EXPLANATORY MEMORANDUM TO

THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT NO. 2) REGULATIONS 2011

2011 No. 1780

1. This explanatory memorandum has been prepared by H.M. Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 This statutory instrument amends the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (ISA Regulations 1998) to provide for the establishment, operation and tax exemption of Junior ISAs. These will be voluntary savings accounts for children, and are expected to be available from November 2011. It also makes minor and technical amendments to the ISA Regulations 1998 to modify or remove provisions which are redundant or out of date.

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

3.1 This statutory instrument provides the first use of powers conferred by amendments made by section 40 of the Finance Act 2011 (c. 11) to Chapter 3 of Part 6 of the Income Tax (Trading and Other Income) Act 2005 (c. 5) (ITTOIA 2005) (which contains sections 694 to 701 of that Act); and section 151 of the Taxation of Chargeable Gains Act 1992 (c. 12) (TCGA 1992).

4. Legislative Context

4.1 The Individual Savings Account (ISA) is a tax-advantaged savings account, introduced in 1999. It allows individuals to save through ISA accounts without being taxed on any income or gains arising from or received in relation to those savings.

4.2 Sections 694 to 701 of the ITTOIA 2005 allow regulations to be made governing the tax exemptions, investments, administration and management of ‘individual investment plans’, such as ISAs. These powers were formerly in sections 333 to 333B of the Income and Corporation Taxes Act 1988. Section 151 of the TCGA 1992 allows regulations to be made entitling investors to relief from capital gains tax on gains accruing under an individual investment plan.

4.3 The ISA Regulations 1998, which this statutory instrument amends, were made and laid on 31 July 1998 using powers now in sections 694 to 701 of the ITTOIA 2005 and section 151 of the TCGA 1992.

4.4 Section 40 of the Finance Act 2011, which received Royal Assent on 19 July 2011, amended Chapter 3 of Part 6 of the ITTOIA 2005 (which contains sections 694 to 701 of that Act), and section 151 of the TCGA 1992. These amendments allow additional ISA regulations to be made, providing for the establishment and operation of Junior ISAs.

4.5 The Money Laundering (Amendment) Regulations (S.I. 2011/1781) were laid before Parliament on the same date as this instrument. These Regulations will add Junior ISA accounts to the list of products qualifying for simplified due diligence under the Money Laundering Regulations 2007. Further information is available in the Explanatory Memorandum to these Regulations.

5. Territorial Extent and Application

5.1 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

- *What is being done and why*

7.1 The Child Trust Fund (CTF) was introduced in 2005 as a savings account for children. The scheme included government payments to each eligible child's CTF. The Government believes that the continuation of CTF was unaffordable given the need to reduce the Budget deficit. Therefore, new eligibility for CTF was ended by the Savings Accounts and Health in Pregnancy Grant Act 2010, which received Royal Assent on 16 December 2010.

7.2 The Government is committed to encouraging saving and broadening asset ownership, and wants to support parents who wish to save for their children. Therefore, it announced on 26 October 2010 that it would establish Junior ISAs - voluntary tax-advantaged ISA accounts that will enable parents and others to save for children not eligible for a CTF.

7.3 The Government's objectives for Junior ISA accounts are to provide families with a simple, transparent, accessible product to save for children who do not have a CTF; and to create the conditions for families to save more for their children than they otherwise would.

7.4 Junior ISAs will be available to approximately 6 million children at launch. Accounts will be available as cash or stocks and shares products, and up to £3,600 can be subscribed each tax year. Any person – not just the child and their parents – will be able to make subscriptions to an account. The account will have tax advantages for the child, and also for parents who subscribe to their child's account. Investments in a Junior ISA will be 'locked in' until the account holder turns 18, when the account will be rolled over to another ISA product.

7.5 As Junior ISA will be a tax-advantaged account, it is necessary to legislate for the conditions that must be met before these tax advantages can apply.

- *Consolidation*

7.6 There are currently no plans to consolidate the relevant legislation.

8. Consultation outcome

8.1 After the Government announced the establishment of the new account on 26 October 2010, H.M. Treasury and H.M. Revenue & Customs held informal discussions with interested parties on Junior ISA features and processes. The Government then published draft Regulations on 31 March 2011, alongside the Finance Bill 2011. The Government actively sought comments from potential account providers and other interested parties on these draft Regulations.

8.2 In total over 60 written responses were received by the closing date of 31 May 2011. In response to points raised by respondents, the Government has modified its proposals in a number of areas. These include an increase to the proposed annual subscription limit for Junior ISA (from £3,000 to £3,600) and the removal of certain proposed information requirements upon account providers. Further details can be found at the H.M. Treasury website at www.hm-treasury.gov.uk.

9. Guidance

9.1 H.M. Revenue & Customs will issue detailed guidance for account providers ahead of the launch of Junior ISA accounts.

10. Impact

10.1 The impact on business, charities or voluntary bodies will depend upon whether they choose to offer Junior ISAs, or offer advice on the account. There is no requirement upon any business, charity or voluntary body to participate.

10.2 Account providers will incur costs if they choose to offer Junior ISAs. One-off costs could include those incurred in the adaptation of existing account systems and processes. There will also be ongoing costs associated with opening and managing accounts and providing information to H.M. Revenue & Customs. However, these accounts are likely to be profitable for providers, and it will be a commercial decision for each provider whether or not they offer Junior ISAs. Charities or voluntary bodies may incur costs related to advice they provide to their clients on Junior ISAs.

10.3 The main impact on the public sector is the cost to the Exchequer of the tax exemption for Junior ISAs. This cost is estimated to be negligible. H.M. Revenue & Customs will administer the scheme, and will face additional costs, estimated at £300,000 for 2011/12 and £150,000 per year thereafter.

10.4 A Tax Information and Information Note covering this instrument was published on 23 March 2011 alongside Budget 2011, and is available on the H.M. Revenue & Customs website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to this statutory instrument.

11. Regulating small business

11.1 The legislation applies to small businesses that choose to offer Junior ISAs.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is for H.M. Revenue & Customs and H.M. Treasury to continue to discuss operational processes with potential account providers and their representatives, and consider any proposals for change that are consistent with minimum requirements set down in the ISA Regulations 1998, as amended by this statutory instrument.

11.3 The basis for the final decision on what action to take to assist small businesses will be to ensure that any such action is consistent with requirements set out in the ISA Regulations 1998, as amended by this statutory instrument. These requirements are considered to be the minimum necessary for the effective operation and assurance of Junior ISAs, and follow consultation with a range of bodies, including representative bodies for smaller financial institutions.

12. Monitoring & review

12.1 The Government's objectives for Junior ISAs are set out at paragraph 7.3 above. The scheme will be subject to ongoing review through discussions with account providers and other interested groups. H.M. Revenue & Customs anticipate publishing data on account openings at least annually.

13. Contact

Declan Norris at H.M. Revenue and Customs Tel: 020 7147 0855 or email: declan.norris@hmrc.gsi.gov.uk can answer any queries regarding the statutory instrument.