EXPLANATORY MEMORANDUM

NATIONAL DEBT
The Government Stock (Consequential and Transitional Provision) Order 2004 No.1486

This explanatory memorandum is laid before Parliament, by Command of Her Majesty, and contains information for the Joint Committee on Statutory Instruments.

HM Treasury is the Department responsible for the laying of this Instrument.

The Bank of England is currently responsible for maintaining the register of Government stock, or gilts. The Government Stock Regulations 2004 were laid in draft before both Houses of Parliament on 11 May 2004 and, when made will authorise the appointment of a person other than the Bank of England to take over the administration of government stock and the registration of holders of stock. Those draft Regulations were the subject of a Memorandum to the Committee and the Merits Committee of the House of Lords dated 10 May 2004.

The Government Stock (Consequential and Transitional Provision) Order 2004 will make two consequential amendments to section 47 of the Finance Act 1942 so as to replace references to the Bank of England with references to the person or persons appointed under Regulations made under section 47 of the 1942 Act as amended. The Government Stock Regulations 2004 will be the first such Regulations. The Order will also make transitional provision for the Bank of England to be deemed to be the first person appointed under those Regulations.

Legislative Background

The Bank of England has a statutory duty to act as registrar for UK government stock, under section 47 of the Finance Act 1942 and the Government Stock Regulations 1965, which were made under that section. Section 140 of the Finance Act 2002 has now amended section 47 of the 1942 Act to enable the Treasury to make Regulations for the transfer of the provision of UK government stock registration services from the Bank of England to a person or persons appointed in accordance with those Regulations.

Section 140 of the Finance Act 2002 also authorises the Treasury to make consequential and transitional provision, by order, in consequence of the amendments made by section 140 of the Finance Act 2002.

This Order applies to all of the UK.

European Convention on Human Rights

This Statutory Instrument is compatible with the European Convention on Human Rights.

Matters of special interest to the JCSI

The amendments made to section 47 of the Finance Act 1942 by section 140 of the Finance Act 2002 authorise the Treasury to make regulations under section 47(1)(b) for the administration of government stock and bonds by a person or persons appointed by the Treasury. Section 47(1ZA) and (1A) contain further references to the Bank of England, which need to be amended so as to refer to the person or persons appointed in accordance with such regulations. These amendments are needed to ensure due authority for the Government Stock Regulations 2004 and further regulations under section 47 of the Finance Act 1942 and for consistency with section 47(1)(b).

The Government Stock (Consequential and Transitional Provision) Order 2004 makes those amendments. It is the first of two Orders which the Treasury will make under the power conferred on them by section 140 of the Finance Act 2002 to make by order consequential, supplementary or transitional provision as a result of the amendment of section 47 of the Finance Act 1942.

The Order comes into force on different dates for different purposes. As the amendments to be made by it are needed to ensure due authority to make the Government Stock Regulations 2004, it must for that purpose come into force before those Regulations are made. For other purposes, it will come into force at the same as those Regulations and the further Consequential and Transitional Provision Order which is required.

Transitional provision is included in this Order deeming the Bank of England to be appointed in accordance with the first regulations to be made under section 47, as amended by section 140 of the Finance Act 2002, in view of the terms of that amendment: it refers to an appointment in accordance with regulations. The Bank will continue to be the registrar until the first appointment of a different person.

Policy Background

Government stock, also known as gilts, can be bought and sold both by private individuals and institutions. Each individual holding must be entered on a register, which records details of each holder and the amount and type or types of stock which he or she holds. Details are also kept of transactions relating to such stock. The register provides the basis for the payment of dividends. The Bank of England has traditionally been responsible for the administration of such a register.

The Treasury and the Bank agreed in the late 1990s that the registrar function should no longer be carried out by the Bank but contracted out to the private sector. Section 140 of the Finance Act 2002 therefore gave the Treasury the power to make regulations for the appointment of another person to take over the administration of the register of Government stock.

The amendments to be made by this Order will ensure that the full range of functions involved in the administration of stock and keeping of the register of stock can be carried out by the person appointed by the Treasury.

This Order will have no regulatory impact on business, nor upon those who have holdings registered on the register of stock. It is intended that holders of stock will be advised of the change of identity of the registrar before such an appointment takes effect.

Should either of the Committees have any queries about this Order, they should contact David Curtis at the following address: -

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HM TREASURY
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