EXPLANATORY MEMORANDUM TO

THE LICENSING ACT 2003 (HEARINGS) (AMENDMENT) REGULATIONS 2005

2005 No.78

1. Introduction

1.1 This explanatory memorandum is laid before Parliament by Command of Her Majesty.

1.2 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport.

2. Description

2.1 The Licensing Act 2003 (Hearings) (Amendment) Regulations 2005 make provision for an amendment to the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44) to complete a provision in those Regulations (regulation 6) to cover the requirement for a licensing authority to give notice of a hearing to specified persons in relation to the generality of hearings no later than ten days before the day or the first day of the hearing.

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

3.1 The Department regrets that in the preparation of the final version of the Licensing Act 2003 (Hearings) Regulations 2005 (now S.I. 2005/44), a paragraph concerning the requirement to give notice of hearing in the terms set out in these Amendment Regulations had inadvertently been omitted and S.I. 2005/44 was made without including a requirement necessary for the procedures relevant to the holding of a hearing by a licensing authority. As soon as the Department discovered this defect it has been concerned to swiftly remedy the position and having regard to the fact that S.I. 2005/44 comes into force on 7th February 2005 the Department considers that it is of the utmost importance for the requirements on procedures relevant to hearings to be perfected at the earliest opportunity with the same coming into force date. The consequence of this has been that the Department has slightly breached the 21 day rule. The Department very much regrets this position and apologises that this situation has arisen.

4. Legislative background

4.1 Section 183 of the 2003 Act confers power on the Secretary of State by regulations to make detailed provisions as to the procedure to be followed by a licensing authority in relation to any hearing it is required to hold under the Act. Included in the procedure in S.I. 2005/44 is a requirement placed on licensing authorities to give specified persons notice of matters relevant to a hearing within specified periods of time. There was omitted from S.I. 2005/44 the period of time within which that notice should be given in the generality of cases.

5. Extent

5.1 The Licensing Act 2003 extends to England and Wales.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 The memorandum accompanying S.I. 2005/44 set out the policy background concerning the requirements in that instrument. These Amendment Regulations do not affect that policy background.

8. Impact

8.1 A Regulatory Impact Assessment has been prepared in relation to S.I. 2005/44 and was attached to the memorandum accompanying that instrument. A Regulatory Impact Assessment has not been prepared for these Regulations.

9. Contact

9.1 Andrew Cunningham at the Department for Culture Media and Sport, telephone: 020 7211 6344 or e-mail: andrew.cunningham@culture.gsi.gov.uk can answer any queries regarding these instruments.

Department for Culture, Media and Sport
January 2005