

**EXPLANATORY MEMORANDUM TO  
THE INDEPENDENT LIVING FUND (2006) ORDER 2007**

**2007 No. 2538**

**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 This Order amends the definition in certain subordinate legislation of the Independent Living Funds or where there is no definition used, amends references in substantive provisions to include the newly-established Independent Living Fund (2006).

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

3.1 None.

**4. Legislative background**

4.1 This Order is made using powers in the Welfare Reform Act 2007 c.5. Section 61 of the Act amends the Disability (Grants) Act 1993 which provides for the making of grants by the Secretary of State for Work and Pensions and the Department for Social Development in Northern Ireland to the Independent Living (Extension) Fund and the Independent Living (1993) Fund. These funds are being replaced by a new Trust called the Independent Living Fund (2006) and this section updates the names of the funds to allow the Secretary of State and the Department for Social Development in Northern Ireland to make grants to the new fund.

4.2 Section 61(3) provides a power to make consequential amendments to subordinate legislation. It is under this power that this Order is made.

**5. Territorial Extent and Application**

5.1 This Order extends to England and Wales and Scotland, with the exception of Article 5 of this Order (amendment of the Housing Renewal Grants Regulations 1996) which extends to England and Wales only, as this instrument and its enabling powers extend to England and Wales only.

5.2 Section 61(5) of the Welfare Reform Act provides the Department for Social Development in Northern Ireland a power to make consequential amendments to subordinate legislation.

## **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 The Independent Living (Extension) Fund and the Independent Living (1993) Fund are being replaced by a new, single fund - The Independent Living Fund (2006). The existing funds, which are fully funded by the Department for Work and Pensions and the Department for Social Development in Northern Ireland, provide financial assistance to severely disabled people to enable them to live independently. The new Independent Living Fund (2006) has been created to provide for simpler administration and reporting of the previous funds, and to provide for administrative and technical improvements as well as to give greater flexibility for the future. The basic objective behind the funds has not changed; the 20,000 (approximate) customers currently supported will instead be provided with continuing support from the new fund (provided they continue to meet the entitlement conditions for support).

7.2 To enable the new Independent Living Fund (2006) to become operative, a change to primary legislation was required to amend the Disability (Grants) Act 1993 to enable the Secretary of State and the Department for Social Development in Northern Ireland to make grants to it. The new fund will start receiving grants later this year (following commencement of section 60(1)(b) of the Welfare Reform Act 2007) and will start providing financial assistance to individuals from 1 October 2007.

7.3 There are a number of references throughout subordinate legislation to the Independent Living Funds (collectively the Independent Living Fund, the Independent Living (Extension) Fund and the Independent Living (1993) Fund) and to the individual funds.

7.4 The policy intention in relation to the treatment of the funds has not changed. Therefore, updated definitions or other amendments are needed to reflect the introduction of the new fund.

7.5 The references to the Independent Living Funds (collectively or individually) are to determine how the money received from the funds is taken into or not taken into account for the purposes of the subordinate legislation. As such, an order-making power has been taken in the Welfare Reform Act 2007 (contained in section 61(3)) to allow the Secretary of State, by order made by statutory instrument, to amend or revoke any enactment contained in subordinate legislation if he considers it appropriate to do so in consequence of the amendments made by section 61. This Order amends references to the funds to include the Independent Living Fund (2006) by using this power.

7.6 A consultation exercise was not undertaken for this instrument. Guidance will also not be produced as a result of this Order. The Department does not intend to consolidate any of the subordinate legislation to which this Order only makes minor amendments. The reason for the taking of these decisions is that this Order merely

replaces references to the existing Independent Living Funds in subordinate legislation with a reference to the new Independent Living Fund (2006) which will take their place.

## **8. Impact**

8.1 A regulatory impact assessment has not been produced for this Order as it has no impact on the costs of business, charities or the voluntary sector.

8.2 There is no impact on the public sector.

## **9. Contact**

9.1 Sharon Foster-King at the Department for Work and Pensions, Telephone 020 7962 8091 or e-mail [Sharon.Foster-King@dwp.gsi.gov.uk](mailto:Sharon.Foster-King@dwp.gsi.gov.uk) can answer any queries regarding the instrument.