EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (NATIONAL INSURANCE NUMBERS) AMENDMENT REGULATIONS 2006

2006 No. 2897

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 (Crediting, and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (S.I. 2001/769) requiring a person who is in employment, or self-employed, to apply for a National Insurance Number to be allocated to him.

2.2 There are two amendments, the first requires that an individual who is applying for a National Insurance because they are in employment or self employed must provide a specific document which will provide proof that they have the right to work in the UK. The second amendment will require students who qualify for a student loan to apply for a National Insurance number if they do not already have one.

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

None

4. Legislative Background

4.1 Following recent criticism from the Home Affairs Committee on Immigration Control which highlighted that a small number of individuals were being issued with a National Insurance number even though they had no right to work in this country, an immediate review of the process for issuing National Insurance numbers was conducted.

4.2 As a result of this Review, it was decided to amend existing policy and procedures at the earliest opportunity in order to prevent National Insurance numbers from being allocated to people in employment but who had no right to work in the UK. Ministers provided a written statement to Parliament on 5th June 2006 announcing the changes (See Appendix 1).

4.3 To support those changes the Regulations are intended to make explicit the evidence which must be produced to demonstrate that the "right to work" condition has been satisfied. A Written Statement to Parliament was made on the 18th July 2006 to this effect (See Appendix 2).

4.4 Existing National Insurance number legislation does not allow for a number to be allocated for the purposes of obtaining a student loan. To mirror proposed Department for Education and Skills' Student Support Regulations 2007 which require students who qualify for a student loan to provide their National Insurance number prior to the payment of the student loan, it is necessary to amend DWP's National Insurance Number regulations. It is intended that both instruments should come into force in time for the 2007/2008 academic year.

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

Amendments to the Social Security (Crediting, and Treatment of Contributions, and National Insurance Numbers) Regulations 2001

Regulation 2 (a)

7.1 The policy is that allocation of a National Insurance number should be dependent on a person not being subject to immigration control; and that if he is; then he is able to satisfy that his leave to enter or remain in the UK does not preclude him from taking up employment.

7.2 Regulation 2(a) requires a person who applies for a National Insurance numbers because they are in employment or self employed to provide a document from a specified list to prove they have the right to work in the UK

Regulation 2 (b)

7.3 This regulation change mirrors Department for Education and Skills Regulation change (scheduled for early 2007) which will require those who qualify for the award of a Student Loan to provide their National Insurance number to assist in the recovery of the loan. When a qualifying loan applicant does not have a National Insurance number they will have to apply for one.

Consultation

7.4 The Social Security Advisory Committee considered the regulations in draft and did not want them to be referred for further consultation.

7.5 The right to work changes have received wide coverage and debate (Home Affairs Committee criticism and government response, Parliamentary questions and Ministerial correspondence, Written Statements before Parliament). Feedback has been universally in favour of the implementation of a right to work pre- condition.

7.6 The right to work changes will impact upon relatively small numbers of people. During 2005-06, a total of 2,500 NINOs were allocated to people who would not be allocated under the provisions of these regulations.

8. Impact

8.1 A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities and voluntary bodies.

9. Contact

Garry Gibson at the Department for Work and Pensions Tel 01942 758372 or e.mail: Garry.Gibson@dwp.gsi.gov.uk can answer any queries regarding this instrument.