EXPLANATORY MEMORANDUM TO

THE IMMIGRATION ACT 2016 (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2016

2016 No. 655

1. Introduction

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

2. Purpose of the instrument

2.1 These Regulations make amendments to secondary legislation in consequence of the commencement of the Immigration Act 2016 ("the 2016 Act").

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 the negative 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 2016 Act creates a new position of Director of Labour Market Enforcement and changes the name of the Gangmasters Licensing Authority to the Gangmasters Labour Abuse Authority. These Regulations make necessary amendments to secondary legislation in consequence of these provisions.

5. Extent and Territorial Application

5.1 As this instrument makes consequential amendments, the extent of each provision has the same extent as the provision being amended.

5.2 The territorial application of this instrument varies as between provisions.

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

What is being done and why

7.1 The purpose of the amendments made by this instrument is to insert a reference to the Director of Labour Market Enforcement into the Official Secrets Act 1989 (Prescription) Order 1990. The amendments also ensure that where reference is made in secondary legislation to the Gangmasters Licensing Authority this is amended to

the Gangmasters Labour Abuse Authority, reflecting changes introduced by the 2016 Act.

7.2 The purposes of the specific amendments are as follows.

7.2.1 Part 2 of the Schedule amends the following statutory instruments by replacing references to the 'Gangmasters Licensing Authority' with references to the 'Gangmasters and Labour Abuse Authority' (the Authority).

7.2.2 Paragraph 2 amends the Legislative and Regulatory Reform (Regulatory Functions) Order 2007. This Order specifies the regulatory functions exercisable by relevant statutory regulators, of which the Authority is one, to whom the duties of section 21 (to have regard to the five principles of good regulation) and section 22 (to have regard to the Regulators' Compliance Code) of the Legislative and Regulatory Reform Act 2006 apply.

7.2.3 Paragraph 3 amends the Regulation of Investigatory Powers (Authorisations Extending to Scotland) Order 2007. This Order added the Authority as a relevant public authority to section 46(3) of the Regulation of Investigatory Powers Act 2000 enabling them to conduct directed surveillance and use covert human intelligence sources across the UK within the regulatory framework.

7.2.4 Paragraph 4 amends the Companies (Disclosure of Address) Regulations 2009. This specifies the public authorities, of which the Authority is one, to whom the Registrar of Companies may disclose a company Director's usual residential address - or statement that this is the same as their service address - subject to conditions.

7.2.5 Paragraph 5 amends the Overseas Companies Regulations 2009. This specifies the public authorities, of which the Authority is one, to whom the Registrar of Companies may disclose a company Director or permanent representative's usual residential address, - or information that this is the same as their service address - relating to an overseas company that has one or more UK establishments, subject to conditions.

7.2.6 Paragraph 6 amends the Proceeds of Crime Act 2002 (References to Financial Investigators) Order 2009. This specifies accredited financial investigators, of which the Authority is one, for the purposes of exercising relevant powers under the Proceeds of Crime Act 2002. This Order was revoked by the Proceeds of Crime Act 2002 (References to Financial Investigators) Order 2015 in respect of England and Wales but remains applicable to accredited financial investigators operating in Scotland and Northern Ireland.

7.2.7 Paragraph 7 amends the Regulation of Investigatory Powers (Communications Data) Order 2010. This specifies relevant public authorities, of which the Authority is one, and identifies the designated individuals holding offices, ranks and positions in those authorities, who may acquire communications data.

7.2.8 Paragraph 8 amends the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010. This prescribes the offices in relevant public authorities, of which the Authority is one, who may authorise directed surveillance and the conduct or use of covert human intelligence sources and imposes restrictions on the grounds for which this may be authorised.

7.2.9 Paragraph 9 amends the Disclosure (Persons engaged in the Investigation and Reporting of Crime or Sudden Deaths) (Scotland) Regulations 2011. This lists those prescribed bodies, of which the Authority is one, who engage in the investigation of crime or sudden deaths and have a duty to report their investigations to the procurator

fiscal, and who must also have regard to the code of practice when carrying out their functions in relation to such investigations and reporting.

7.2.10 Paragraph 10 amends the Companies (Disclosure of Date of Birth Information) Regulations 2015. This specifies the public authorities, of which the Authority is one, to whom the Registrar of Companies may disclose restricted information about a company Director's date of birth, subject to conditions.

7.2.11 Paragraph 11 amends the Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales) Order 2015. This Order replaces the Proceeds of Crime Act 2002 (References to Financial Investigators) Order 2009 in respect of England and Wales. The Order specifies accredited financial investigators, of which the Authority is one, for the purposes of exercising relevant powers under the Proceeds of Crime Act 2002 (the Act), including also those new powers inserted by amendments to the Act made by the Policing and Crime Act 2009 which came into force on 1 June 2015, in relation to England and Wales.

7.2.12 Paragraph 12 amends the Register of People with Significant Control Regulations 2016. This lists the public authorities, of which the Authority is one, to whom the Registrar of Companies may disclose a company director's usual residential address or information that this is the same as their service address, subject to conditions.

Consolidation

7.3 As this instrument makes minor consequential amendments, no question of consolidation arises.

8. Consultation outcome

8.1 No consultation has been carried out, as this instrument simply makes minor amendments to secondary legislation consequential on the commencement of the provisions of the 2016 Act.

9. Guidance

9.1 No guidance has been prepared in relation to this instrument.

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, but is available for the 2016 Act at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482041/2015-11-30_revised_overarching_IA_-_Lords.pdf.

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 provisions of the 2016 Act and, by extension, the provisions of these Regulations, will be subject to the normal post-legislative review three to five years after Royal Assent.

13. Contact

13.1 Helen Harper at the Home Office Telephone 0207 035 1934 or email: helen.harper@homeoffice.gsi.gov.uk can answer any queries regarding this instrument.