

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (NATIONAL INSURANCE NUMBERS)
AMENDMENT REGULATIONS 2008

2008 No. 223

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

2. Description

2.1 The regulations amend the Social Security (Crediting, and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (S.I. 2001/769), by changing the list of documentary evidence an individual can use to prove their right to work in the UK. This reflects the changes to Home Office Legislation.

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

3.1 None

4. Legislative Background

4.1 In July 2006 the “Right to Work” test for individuals requiring a NINO for employment purposes was introduced. This requires an individual to provide evidence that they have the right to work in the UK before a NINO can be allocated. The Social Security (National Insurance Numbers) Amendment regulations 2006 were introduced in November 2006 and state that an individual must provide a document as listed in Part 1 or Part 2 of the Schedule to the Immigration (Restrictions on Employment) Order 2004.

4.2 The Home Office are replacing the Immigration (Restrictions on Employment) Order 2004 with the Immigration (Restrictions on Employment) Order 2007. Schedule 1 of the 2007 Order lists the documents which can be used to provide evidence that the individual has the right to work in the UK. As a result of this it is necessary to remove the existing reference to the 2004 Order and to replace this with reference to the documents listed in Schedule 1 to the Immigration (Restrictions on Employment) Order 2007.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In order to be allocated a National Insurance number (NINO) for employment purposes an individual must be able to provide proof that they have the right to work in the UK. DWP Regulations are to be amended to include reference to the documents listed in Schedule 1 of the 2007 Order. This will ensure that DWP NINO Allocation policy for employment related NINO applications continues to mirror the relevant requirements of the Home Office restrictions on employment legislation.

7.2 The change provides consistency for the individual in that the documents that can be used to prove Right To Work when applying for a National Insurance number are the same as the ones they will need to provide an employer with prior to commencing employment. Those eligible to work in the UK will have to have these forms of documentary evidence. DWP is not asking for any additional documentary evidence for its adult NINO Allocation purposes.

7.3 There will be no change to the existing provisions which provide for the allocation of NINOs to benefit or tax credit claimants.

Consultation

7.4 The Social Security Advisory Committee considered the regulations in draft and did not want them to be referred for further consultation.

7.5 The type of documentary evidence that can be used to prove right to work has changed very little; our existing customer leaflets only provide examples of the types of documentation required, as opposed to the specifics, therefore there is no requirement for customer leaflets to be amended. DWP Jobcentre Plus operational guidance and supporting products have been updated to include reference to the documents listed in Schedule 1 of the 2007 Order.

8. Impact

8.1 A full impact assessment has not been prepared for this instrument as it has no impact on the private or voluntary sectors.

8.2 The impact on the public sector is negligible.

9. Contact

Garry Gibson at the Department for Work and Pensions Tel 01772 234088 or e.mail: Garry.Gibson@dwp.gsi.gov.uk can answer any queries regarding this instrument.