EXPLANATORY MEMORANDUM TO

THE NATIONAL SAVINGS (UNCLAIMED MONEYS) REGULATIONS 2009

2009 No. 1263

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

2. Purpose of the instrument

2.1 These Regulations require the National Debt Commissioners ("the Commissioners") to repay to the Director of Savings or to the National Loans Fund ("the NLF") unclaimed moneys held by them in respect of certain National Savings and Investments ("NS&I") products. The Regulations also require the Director of Savings to credit each amount deemed to be unclaimed to an investment account in the National Savings Bank. Finally, the Regulations amend other NS&I product Regulations so as to introduce a new procedure for dealing with unclaimed moneys in NS&I products in the future.

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

3.1 Please see paragraphs 4.2 and 4.3.

4. Legislative Context

4.1 These Regulations make provision for unclaimed moneys relating to six NS&I products: national savings stamps, national savings gift tokens, British Savings Bonds, premium savings bonds, Pensioners Guaranteed Income Bonds and Income Bonds. Section 10 of the National Debt Act 1972 ("the 1972 Act"), the Premium Savings Bonds Regulations 1972 ("the 1972 Regulations") and the National Savings Stock Register Regulations 1976 ("the 1976 Regulations") made under the 1972 Act, provide the principal legislative framework within which the Director of Savings and the Commissioners manage unclaimed moneys in these six products.

National savings stamps and gift tokens

4.2 Section 10(2) of the 1972 Act provides that the Treasury may transfer unclaimed moneys in respect of national savings stamps and gift tokens from the NLF to the Commissioners. Section 10(2) also provides that the Commissioners are to deal with sums transferred as if they were paid to them in respect of unclaimed redemption moneys under section 5 of the Miscellaneous Financial Provisions Act 1955 ("the 1955 Act"). Section 5(6) of the 1955 Act imposes a duty on the Commissioners to invest these moneys in the purchase of Government stock.

4.3 Savings stamps and gift tokens were taken off sale in 1976 and 1989 respectively. However, unclaimed moneys in respect of each of these products remain with the Commissioners in their account of unclaimed redemption moneys and the

Commissioners' investment duties in respect of these moneys under section 10(2) of the 1972 Act is without time limit. An enabling power at section 10(2A) was inserted by section 163 of the Finance Act 2008 to allow the Treasury, by regulations alone, to modify the obligation to invest moneys placed on the Commissioners by section 10(2), and to allow the Treasury to require the Commissioners to repay sums held by them in respect of these two products to the NLF. The regulation-making power at section 10(2A) is used for the first time, therefore, to require the Commissioners to repay sums held by them in their account of unclaimed redemption moneys to the NLF (at regulation 2(1) of these Regulations).

Premium savings bonds

4.4 Regulation 15 of the 1972 Regulations currently requires the Director of Savings to pay unclaimed sums in respect of premium savings bonds to the Commissioners who, in turn, must place moneys transferred to them to their account of unclaimed dividends. No provision was made in the 1972 Regulations for terminating the Commissioners' duties in respect of the sums transferred or for the return of the funds to the Director. These Regulations, therefore, revoke regulation 15 of the 1972 Regulations in order to put an end to the Director's duty to transfer unclaimed sums to the Commissioners and in order to terminate the Commissioners' duties under that provision in respect of funds transferred. These Regulations also require the Commissioners to return unclaimed moneys held by them in respect of premium savings bonds to the Director.

Stock in the National Savings Stock Register ("the Register")

4.5 Regulation 43 of the 1976 Regulations requires the Director of Savings to pay unclaimed sums in respect of stock in the Register (such as British Savings Bonds, Pensioners Guaranteed Income Bonds and Income Bonds) to the Commissioners. The Commissioners place the moneys paid to them in their account of unclaimed dividends or in their account of unclaimed redemption moneys in accordance with that regulation. As with unclaimed moneys in other products, no provision was made in the 1976 Regulations for terminating the Commissioners' duties in respect of these funds, or for the return of the funds to the Director. These Regulations, therefore, revoke regulation 43 and thus terminate the Director's obligation to transfer unclaimed sums to the Commissioners and end the Commissioners' investment duties under that provision in respect of the sums transferred. The Regulations require the Commissioners to return sums paid to them in respect of stock in the Register to the Director.

Application by the Director of all sums repaid by the Commissioners

4.6 As soon as the Commissioners transfer the cash held by them in respect of NS&I unclaimed moneys to the Director of Savings, these Regulations require the Director to receive and account for the sums repaid in respect of premium savings bonds and stock in the Register (including British Savings Bonds) as investment deposits in the National Savings Bank. By virtue of section 120 of the Finance Act 1980, the Director is required to transfer cash received as investment deposits to the NLF. In addition, the Regulations require the Director to credit a sum representing the unclaimed amounts to an account in the National Savings Bank in the name of the Director (on behalf of persons entitled) or in the name of the person entitled. The Director's obligation to make repayment to customers in respect of the new investment deposits will be a liability in respect of investment deposits in the National Savings Bank and will be a charge on the NLF with recourse to the Consolidated Fund (in accordance with section 120 of the Finance Act 1980).

4.7 In accordance with regulation 2(1) of these Regulations, the Commissioners will not repay unclaimed sums in respect of national savings stamps and gift tokens directly to the Director. Instead, regulation 2(1) requires the Commissioners to return the sums to the NLF. Accordingly, additional provision is required in these Regulations in respect of these sums in order to allow the Director (and not the Treasury) to manage the sums transferred. The power at section 11(2)(a) of the 1972 Act is used, therefore, to apply section 120 of the Finance Act 1980 to these moneys (at regulation 2(2)), so that the Director (and not the Treasury) can treat and account for the sums repaid as investment deposits in the National Savings Bank (at regulation 2(3)).

Moneys deemed to be unclaimed after these Regulations come into force

4.8 These Regulations amend the 1972 Regulations so as to introduce (at new regulation 15A) a new procedure for dealing with sums which are deemed to be unclaimed in respect of premium savings bonds after these Regulations come into force.

4.9 These Regulations also amend the 1976 Regulations so as to introduce (at new regulation 43A) a new procedure for dealing with moneys deemed to be unclaimed in respect of stock in the Register after these Regulations come into force. British Savings Bonds were taken off sale in 1979 and, accordingly, the new procedure at new regulation 43A will not be relevant in respect of this particular product in the Register.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 NS&I sums held by the Commissioners relate either to residual holdings in closed products (national savings stamps, national savings gift tokens and British Savings Bonds), where NS&I have been unable to make repayment to holders, for whatever reason, or to current products (premium savings bonds, Income Bonds and Pensioners Guaranteed Income Bonds) where NS&I has lost contact with certain customers and cannot effect payments such as monthly interest.

7.2 Money raised by the issue of NS&I products must be paid into the NLF. Current legislation provides, however, that moneys which remain unclaimed in NS&I products must be transferred to the Commissioners. The fragmenting of NS&I product moneys in this way, between the Commissioners and the NLF, is an historical practice which now poses an unnecessary complication for future NS&I accounting systems and IT developments. The sums involved (£42.6 million) represent only 0.04% of the funds invested with NS&I and do not justify the separate accounting and reporting treatment which is currently necessary.

7.3 The policy aim underlying these Regulations is twofold. First, NS&I propose to centralise all product accounting through the NLF and close down its requirements of the Commissioners. This will result in reduced running costs for the organisation. Secondly, NS&I intend to address audit requirements by placing all such 'lost contact' moneys in a single secure, controlled product, the Residual Account. The Residual Account is an investment account in the National Savings Bank which will act as the repository for all such "lost contact" funds until such time as they may be repaid.

7.4 This is the final stage of a three-year programme by NS&I to rationalise its obsolete IT systems and associated accounting processes for residual holdings. It is also NS&I's final transfer of product moneys from the Commissioners to the NLF. Ordinary Account customer moneys were transferred in May 2008 under the National Savings Bank (Amendment) (No. 2) Regulations 2008.

8. Consultation outcome

8.1 This is an accounting change with no impact for customers. As such no consultation has taken place.

9. Guidance

9.1 This is an accounting and simplification measure for NS&I's internal processes. As such, there are no customer impacts. Any residual moneys will continue to belong to the customer until such time as payment can be made.

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.

10.2 The impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 There will be no formal monitoring or review. When the changes are effected the benefits will come in faster delivery of updated product IT systems and the reduced need for bespoke tailoring of accounting requirements, which should contribute to reduced development costs.

13. Contact

13.1 Alan Lamond at National Savings and Investments (Tel: 020 7348 9409 or email: alan.lamond@nsandi.com] can answer any queries regarding the instrument.