

**EXPLANATORY MEMORANDUM TO
THE FINANCIAL COLLATERAL ARRANGEMENTS (NO. 2) REGULATIONS 2003
(AMENDMENT) REGULATIONS 2009**

2009 No. 2462

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 Is to make consequential amendments to the Financial Collateral Arrangements (No. 2) Regulations 2003 to take account of the provisions of the Companies Act 2006 (“the 2006 Act”) that will come into force on 1 October 2009.

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

3.1 None.

4. **Legislative Context**

4.1 The Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003 No. 3226) (the 2003 Regulations) implement the Directive of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (2002/47/EC). They contain a number of references to provisions in the Companies Act 1985, and the Companies (Northern Ireland) Order 1989, which are being repealed by the Companies Act 2006, with effect from 1 October 2009. These Regulations make the consequential amendments to refer to the equivalent provisions in the Companies Act 2006.

5. **Territorial Extent and Application**

5.1 This instrument applies to the United Kingdom.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, a compatibility statement is not required.

7. **Policy background**

- *What is being done and why*

7.1 The implementation of the 2006 Act requires consequential amendments to be made to other legislation which contains references to earlier Companies Acts, and to the definitions and concepts found in those Acts.

7.2 These Regulations set out the consequential amendments needed to the 2003 Regulations to ensure that they continue to operate in an effective way and is easy for the reader to use.

- *Consolidation*

7.3 The Treasury does not have plans to consolidate the 2003 Regulations with amendments at this time. Commercial publishers produce consolidated versions of the Regulations, both in electronic and hard copy versions.

8. Consultation outcome

8.1 As this instrument only preserves the current requirements, no consultation has been carried out.

9. Guidance

9.1 General guidance on the Companies Act 2006 has been published by both BIS and Companies House. In addition the BIS and Companies House websites contain Frequently Asked Questions.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.2 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business, but like other business should not affect them as the aim of the Regulations is to preserve the current legislative requirements.

12. Monitoring & review

No monitoring or review will be required as a result of this instrument.

13. Contact

Hannah Gurga at the Treasury Tel: 020-7270 4345 or email: hannah.gurga@hm-treasury.x.gsi.gov.uk can answer any queries regarding the instrument.