EXPLANATORY MEMORANDUM TO

THE TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) (RCUK SHARED SERVICE CENTRE LIMITED) REGULATIONS 2012

2012 No. 2413

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills ("BIS") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Transfer of Undertakings (Protection of Employment) (RCUK Shared Services Centre Limited) Regulations 2012 ("the Regulations") concern the treatment of employees transferring from BIS to RCUK Shared Services Centre Limited (RCUK SSC Ltd) on 1 November 2012.

2.2 The purpose of the Regulations is to ensure that BIS employees working in Financial Operations in Billingham or Human Resources Operations in Cardiff are treated as if the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") apply to them. Human Resources Operations staff will not have their contracts terminated by TUPE if they object to the transfer.

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

3.1 None.

4. Legislative Context

4.1 The Regulations make the same or similar provision in relation to the treatment of employees in circumstances other than those in which Council Directive 2001/23/EC of 12 March 2001 ("the Acquired Rights Directive") applies.

4.2 TUPE implements the Acquired Rights Directive in the UK. TUPE does not apply where there is an administrative reorganisation of public administrative authorities or to the transfer of functions between public administrative authorities. RCUK SSC Ltd is a part of the public sector (see paragraph 7.2 below). The Regulations make sure that the same or similar provision as TUPE applies to BIS staff transferring to RCUK SSC Ltd.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

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

- What is being done and why

7.1 BIS has a shared services programme which includes the transfer to RCUK SSC Ltd of certain HR functions (including HR operations management, HR First and registry, payroll, compliance and reporting, financial risk management, HR services for the Insolvency Service and other agencies, data migration, and pay operations) and finance functions (including operational finance and shared services contract management, financial operations management, transaction processing, and travel and expenses policy and operations).

7.2 RCUK SSC Ltd was incorporated on 1 August 2007 by the Research Councils. It is a company limited by shares, and is wholly owned by BIS and the Research Councils. RCUK SSC Ltd is part of the public sector and is subject to public law and public sector accounting and financial reporting requirements on the control and stewardship of public money and has a designated Accounting Officer.

7.3 It is expected that less than 50 BIS employees will transfer to RCUK SSC Ltd along with the transfer of functions. The intention is that transferring staff will be guaranteed the protections set out in TUPE. Cardiff staff transferring to RCUK SSC Ltd will have to move office location and change role should they transfer to RCUK SSC Ltd, whereas that is not the case for the employees based in Billingham. In this context, it is considered appropriate that employees working in Cardiff should have greater choice than the staff based in Billingham should they refuse to transfer. Further explanation is provided in the Equality Impact Assessment which has been the subject of detailed consultation with the Departmental Trade Union Side and made available to affected staff.

8. Consultation outcome

8.1 The Departmental Trade Union Side at the Department for Business, Innovation and Skills has been consulted throughout the process as the representative of affected employees and is supportive of the protections in the TUPE Regulations applying to affected employees.

9. Guidance

9.1 Guidance is available to those employees affected by the Regulations.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Monitoring & review is not necessary for this instrument.

13. Contact

Steve Bartlett at the Department for Business, Innovation and Skills Tel: 020 7215 5797 or email: steve.bartlett@bis.gsi.gov.uk can answer any queries regarding the instrument.