

**EXPLANATORY MEMORANDUM TO**  
**THE EUROPEAN COMMUNITIES (DESIGNATION) (NO. 4) ORDER 2010**

**2010 No. 2473**

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

**2. Purpose of the instrument**

Section 2(2) of the European Communities Act 1972 (“section 2(2)”) includes a power for designated Ministers and departments to make orders, rules, regulations and schemes. The instrument designates the Minister for the Cabinet Office in relation to public procurement and the Secretary of State and Northern Ireland departments in relation to social security, allowing them to make legislation in those areas under section 2(2).

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

None.

**4. Legislative Context**

*Public procurement*

4.1 There are a number of existing designations in relation to public procurement. The designated Ministers and departments are the Treasury (SI 1991/755) and the Secretary of State and the Northern Ireland departments (SI 2009/2743). However, the Office of Government Commerce, which has general responsibility across Government in relation to public procurement, has moved from the Treasury to become part of the Cabinet Office pursuant to the Prime Minister’s written statement of 15th June 2010 ([Hansard, vol 511, part 15, col 48WS](#)). As a consequence, the Minister for the Cabinet Office requires a designation to be in a position to amend the existing public procurement legislation made under section 2(2) (the Public Contracts Regulations 2006 (SI 2006/5) and the Utilities Contracts Regulations 2006 (SI 2006/6)) when the need arises.

*Social security*

4.2 A designation is required in relation to social security to allow the Department for Work and Pensions and, in Northern Ireland, the Department for Social Development to effect the proper implementation of Regulation (EC) No. 883/2004 (“the Coordination Regulation”) in the context of proposed amendments to the Social Security (Disability Living Allowance) Regulations 1991 (SI 1991/2890), the Social Security (Attendance Allowance) Regulations 1991 (SI 1991/2740), the Social Security (Invalid Care Allowance) Regulations 1976 (SI 1976/409) and their Northern Ireland equivalents, the

Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 (SR 1992 No. 32), the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 (SR 1992 No. 20), and the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976 (SR 1976 No. 99).

- 4.3 The Coordination Regulation is the main EU instrument regulating social security provision for persons moving within the EU. It sets out general principles for the coordination of social security systems of the different Member States and contains specific provisions dealing with the coordination of particular benefits. In the area of sickness benefits (which is the subject-matter of the proposed domestic legislation) the Coordination Regulation ensures that a person moving within the EU has a single Member State competent for payment of their sickness benefits. A Member State is competent for payment if the person is insured with them for the relevant benefits.
- 4.4 Despite the fact that EU Regulations do not usually require transposition or implementation, in this instance provision is required in order to ensure that our national regime coheres with the EU regime of social security coordination and to ensure that it is workable and enforceable.

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

## **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**

### *Public procurement*

- 7.1 The designation would cover further amendments to the domestic legislation on public procurement. This would include any amendments arising from the recent ECJ judgment in Case C-406/08 *Uniplex*. The *Uniplex* case concerned the time limit for bringing proceedings and the Cabinet Office will consider amendments to the relevant Regulations following public consultation.

### *Social security*

- 7.2 The amendments to domestic legislation proposed by the Department for Work and Pensions and the Department for Social Development have as their object to preclude payment by the UK of certain sickness benefits where the UK is not the competent State for a person falling within the scope of the Coordination Regulation.

## **8. Consultation outcome**

No consultation was carried out in relation to this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

## **9. Guidance**

No guidance has been prepared in relation to this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

## **11. Regulating small business**

The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The designations in this and similar instruments are intended to identify clearly the subject areas in relation to which a Minister or government department is designated.

12.2 The designations contained in this instrument will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

## **13. Contact**

Les Saunders at the Cabinet Office European and Global Issues Secretariat (Tel: 020 7276 0190 or email: [Les.Saunders@cabinet-office.x.gsi.gov.uk](mailto:Les.Saunders@cabinet-office.x.gsi.gov.uk)) or Ellen Lawrence (Tel: 020 7276 0241 or email: [Ellen.Lawrence@cabinet-office.x.gsi.gov.uk](mailto:Ellen.Lawrence@cabinet-office.x.gsi.gov.uk)) can answer any queries regarding the instrument.

Cabinet Office  
European & Global Issues Secretariat  
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