EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (NOTIFICATION OF DEATHS) REGULATIONS 2012
2012 No. 1604

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

2. Purpose of the instrument

2.1. This instrument provides for each registrar of births and deaths in England and Wales, the Registrar General for England and Wales and the Registrar General of Births, Deaths and Marriages for Scotland are under a duty to furnish information about deaths to the Secretary of State for the purposes of certain benefits Acts. The Regulations provide details of the circumstances in which the duty applies. They also provide the manner in which and time within which the information must be furnished, and lists of the information to be furnished. What information is relevant depends on both the person who is under a duty to furnish it and the manner and time at which it is to be furnished.

2.2 These Regulations thereby make provision for furnishing information in accordance with a notification service that the Secretary of State may provide. This notification service is the Tell Us Once (TUO) service, which the Secretary of State is in the process of establishing.

2.3 This instrument revokes the Social Security (Notification of Deaths) Regulations 1987 and replaces them the Social Security (Notification of Deaths) Regulations 2012.

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

None.

4. Legislative Context

4.1 Current legislation provides that the Secretary of State may by regulations provide that certain persons are under a duty to furnish him with such particulars of such deaths as are to be prescribed. The persons to whom this duty may be applied are registrar of births and deaths, the Registrar General for England and Wales and the Registrar General of Births, Deaths and Marriages for Scotland. The regulations may also make provision as to the manner in which and times at which the particulars are to be furnished.

4.2 The information is to be furnished for the purposes of the Secretary of State's functions under the various social security enactments that are listed in section 125(1) of the Social Security Administration Act 1992.

4.3 This instrument revokes and replaces the previous regulations in order to take account of a revision of the duties, the manner in which and the times at which information is to be furnished. These revisions are as a consequence of a new data notification service that the Secretary of State is establishing.

4.4 This data notification service is the "Tell Us Once" (TUO), whereby citizens are able voluntarily to notify a birth or a death in a single contact with DWP. Information about a death is to passed to the Secretary of State for Work and Pensions so that he may amend his records for social security purposes and, with the consent of the informant, the Secretary of State may also share the information as to the death with participating central and local Government departments. The TUO notification service operates as a face-to-face service, delivered through the local authorities (for a birth or a death), and for a death only, a telephone service delivered via DWP and an on-line service via the Directgov website.

5. Territorial extent and application

This instrument applies to England and Wales and to Scotland.

6. European Convention on Human Rights (ECHR)

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 The TUO face-to-face service for reporting a birth or a death, and telephony and on-line notification service (for death notification only) currently includes 28 Government services within the Department for Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC), Identity and Passport Service (IPS), Driver and Vehicle Licensing Agency (DVLA), Ministry of Defence and Local Authorities (LAs).

7.2 Using the TUO service means that the citizen does not have to notify the participating departments or agencies separately of a birth or a death. Participating central and local Government departments are able to update their records and make any necessary adjustments to benefits, credits and other services they provide, without the individual needing to contact each department or show each of them the birth or death certificate.

7.3 The national implementation of the TUO service began in September 2010 and it is expected that the majority of local authority areas in England, Wales and Scotland will be providing the TUO service by June 2012.

7.4 To provide the citizen with the flexibility of choosing the channel for death notification, the TUO service needs to have all registered death data (or death declarations data) entered into the TUO IT system following a death registration or declaration (with certain exceptions). Inputting the death registration/declaration data into TUO IT system will produce a unique TUO service reference number (SRN). The TUO IT system produces a letter, containing the SRN which is given to the citizen who is sign-posted to the TUO service and advised how it can be accessed; either face to face at the local authority, by telephone using the service operated by DWP or online service via the Directgov website, to report a death. The TUO SRN enables, the telephone agent or the person notifying a death using the on line service, to access the verified death information from the TUO IT system. The person using the TUO service and providing further information regarding the death must have the authority to notify the death and related information

and must consent to this information being shared with Government. Sharing of information to organisations outside of DWP will only be carried out with consent.

7.5 The information received from the informant is recorded on the TUO IT system (designed, administered and owned by DWP) which has the ability to collect, store and share information (and later delete it in accordance with DWP retention of documents policy). With consent, the information is securely passed on to the other relevant participating departments and agencies. Each receiving department or agency will use this notification to process the change as they would have if the customer had contacted them directly. The information sought from the citizen and forwarded to the departments is proportionate and limited to their business needs and is processed in accordance with the Data Protection Act 1998 and the Human Rights Act 1998.

7.6 If data for all deaths has not been entered into the system, some customers would be unable to use the online or telephony service without first returning to a local authority office with a death certificate. The use of the TUO service is voluntary and those who do not wish to use the TUO service will still be able to notify by contacting each department or agency individually.

7.7 Outside of the TUO service the National Records of Scotland (NRS) and General Register Office (GRO) on behalf of the Registrar General (RG) already supply the Secretary of State with an overnight electronic transfer of death registration information for the purposes of his functions under social security legislation. The duties currently imposed in respect of these transfers, however, do not correspond with the TUO notification requirements.

7.8 The TUO policy is to accept death declaration data as verification of the death. By accepting the death declaration as verified data for the TUO service, deaths which are declared can be notified earlier to central and local Government. It will make the TUO service more desirable for those customers who need to use the death declaration process to register a death. The requirement for death declarations only relate to England and Wales. In Scotland a death can be registered in any of the registration districts and is not restricted by the area in which the even took place.

7.9 By having all registered deaths or death declarations entered into the TUO IT system following a death registration or a death declaration the citizen will have a greater choice in the way that they are able to access the TUO service. This is likely to:

- increase TUO service take-up figures (and therefore increase the benefits);
- improve the speed at which information about a death is shared across Government;
- reduce the number of contacts made to services where claimants would otherwise opt to use traditional means of notification instead;
- improve customer service by enabling people to access the services when it's convenient for them.

Consolidation

7.10 Informal consolidation will be included in due course in the Department's 'the Law Relating to Social Security' (the Blue Volumes) which are available on the internet at no cost to the public at:
www.dwp.gov.uk/publications/specialist-guides/law-volumes/.

8. Consultation outcome

8.1 No formal public consultation has taken place specifically in relation to this Regulation. This is because the new regulations are to clarify the duty placed on the General Register Office (GRO) and the registrars of births, deaths and marriages in England and Wales and National Records of Scotland to share death data with Secretary of State and does not change substantive policy or requirements in benefits legislation.

8.2 The General Register Office in England and Wales and National Records of Scotland have been consulted in preparation of the amendments and have agreed to this instrument.

8.3 These proposals were sent to the Social Security Advisory Committee (SSAC) on 16 May 2012. The Committee, under the powers conferred by Section 173(1)(b) of the Social Security Administration Act 1992 decided that it did not wish to have the Social Security (Notification of Deaths) 2012 formally referred to them.

9. Guidance

9.1 The changes will only affect General Register Office (GRO) and the registrars of births, deaths and marriages in England and Wales and National Records of Scotland.

9.2 The guidance letter which explains the duty and how the registrars help in providing the TUO service is being updated for when the new legislation is introduced.

10. Impact

10.1 This instrument has no impact on business or civil society organisations.

10.2 The impact on the public sector of this instrument is negligible as it is purely enabling.

10.3 A full impact assessment (regulatory) has not been prepared for this instrument.

11. Regulating small business

The instrument does not apply to small business.

12. Monitoring and review

12.1 Reporting of a death using the TUO service and the access channels used will continue to be monitored and evaluated through feedback from users of the service, by the TUO Delivery Partnership Division and in collaboration with General Register Office (England and Wales) and National Records of Scotland during the six month period following introduction and reported to cross-government stakeholders at the end of the programme reporting stage in the January 2013.

13. Contact

13.1 For additional information please contact Tara Solanki by telephone 020 7449 5303 or by e-mail at Tara.Solanki@dwp.gsi.gov.uk