EXPLANANTORY MEMORANDUM TO THE

THE GOVERNMENT STOCK (CONSEQUENTIAL AND TRANSITIONAL PROVISION) (No. 3) ORDER 2004

2004 No. 2744

1. This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of Her Majesty

   This Memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 The Bank of England is currently responsible for maintaining the registers of Government stock, known as gilts. The Government Stock Regulations 2004 were laid in draft before both Houses of Parliament on 11 May 2004 and 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 Joint Committee on Statutory Instruments and to the House of Lords Merits Committee, dated 10 May 2004. They were made on 30 June and came into force on 1 July.

2.2 Because of those Regulations and the power to appoint persons other than the Bank of England for the administration of stock and the registration of holders, consequential amendments of primary and secondary legislation, and some transitional provisions, are required.

2.3 The Government Stock (Consequential and Transitional Provision) Order 2004 (S.I. 2004/1486) made amendments which were necessary in order to authorise the making of the Government Stock Regulations 2004. That Order was the subject of a Memorandum to the Joint Committee dated 8 June 2004.

2.4 The Government Stock (Consequential and Transitional Provision) (No 2) Order 2004 (S.I. 2004/1662) made further consequential and transitional provision. It amended a wide range of primary and secondary legislation, which related to the functions of the Bank of England in administering Government stock. It replaced references to the Bank of England with references to the "Registrar of Government Stock", that is, the person appointed from time to time in accordance with the Government Stock Regulations 2004. The first person appointed is in fact the Bank.

2.5 The Order also replaced references to the Government Stock Regulations 1965 with references to the 2004 Regulations. Finally, it made transitional provision to ensure the continuing validity of things done in the course of the administration of stock, first when the Bank ceased to operate under the current statutory regime and was appointed under the 2004 Regulations as Registrar of Government Stock and then when a Registrar is appointed to take over from a previous Registrar.

That Order was the subject of a Memorandum to the Joint Committee dated 30 June 2004.

2.6 Both Orders are described briefly in the section below titled “Legislative Background”.

2.7 This Order makes further amendments to primary legislation consequent upon the provision for the administration of stock by the Registrar of Government Stock. It replaces some and, where appropriate, supplements other references to the Bank of England with references to the Registrar of Government Stock. It also makes amendments in relation to the payment of dividends on stock in order to enable someone other than the Bank of England to be appointed as Registrar. This Order also makes transitional provision to the same effect as described above.

3. Matters of special interest to the Select Committee

3.1 There are no matters of special interest that the Treasury wishes to bring to the attention of the Select Committee.

4. Legislative Background

4.1 The Bank of England had 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.

4.2 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. An Order under section 140 may amend both primary and secondary legislation.

4.3 The Government Stock (Consequential and Transitional Provision) Order 2004 was made and laid before the House of Commons on 8 June. It amended section 47 of the Finance Act 1942 by replacing 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 were the first such Regulations. The Order came into force on 29 June for the purpose of authorising the Government Stock Regulations 2004 to be made and for all other purposes on 1 July 2004. It also made transitional provision deeming the Bank of England to be the first person appointed under those Regulations. The Government Stock (Consequential and Transitional Provision) (No. 2) Order was made and laid before the House of Commons on 30 June 2004 came into force on 1 July 2004. As set out above, it made a wide range of changes to primary and secondary legislation to replace references to the Bank of England with references to the Registrar of Government Stock and to replace references to the Government

Stock Regulations 1965 with references to the 2004 Regulations. It also made transitional provision as described above.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, Stephen Timms, has made the following statement:

In my view the provisions of the Government Stock (Consequential and Transitional Provision) (No.3) Order 2004 are compatible with the Convention rights.

7. Policy Background

7.1 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.

7.2 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.

7.3 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 and that tax reliefs related to stock are not prejudiced by the appointment of a person other than the Bank of England as Registrar of Government Stock.

7.4 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.

8. Impact

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

9. Contact

Should the Committee have any queries about this Order, it should contact David Curtis at the following address: -

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HM TREASURY
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