EXPLANATORY MEMORANDUM TO

THE CONTROL OF NOISE (APPEALS) (AMENDMENT) (ENGLAND) REGULATIONS

2016 No. 279

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for the Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument amends the Control of Noise (Appeals) Regulations 1975 ("the 1975 regulations") in relation to England only to reflect amendments to the Control of Pollution Act 1974 made by the Deregulation Act 2015.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The 1975 regulations provide for the making of appeals to magistrates' courts (under sections 60, 61 or 66 of the Control of Pollution Act 1974 (COPA)) and to the Secretary of State (under sections 64, 65 or 67 of COPA) in respect of notices served by the local authority under Part 3 of COPA.

4.2 Part 5 of Schedule 13 to the Deregulation Act 2015 (and section 59 of that Act, insofar as it introduced that Part) came into force on 1st October 2015 (see article 2(f) of S.I. 2015/1732). This had the effect of repealing sections 64, 65, 66 and 67 of COPA relating to the establishment of noise abatement zones. As a result, the provisions of the 1975 regulations that provide for appeals under these sections are redundant.

4.3 Sections 60 (control of noise on construction sites) and 61 (prior consent for work on construction sites) of COPA have not been amended.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Under sections 64-67 COPA a local authority had the power to make an order establishing a noise abatement zone in all or part of its area where they could set maximum noise emission levels for all premises covered by the order. However, since COPA was first introduced over 40 years ago, its provisions relating to noise abatement zones have been superseded by more effective noise management legislation, such as the planning, licensing, environmental permitting and statutory nuisance regimes. Furthermore, the noise abatement zones powers were not widely used by local authorities in England; only 47 local authorities had noise abatement zones in their areas, and there were only 81 noise abatement zones in total, of which only 2 were actively managed. Some indicated that they found them burdensome to maintain and enforce. A survey of all 47 relevant local authorities found that 44 were content to repeal noise abatement zone legislation. A further, formal 5-week consultation was undertaken during December 2012 - January 2013. All six respondents supported the repeal option. Therefore, sections 64-67 COPA were repealed by the Deregulation Act 2015.

7.2 Repealing noise abatement zone provisions has also meant that local authorities do not need to individually revoke the 79 noise abatement zones no longer wanted or being actively managed. This has removed uncertainty and possible costs for premises in those areas, particularly in relation to property transactions.

7.3 Repealing sections 64-67 COPA means that parts of the 1975 regulations relating to appeals against notices served under those provisions are redundant. Therefore, the 1975 regulations are being amended to remove obsolete provisions.

8. Consultation outcome

8.1 No consultation was undertaken for this instrument as we are amending the 1975 regulations to remove redundant regulations.

9. Guidance

9.1 The Government will use local authority information sharing networks and engagement with key stakeholders to notify them of the amended regulations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

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

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Department will continue to monitor and review the instrument in relation to the remaining provisions of COPA as part of its standard, business as usual policy-making.

13. Contact

13.1 Colette Wrigglesworth at the Department for Environment, Food and Rural Affairs Telephone: 020 8026 2943 or email: colette.wrigglesworth@defra.gsi.gov.uk can answer any queries regarding the instrument.