1. This explanatory document has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 To abolish the Registrar of Public Lending Right (“Registrar”) and transfer its functions to the British Library Board as part of the Government’s public bodies reform programme.

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

3.1 None.

4. Legislative Context

4.1 The Government is proposing to use the powers in the Public Bodies Act 2011 (“the 2011 Act”) to abolish the Registrar and transfer its Public Lending Right (PLR) functions to the British Library Board. Both the Registrar and the British Library are non-departmental public bodies (NDPBs) of the Department for Culture, Media and Sport.

4.2 The position of Registrar was established by the Public Lending Right Act 1979 (“the 1979 Act”) which gave authors a legal right to receive payment for the free lending of their books by public libraries. The 1979 Act established PLR as a right, entirely separate from copyright. Under the 1979 Act, funding is provided by central government and payments are made to eligible authors and other rights holders in accordance with how often their books are lent out from a sample of UK public libraries. The Registrar is a Corporation Sole and is appointed by the Secretary of State for Culture, Media and Sport to maintain a register of eligible rights holders and books, and to supervise the administration of the scheme. To qualify for payment rights holders must apply to the Registrar. Around 23,000 rights holders receive a PLR payment each year. The Public Lending Right Scheme 1982, the secondary legislation setting out the rules of operation for PLR as described below, provides for a minimum and maximum payment threshold per rights holder – currently set at £1 and £6,600 respectively.

4.3 Having established the principles of PLR in the 1979 Act, more detailed rules for the operation of PLR in the UK were subsequently set out in the Scheme in 1982. The Scheme covers eligibility criteria, the rules around the operation of the library loans sample and how the amount payable each year to authors should be calculated. Amendments to the Scheme are made in Parliament by means of a negative statutory instrument.

4.4 PLR schemes are recognised by European Directive 2006/115/EC on rental right and lending right, which repealed and replaced Council Directive 92/100/EEC on rental right
and lending right. It is a harmonising measure which requires Member States to implement national legislation to reflect and protect the exclusive lending and rental rights of certain rights holders. The Directive permits a derogation from the need to obtain consent from rights holders in respect of public lending by libraries (i.e. through a PLR scheme) provided that, at least, authors receive a remuneration for such lending (the value of which is to be fixed by the Member State). In the UK, the rights described by the Directive are conferred by the Copyright, Design and Patents Act 1988 (as amended) (“the 1988 Act”) and the derogation is expressed nationally by the pre-existing 1979 Act.

4.5 The Minister for the Cabinet Office announced the outcome of the Public Bodies Bill Review on 14 October 2010, which included the proposal to abolish the Registrar of PLR. The Public Bodies Review examined whether a body’s functions are needed and, if they are, whether the body should continue to operate at arm’s length from Government. This decision was based upon three tests:

- Does it perform a technical function?
- Do its activities require political impartiality?
- Does it need to act independently to establish facts?

4.6 The Department applied these three Cabinet Office tests to determine whether it is right that the PLR functions should continue and if they should be delivered by a public body. Ministers decided that the PLR functions should be maintained as they are required by law, but that it is not necessary for the Registrar to be retained as a standalone public body in order to carry out the functions, and therefore options for a suitable home were explored.

5. Territorial Extent and Application
5.1 This instrument extends to the United Kingdom.

6.1 The Minister has made the following statement regarding human rights:

In my view the provisions of the Public Bodies (Abolition of the Registrar of Public Lending Right) Order 2013 are compatible with the Convention rights.

7. Policy background

Activity during legislative passage of the Public Bodies Act 2011

7.1 In debate during the passage of the 2011 Act, Lord Wills sought assurances that the current PLR team would be retained in the existing Stockton-on-Tees office; and that the cost of the transfer would not be met from PLR’s resources.\(^1\)

7.2 Following the debate, a written response from the Secretary of State was provided, which set out that the question of which body takes over the PLR role was subject to ongoing discussions, and that it would be for that body to decide how best to manage their new responsibilities. The letter confirmed that the PLR author fund would not be

\(^1\) Hansard reference: HoL debates 9 November 2010: Column 168
used to pay for the transfer and that, as a condition of the transfer, a cap on administrative spend would be imposed on the body that takes over the PLR function.

7.3 Since then, following the consultation and planning by the British Library with the Registrar, the Government Response to the consultation confirmed that the existing PLR office in Stockton-on-Tees will be retained, so that the service provided to authors will continue to be provided by PLR’s experienced staff, with the effectiveness of this arrangement to be reviewed by the British Library after 5 years. The postholder of the current Registrar appointment would be contracted by the British Library from the transfer/abolition date for an appropriate period of time to ensure a smooth transition, before a new Head of PLR would assume responsibility for the management of PLR (please see9 below). The Government has also confirmed that the transfer costs of £213k would be met by the Department, and that a transfer to the British Library would achieve real terms savings of approximately £750,000 in the running costs of PLR over 10 years. These savings will maximise the proportion of available grant-in-aid to be distributed as payments to authors. These points are explained in full below.

What is being done and why

7.4 In line with the requirements of the 2011 Act, a Minister may only make an Order under section 1 of the Act abolishing a body if the Minister considers that the Order serves the purpose of improving the exercise of public functions. In considering this, the Minister must have regard to efficiency, effectiveness, economy, and securing appropriate accountability to Ministers.

7.5 The Registrar is a Corporation Sole, appointed by the Secretary of State for Culture, Media and Sport to maintain a register of eligible authors and books, and to supervise the administration of the PLR scheme.

7.6 The Registrar receives grant-in-aid from DCMS to fund both the administration costs and the payments to authors. Given the scale of cuts in expenditure necessary to tackle the country’s financial deficit, the decision was taken in October 2010 to reduce the resource grant-in-aid budget for PLR by 15% in real terms over the spending period (from April 2011 to April 2015), and the proportion of grant-in-aid used to administer the scheme was capped at £756k p.a..

7.7 With the Registrar currently operating at near maximum efficiency, and given the limitations in efficiency savings a body of its size could make, this necessitated some radical thinking in order for the PLR scheme to operate within its new budget while minimising the effect of the reduction in funding on authors.

7.8 Transferring the PLR functions into a larger body presents further opportunities for efficiencies than are achievable by a small body operating at near maximum efficiency, and consequently offers to maximise the proportion of available grant-in-aid to be distributed as PLR payments to authors. A transfer would also reduce the overall number of public bodies, contributing to simplification of the public bodies landscape and, furthermore, would develop a more solid infrastructure for PLR, which the larger organisation enables. Therefore, the Government proposes to transfer the PLR functions, along with its funding, to the British Library and to abolish the Registrar. Further information about the transfer of functions is outlined below (under 9).
8. Compliance with Section 8 of the Public Bodies Act 2011

8.1 The Minister considers that the order serves the purpose of improving the exercise of public functions in section 8(1) of the 2011 Act for the following reasons:

i. Efficiency: The abolition of the Registrar will mean the more efficient undertaking of the public function of running the PLR scheme, as enabled by a transfer to a larger NDPB. The transfer is motivated by the increasing demand for the Registrar to deliver efficiency savings and the limitations of doing so given the small size of the operation (the Registrar is supported by 8.74 full-time equivalent staff in an office in Stockton-on-Tees). It is not necessary for the Registrar to be retained as a separate public body in order to carry out the PLR function, and transferring responsibility to a larger organisation allows for economies of scale and the advantages of shared back-office services, and (as explained below under point iii) savings in the cost of running the scheme will be made as a result of the transfer. Efficiencies to be made include those relating to the finance functions of the two bodies, such as the consolidation of PLR’s reports and accounts into the British Library’s and the associated net savings in audit fees.

Furthermore, the transfer to the British Library would not only ensure continuity of the efficient running of the scheme, but would also develop a more solid infrastructure for PLR, thereby helping to future-proof the scheme and to offer greater opportunities for further efficiencies in the future.

ii. Effectiveness: The service provided to authors by the current PLR office is widely held to be “effective” and “efficient” and respondents to the consultation were supportive of the operation remaining in Stockton-on-Tees to be carried out by the experienced staff. The Government agrees that the Registrar and his staff provide an effective and efficient service and we share the confidence the respondents express in the administration of PLR. Our proposal is motivated by the increasing demand for the Registrar to deliver efficiency savings and the limitations of doing so given the small size of the operation, rather than a need to increase the effectiveness of the function. As the British Library would retain the PLR operation in Stockton-on-Tees, a low risk option to ensure a smooth transition, there would be no impact on the already effective service provided to authors. The British Library has modelled its costs on retaining the operation at Stockton-on-Tees for the next 10 years, and it has no plans to transfer the operation to its Boston Spa office in the next 10 years, although the effectiveness of this arrangement will be reviewed after 5 years. There would be no additional burden on authors (for example, having to re-register their books for PLR) as a result of the transfer, and the Government considers that the PLR operation will continue to meet the high standards of service currently provided to authors.

iii. Economy: The Registrar of PLR is a small executive NDPB, with 8.74 FTE staff, one publicly appointed Chief Executive and an administrative
The Registrar has successfully kept operating costs below the cap (£756k) set by Ministers for this Spending Review period and has identified a number of savings which could be made to bring the running costs to £687k from 2014-15 onwards, representing a 9% saving from the £756k cap. The Department will work with the Registrar to realise these savings (this includes making improvements to the running of the library loans sample to increase its efficiency and streamline the process, which are to be made by amending the Public Lending Right Scheme 1982), however, the scope for further future savings under present arrangements is limited as the Registrar already employs the minimum number of staff in a relatively low-cost location. In addition to this 9% saving, the transfer to the British Library would achieve a further saving of 24%, or a 33% reduction on the £756k cap, by bringing the running costs down to £504k from 2018-19 onwards. In real terms, the additional savings to be made by the transfer (over and above the 9% saving to be made by the Registrar and the Department) is approximately £750k over the 10 year appraisal period set out in the Final Stage Impact Assessment.²

The Impact Assessment sets out what the administration costs of PLR would be in real terms over a 10 year appraisal period (2013/14-2022/23) were no savings to be made on the current admin costs (column A, in the summary table shown here); under the scenario that the current arrangements under the Registrar were retained and that the identified savings referred to above are made (column B); and for transferring the PLR functions to the British Library, in addition to making the identified savings (column C).

<table>
<thead>
<tr>
<th>PLR administration costs over 10 year appraisal period 2013/14-2022/23</th>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Net Present Value £ million in 2013 prices)</td>
<td>Current admin of PLR</td>
<td>Retain current arrangements and make identified savings</td>
<td>Transfer to British Library; in addition to making identified savings</td>
</tr>
<tr>
<td>Total real terms PLR admin costs over 2014-2023 (£million)</td>
<td>6.57</td>
<td>5.97</td>
<td>5.21</td>
</tr>
</tbody>
</table>

² Final Stage Impact Assessment, published on the Government’s website: 
It is not possible to predict whether the rate per loan paid to authors will increase or decrease in future years, and no assumptions are made about future Spending Review settlements, however a transfer to the British Library offers greater efficiency savings than are achievable by a standalone body the size of PLR, and therefore maximises the proportion of available grant-in-aid which could be allocated to authors. By seeking to minimise the costs of administering PLR so that the maximum proportion of available grant-in-aid is allocated as author payments, the transfer maximises support for authors – a significant creative community – and represents better value for money to the taxpayer.

As set out below (under 10), the Order modifies the funding arrangements of PLR, by making changes to the “Central Fund”. The key benefit of this, as explained in full below, is that it provides more certainty in funding than the current system, and means that the British Library would carry the risk of any increase in the administration costs.

iv. **Securing appropriate accountability to Ministers:** The abolition of the Registrar and transfer of the PLR functions to the British Library will maintain accountability to Ministers, as the functions will be transferred to another NDPB of the Department for Culture, Media and Sport. Since the establishment of the Registrar of PLR, the management and running of the scheme has been at arm’s length to Ministers, and it is appropriate for these functions to remain at arm’s length. The British Library will carry out the PLR functions with the same impartiality and independence enjoyed by the Registrar. Reporting requirements will be maintained as the British Library’s obligations to produce annual reports and accounts for its activities will include PLR after the transfer. As explained below (see 9.9), the Order makes an amendment to the British Library Act 1972 to make it clear that the British Library’s report on its activities must include a report on the workings of the PLR scheme. This ensures that there will be no loss of transparency to public scrutiny and interested parties will continue to have access to information on the running of the scheme after the transfer.

8.2 The Minister considers that the conditions in section 8(2) of the 2011 Act are satisfied. Abolition does not affect the exercise of any legal rights or freedoms either directly or indirectly. The legal rights and protections of PLR rights holders are not affected, and further protected is provided by European law.

9. **Background to the future management of PLR**
9.1 The Registrar will be abolished and will no longer exist as a separate legal entity. The British Library Board will become responsible for the management of the PLR scheme. The British Library plans to retain the operation at Stockton-on-Tees for the next 10 years, with the effectiveness of that arrangement reviewed after 5 years. This represents a low-risk option which addresses the concerns raised during the consultation, as set out below, and will ensure a smooth transition with no impact on PLR rights holders.
9.2 The property, rights and liabilities of the Registrar will transfer to the British Library Board. All PLR staff would transfer to the British Library at the transfer date on TUPE terms and the postholder of the current Registrar appointment would be contracted by the British Library from the transfer/abolition date for an agreed period of time (to be agreed between the postholder and the British Library; indications are that this would be until March 2015) to ensure a smooth transition, successful implementation of the changes to the library sample, and successful knowledge transfer. After this transition period, a Head of PLR would assume responsibility for the management of PLR and is likely to be based in the British Library’s Boston Spa office. The new management role at the British Library will ensure that the PLR function will be represented within the British Library management team, while also retaining its identity as a dedicated function carried out by experienced and knowledgeable staff in the Stockton-on-Tees office.

9.3 PLR would retain its identity by becoming a sub-brand within the overall British Library brand. Stakeholder mapping has taken place and a detailed communications plan will be developed in the lead up to the transfer date.

9.4 After the transition period, the IT functions of the two bodies will be aligned. The existing PLR major IT applications would be retained under the operation going forwards, but would be linked up to British Library IT infrastructure including disaster recovery and back up provision.

9.5 Economies of scale and the advantages of shared back-office services are expected to provide further savings in administration costs. Small economies will be achieved as some activity is stopped (not producing separate annual accounts, and the net saving in audit fees, for example). These savings will be made in addition to a number of savings identified by the Registrar, as mentioned above, including improvements to the running of the library loans sample to increase its efficiency and streamline the process, to be made by amending the Public Lending Right Scheme 1982.

**The Order**

9.6 This Order abolishes the Registrar and transfers its functions to the British Library Board.

9.7 It also transfers to the British Library Board any property, rights or liabilities of the Registrar, or to which the Registrar is subject, immediately before the transfer date.

9.8 The Order ensures anything that is done or in the process of being done by the Registrar on the transfer date will be treated as done by the British Library Board when the PLR functions are transferred.

9.9 The duties on the Secretary of State and the Registrar under the 1979 Act to provide reports and accounts respectively will be repealed and the British Library’s existing statutory duties under the British Library Act 1972 to provide reports and accounts will apply to the PLR functions once those functions are transferred. The duty of the British Library Board to produce a report on the “proceedings and activities of the Board” under
section 4(3) of the 1972 Act is amended by this Order to make it clear that the British Library’s report on its activities must include a report on the workings of the PLR scheme.

9.10 This Order provides that the Board must prepare a statement of accounts of the Registrar (“the final accounts”) and must make a report (“the final report”) to the Secretary of State on the working of the Scheme for the period beginning immediately after the last financial year for which PLR reports and accounts were made.

9.11 The Schedule to the Order makes a number of consequential, incidental and supplementary amendments to legislation which are required as a result of the abolition of the Registrar and the transfer of its functions to the British Library Board.

9.12 The main consequential amendments are to the 1979 Act and the Public Lending Right Scheme 1982. The Schedule to the Order replaces any references to the Registrar with a reference to the British Library Board so that the British Library will have the functions under the 1979 Act, in addition to its functions under its own British Library Act 1972.

9.13 In addition to these changes, the Schedule to the Order makes a substantive amendment to the 1979 Act. Section 2(4) of the 1979 Act requires that PLR’s Central Fund (“the Fund”) is used to pay two elements – (i) the payments to authors and (ii) the administrative costs of running the scheme. At present, the amount available to be paid out to authors is not fixed as it depends on the costs of running the scheme. For the effective running of the scheme, it is important that the British Library is not required to pay the administration costs of the scheme from the ring-fenced Fund but is able to pay the administrative costs from its overall admin allocation from the Department as the organisation will be achieving efficiencies by merging overhead costs within its existing operations. The Schedule to the Order therefore deletes the administrative expenses element from section 2(4)(b) of the 1979 Act. The other expenses referred to in that paragraph relate to the reimbursement of expenses of local authorities participating in the loans sample, for the costs of providing the loans data. To be consistent with the other costs of administering the scheme, this Order removes from section 3(6) of the 1979 Act the requirement for these local authorities’ expenses to be met from the Fund, so that they will be met from the British Library’s revised administration budget going forward.

9.14 The amendments to section 2(5) of the 1979 Act relate to the same issue. As the overhead costs associated with PLR have been removed from the Fund, it follows that only the profit element of money generated in connection with PLR should be paid back into the Fund, otherwise the British Library would bear the costs of a PLR disposal for example, but the gross revenue for the disposal would have to be paid into the Fund. The Registrar is currently contracted to carry out the PLR scheme for the Irish government and earns revenue from this, and this splitting out of net profit would apply to this contract.

9.15 All PLR running costs will be met from within the existing allocations of the British Library and PLR for the remainder of this Spending Review period. The British Library’s admin allocation for the remainder of the period will be increased by the amount the Library is able to run the scheme for (i.e. by less than PLR’s current admin
allocation) to take account of their additional responsibilities – which means that a greater proportion of PLR’s allocation will be available for distribution as PLR payments to authors. A key benefit of removing the link between the author fund and the running costs of the scheme is that it provides more certainty in funding than the current system by guaranteeing the amount of grant-in-aid available to be paid out to authors, and means that the British Library carries the risk of any increase in the administration costs.

9.16 The Order therefore modifies the funding arrangements of PLR, and HM Treasury consent (required under section 6(4) of the 2011 Act) has been obtained.

9.17 This instrument requires the consent of the Northern Ireland Assembly as it makes provision which would be within the legislative competence of the Northern Ireland Assembly. PLR is not a devolved matter in Wales nor Scotland. However, the Registrar constitutes a relevant cross-border body for the purposes of section 63(1) of the Government of Wales Act 2006. Given the specific requirements of the Government of Wales Act 2006, this instrument includes a recital referring to the fact that Welsh Government Ministers have been consulted under the 2011 Act in addition to the consultation required under the section 10 of the 2011 Act. The requirement to consult the Scottish Ministers under section 88(2) of the Scotland Act 1998 in certain cases relating to cross-border public authorities does not arise in this particular case.

9.18 As required by sections 9 and 10 of the 2011 Act, the Government is either seeking consent to the order or consulting the Devolved Administrations. The order will not be made until consent is obtained from the Northern Ireland Assembly (in accordance with subsection 9(3)(a) of the 2011 Act). Welsh Ministers have been consulted on the proposal in accordance with section 9(1)(e) of the 2011 Act and section 63(1) of the Government of Wales Act 2006.

10. Consultation outcome
10.1 A full, written, public consultation on the Government’s proposal to use the powers in the 2011 Act to abolish the Registrar of PLR and transfer the functions to the British Library was conducted between 8 May and 30 July 2012.

10.2 PLR stakeholders, including author representation groups, the Devolved Administrations, and others in the public libraries sector in the UK were invited to respond to the consultation. There were 1,015 respondents, comprising: 740 rights holders (authors, illustrators, translators, editors, and literary executors); 238 other individuals (the majority of whom did not specify their role/interest or whether they are rights holders, though a small number identified themselves as aspiring and unpublished authors, readers and library users); and professional bodies and other organisations and interested parties, as listed at Annex A of the summary of consultation responses published on the DCMS website.

10.3 The large response reflects the importance of PLR to authors and other rights holders, and the esteem in which the current PLR office is held by its customers. Of the 1,015

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respondents, 948 were of the view that the PLR functions should not be transferred to another body, and of those respondents, 85% commented on the service the Registrar and PLR office provides to authors, which is widely held to be “excellent”, “effective” and “efficient”. Many rights holders’ comments relate to the high degree of confidence they have in the administration of PLR, and in the staff who they regard as knowledgeable, experienced and helpful. At consultation stage, we were unable to set out how and where the British Library would operate PLR. Since then, in the Government Response, we have set out that all PLR staff would transfer to the British Library at the transfer date on TUPE terms, and that the PLR operation would continue to be carried out from the Stockton-on-Tees office for at least the next 5 years, when the effectiveness of the arrangement will be reviewed. The Government Response also sets out that the postholder of the current Registrar appointment would be contracted from the transfer/abolition date for an appropriate period of time (to be agreed between the postholder and the British Library; indications are that this would be until March 2015) to ensure a smooth transition and successful knowledge transfer. After this transition period, a new Head of PLR, likely to be based in the Library’s site at Boston Spa, would assume responsibility for the management of PLR.

10.4 Almost half of those who think PLR should not be transferred commented on the costs and savings of a transfer, raised concerns about potential transition costs, or questioned whether the savings would outweigh the costs. As described above, the estimated efficiency savings in real terms over 10 years will be approximately £750k.

10.5 Other concerns were around loss of knowledge and experience (i.e. if there were to be changes to staffing); and/or related to the loss of jobs from the North East, which are addressed by the British Library retaining the operation in Stockton-on-Tees. Some respondents commented on the importance of the independence and/or impartiality of the existing NDPB, which, as the Government Response has set out, will be maintained as the British Library is another NDPB of DCMS operating at arm’s length from Government. Around 5% of those who did not think PLR should be transferred did not specify the reason.

10.6 It is clear from the response to the public consultation that PLR rights holders and other stakeholders view the service provided by the Registrar and the PLR office as “excellent”, “effective” and “efficient” and the majority of respondents are of the view that the operation should remain as it is. The Government agrees that the Registrar and his staff provide an effective and efficient service and we share the confidence the respondents express in the administration of PLR. The proposal to transfer the PLR functions to the British Library was motivated by the increasing demand for the Registrar to deliver efficiency savings and the limitations of doing so as explained above, and the Government Response to the consultation sets out that a transfer to the British Library offers greater efficiency savings than maintaining the current arrangements, and therefore maximises the proportion of available grant-in-aid which could be distributed to authors. The Government has considered very carefully all the issues raised during the consultation and, through discussions with the Registrar and the British Library, has ensured that the issues have been addressed. Having fully considered all responses, no changes to the proposed abolition were necessary.

10.7 Further information relating to the consultation responses and the Government Response is available on the Government website at the following page:
11. Guidance
11.1 The nature of this order makes it unnecessary to publish guidance in relation to it. The change will not affect the delivery of services to PLR rights holders.

12. Impact
12.1 This Order abolishes the Registrar of PLR and transfers its functions to the British Library. The services delivered are not altered by this change, and it will have no impact on businesses or civil society organisations.

12.2 The transfer will be achieved at minimal transition cost of approximately £213,000, which the Department will fund so that it will not affect the amount of PLR funding available for distribution to rights holders. Taking into account these costs, the net saving in real terms over 10 years is approximately £750,000. It should be noted that, while the net present value (NPV) savings are net of the transition costs, those transition costs would be funded by the Department and not from the PLR fund, and therefore the total real terms benefit is greater at £1.04m. As noted above, no assumptions can be made about future Spending Review settlements, and it is therefore not possible to predict the amount of funding available for payments to authors in future years, however, transfer to the British Library offers greater efficiency savings than are achievable by a standalone body the size of PLR, and therefore maximises the proportion of available grant-in-aid which could be allocated to authors.

12.3 A full Impact Assessment has been published for this Order, and is available on the Government website at the following page: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/173004/Final_Stage_Impact_Assessment_for_Public_Lending_Right_proposals.pdf

13. Regulating small businesses
13.1 The legislation does not apply to small businesses.

14. Monitoring and review
14.1 After 5 years, the British Library will review the effectiveness of retaining the operation of the PLR scheme at Stockton-on-Tees.

15. Contact
15.1 Kathryn Barrett, Public Libraries team at the Department for Culture, Media and Sport (kathryn.barrett@culture.gsi.gov.uk; or 020 7211 6202) or Wendy Shales, Head of Libraries (wendy.shales@culture.gsi.gov.uk, or 020 7211 6979).