EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) (NO 3) REGULATIONS 2009

2009 No. 2343

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. Purpose of the instrument

2.1 This instrument makes amendments to increase permitted work earnings limits from £92 to £93 weekly. This is the amount that can be earned without a person being treated as not having limited capability for work or being capable of work for the purpose of Employment and Support Allowance, Incapacity Benefit and other benefits. Corresponding increases are made to the limits applying to Councillors receiving these benefits and to recipients of Unemployability Supplement under the Industrial Injuries Disablement Benefit Scheme.

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

3.1 None

4. Legislative Context

4.1 The increases to permitted work earnings limits and related limits are made because the National Minimum Wage increases from £5.73 to £5.80 from 1 October 2009.

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

- ***What is being done and why***

7.1 To qualify for Employment and Support Allowance a person must have limited capability for work and meet any other relevant conditions. To qualify for Incapacity Benefit a person must be incapable of work and meet any other relevant conditions. However a certain amount of work, referred to as "permitted work", can be undertaken to encourage people to return to work or to encourage social contact. Normally, this must involve work that is less than 16 hours a week and is within

certain earnings limits. The higher earnings limit is set at a level that encourages people to work within the 16 hour limit at the National Minimum Wage rate. This is to encourage people to move towards work of more than 16 hours a week where they are able to do so. If the limit was not linked to the National Minimum Wage some people would lose entitlement to benefit simply because their earnings increased in October and the value of the earnings limit would be eroded over time. The regulations increase the limit from £92.00 to £93.00 a week from 1 October 2009. Corresponding increases are made to the limits for allowances paid to Councillors receiving contributory Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance. The earnings limit for the purposes of Unemployability Supplement under the Industrial Injuries Disablement Benefit scheme is increased from £4,602 a year to £4,836 a year (£93 multiplied by 52 weeks).

- ***Consolidation***

7.2 We do not intend to consolidate the existing regulations once this instrument has been laid. Our reasons are that "The Law on Social Security" provides this function and will incorporate the amendments made by this instrument. This publication is available free of charge on the internet and in main libraries.

8. Consultation outcome

8.1 The regulations have been considered by the Social Security Advisory Committee and the Industrial Injuries Advisory Committee who approved the regulations without requiring a formal referral. There has been no wider consultation since these regulations continue the long-standing policy of linking the higher permitted work earnings limit with the changes in the rate of National Minimum Wage decided by the Department for Business, Innovation and Skills.

9. Guidance

9.1 Guidance will be updated to reflect these amendments.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The permitted work earnings limits are kept under annual review.

13. Contact

Steve Brooke at the Department for Work and Pensions Tel: 0113 232 7418 or email: steve.brooke@jobcentreplus.gsi.gov.uk can answer any queries regarding the instrument.