EXPLANATORY MEMORANDUM TO

THE LATE NIGHT LEVY (EXPENSES, EXEMPTIONS AND REDUCTIONS) REGULATIONS 2012

2012 No. 2550

1. This explanatory memorandum has been prepared by the Home Office ("the Department") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations prescribe matters relating to the expenses a licensing authority may deduct from its late night levy ("the levy") receipts, and the categories of holders of premises licences or club premises certificates which the authority may exempt from, or afford a reduction to, their liability to pay the levy. The levy may be introduced by a licensing authority in its area if it considers it desirable to raise revenue in relation to the costs of policing crime and disorder connected to the supply of alcohol in that area between midnight and 6am, and it is payable by the holders of premises licences or club premises certificates which authorise the supply of alcohol during those hours.

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

3.1 None.

4. Legislative Context

4.1 The framework for the levy is set out in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 ("the 2011 Act"). This includes provision which enables a licensing authority in England and Wales to introduce a late night levy in its area. It also confers a number of powers on the Secretary of State to prescribe by regulations the expenses which licensing authorities may deduct from levy receipts in relation to administering the levy (section 130 of the 2011 Act) and the categories of holders of relevant late night authorisations which are exempt from the levy ("permitted exemption categories") or are afforded a reduction to their liability for the levy ("permitted reduction categories") (section 135).

4.2 In particular, these Regulations prescribe:

- The descriptions of expenses which a licensing authority may deduct from levy receipts for the purpose of calculating the net amount of levy payments for any levy year. These are expenses which relate to (a) the procedure the authority must follow when introducing or amending the levy in its area, (b) its collection and enforcement of the levy, (c) its application of the net amount

of levy payments (whether by virtue of payment to the local policing body or its application of its share of this sum in relation to arrangements it has put in place under section 131 of the 2011 Act), and (d) its publication of the statement of estimated expenses and net amount of levy payments (under section 130(5) of the 2011 Act).

- The basis on which payments of the levy to a licensing authority and the expenses it incurs are each attributed to a levy year.

- The permitted exemption categories (under section 135(1)(a) of the 2011 Act).

- The permitted reduction categories (under section 135(1)(b)).

4.3 These Regulations represent the first use of the relevant powers in the 2011 Act.

5. Territorial Extent and Application

5.1. These Regulations apply to England and Wales only.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 As part of the Government's commitment to overhaul alcohol licensing to tackle alcohol-related crime and disorder and resulting harms, various measures were introduced in the 2011 Act. These include provision for the levy, which fulfils a commitment in the Coalition Agreement to permit local councils to introduce a charge payable by those who operate late night licences to contribute towards the costs of additional policing. The Government does not believe it is fair to expect local communities and taxpayers to bear the full brunt of the costs of policing the late night economy in their area. Therefore, this charge allows licensing authorities to require those businesses that benefit from the existence of a late night economy in their area to contribute to some of the costs that it causes.

7.2 The levy is a local power that licensing authorities can choose whether to adopt. It must cover the whole of the licensing authority's area but the licensing authority has discretion to choose the period during which the levy applies (between midnight and 6am on each night) and what exemptions and

reductions should apply. These exemptions and reductions are prescribed in these regulations.

- ***Consolidation***

7.3 This is not applicable as these Regulations represent the first use of the powers under Chapter 2 of Part 2 of the 2011 Act.

8. Consultation outcome

8.1 The content of these Regulations has been the subject of consultation. This consultation took place between January and April 2012. It generated 631 formal responses. The consultation invited views on the processes for implementing the levy, the services that local authorities can fund with their portion of the levy revenue and possible discretionary exemptions and reductions from the levy, as well as matters relating to Early Morning Alcohol Restriction Orders which are not the subject of these Regulations. Licensing authorities will have the discretion to offer an exemption from the levy to premises with overnight accommodation, theatres, cinemas, bingo halls, community amateur sports clubs, community premises, country village pubs and premises participating in Business Improvement Districts. Licensing authorities will also have the discretion to offer a 30% reduction from the levy to premises which participate in best practice schemes which meet relevant criteria and premises licensed to supply alcohol for consumption on the premises which are in receipt of small business rate relief and have a rateable value below £12,000.

8.2 Details of the consultation and the Government's response are available on the Department's website at http://www.homeoffice.gov.uk/.

9. Guidance

9.1 Guidance to licensing authorities on the application of the levy will be published by the Department when the levy framework in the 2011 Act is commenced.

10. Impact

10.1 There is an impact on businesses, charities and voluntary bodies. The estimated total cost to business is expected to be around £18 million per annum. This is primarily made up of the payment of the levy charge. Licensing authorities will have the discretion to offer exemptions to premises with overnight accommodation, theatres and cinemas, bingo halls and country village pubs from the levy. Licensing authorities will also have discretion to exempt from the levy Community Amateur Sports Clubs (which are voluntary or charitable bodies), other community premises (which are typically operated and used by charitable or voluntary bodies) and Business Improvement

Districts that operate in the night-time economy. Licensing authorities will also have discretion to grant an exempt in relation to New Year's Eve. There will also be discretionary reductions available to responsible businesses that participate in best practice schemes and certain types of premises licensed to supply alcohol for consumption on the premises which receive small business rate relief.

10.2 The impact on the public sector is an estimated benefit of around £17 million per annum.

10.3 An Impact Assessment has been prepared for this instrument and will be published alongside the Explanatory Memorandum.

11. Regulating small business

11.1 The legislation applies to small businesses.

11.2 To minimise the impact of the requirements on smaller firms, the Regulations prescribe reductions in relation to certain types of premises with lower non-domestic rateable values, if subject to the levy charge.

12. Monitoring & review

12.1 The application and effect of these Regulations will be kept under review by the Department.

13. Contact

13.1 Carla Giudice, Drugs and Alcohol Unit, the Home Office on 020 7035 8751 or Carla.Giudice@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.