

EXPLANATORY MEMORANDUM TO THE CERTIFICATION OFFICER (AMENDMENT OF FEES) REGULATIONS 2005

2005 No. 713

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments and the House of Lords Merits Committee.

2. **Description**

2.1 This instrument makes changes to the statutory fees payable to the Certification Officer (CO) with regard to his functions relating to trade unions and employers' associations.

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

3.1 None. None of the fee increases is above the rate of inflation.

4. **Legislative Background**

4.1 The Certification Officer (CO) is an independent statutory officer established in 1975 to regulate the affairs of trade unions and employers' associations. The CO is responsible for certain administrative and quasi-judicial functions, including certifying the independence of trade unions. These functions are set out in the Trade Union and Labour Relations (Consolidation) Act 1992.

4.2 Provisions within the 1992 Act empower the CO to charge trade unions and employers' associations for certain services at amounts which the Secretary of State sets under powers conferred on her by that Act. Periodically, the Secretary of State uses that power to revise the fees to ensure full recovery of the CO's costs in providing each service. This instrument revises these fees accordingly.

4.3 Section 50 of the Employment Relations Act 2004, which inserts new sections 101A and 101B into the 1992 Act, creates a new fee which the CO may charge. This new fee concerns the particular case where a new union is created through the amalgamation of unions where each was previously listed by the CO as unions and each previously had a certificate of independence. The instrument sets the amount of this new fee and specifies the circumstances where it will apply. The fee covers the costs to the CO of issuing a new certificate of independence to the amalgamated union.

5. **Extent**

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 The CO's statutory fees were last revised in April 1997. The Secretary of State considers that these fees should now be revised to reflect changes to the costs. In addition, there is a need to set the new fee provided for in section 50 of the 2004 Act. That section comes into effect on 6 April 2005.

7.2 The new fees, following discussions with the CO and the Treasury, are based on estimates of the typical costs (principally staff time) to the CO in carrying out each category of work. The estimates result in a range of fee changes, and include some decreases as well as increases.

8. Impact

8.1 The revenue raised by the fees is, on average, about £15,000-£20,000 per annum and the changes to the fees proposed in this instrument are relatively small. As the impact on the private and voluntary sectors is therefore likely to be marginal, a formal Regulatory Impact Assessment has not been prepared for this instrument.

9. Contact

9.1 Carol Wheeler at the Department of Trade and Industry Tel : 0207 215 5993 or email : Carol Wheeler @dti.gsi.gov.uk can answer any queries regarding the instrument.