.5 This instrument does not alter the effect of section 115 of the Immigration and Asylum Act 1999. No person is entitled to an income-related benefit if section

115 applies to him or her. The section applies to persons subject to immigration control. The definition of "a person subject to immigration control" in section 115 does not include, amongst others, British citizens and EEA nationals and those with certain types of leave to enter or remain in the UK.

7.6 Because these are emergency measures intended to help people leaving Lebanon as a result of the current armed conflict, it is intended that the regulations will cease to have effect on 31st January 2007. It may be necessary however to review this provision at a later time if, for example, the armed conflict in Lebanon continues and significant numbers of people are being displaced.

7.7 Guidance will be issued to decision makers to ensure that they are aware of this exception and how to apply it.

Consultation

7.8 These Regulations have not been referred to the Social Security Advisory Committee. Nor, in respect of the provisions in these Regulations relating to housing benefit and council tax benefit, has the Secretary of State consulted with organisations appearing to him to be representative of the authorities concerned. This is because it appears to the Secretary of State that by reason of the urgency of the matter, it is inexpedient to refer them or consult with those organisations respectively. These Regulations shall be referred to the Social Security Advisory Committee as soon as practicable after the date on which they have been made.

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.

8.2 The impact on the public sector is nil.

9. Contact

Alison Evans at the Department for Work and Pensions can answer any queries regarding the instrument Tel: 0207-340-4130 or e-mail: Alison.evans@jobcentreplus.gsi.gov.uk.