EXPLANATORY MEMORANDUM TO

THE MISUSE OF DRUGS (LICENCE FEES) (AMENDMENT) REGULATIONS 2011

2011 No. 2199

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

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

2. Purpose of the instrument

2.1 These Regulations amend the Misuse of Drugs (Licence Fees) Regulations 2010 (SI 2010/2497) (the "2010 Regulations") so that no provisions of the 2010 Regulations are expressed to extend to Northern Ireland. The 2010 Regulations prescribed fees for licences to carry out various activities in relation to controlled drugs (within the meaning of the Misuse of Drugs Act 1971).

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

3.1 This amendment has been made in response to the Joint Committee on Statutory Instruments's comments on the 2010 Regulations which were contained in its Eighth Report of Session 2010-11.

4. Legislative Context

4.1 These Regulations are being made in order to amend the 2010 Regulations which prescribed fees for controlled drug licences.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

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 2010 Regulations introduced fees for controlled drug licences. The Home Office's policy objective is to use fees revenue to improve the service

received by licensees, and to strengthen the regulatory regime to reduce the risk of diversion of controlled drugs into the illicit market.

7.2 The Misuse of Drugs Act 1971 aims to prevent the misuse of dangerous drugs by restricting access to controlled substances, in part through a licensing regime. The 2010 Regulations contribute towards the effective operation of the controlled drugs licensing regime by ensuring that it is properly funded.

7.3 These Regulations amend the 2010 Regulations such that no provisions of the 2010 Regulations are expressed to extend to Northern Ireland. In error, regulation 1(3) provided that regulation 2(4), and 2(5) to the extent that it related to regulation 2(4), and which prescribed fees for import and export licences and the fee for the replacement of lost or damaged licences, were to extend to Northern Ireland. The department accepts that regulation 2(4) and 2(5) should not extend to Northern Ireland, and that the devolved Northern Ireland department is the appropriate department for introducing any such charges. Since regulation 1(3) of the 2010 Regulations was included in error, this amending instrument is being issued free of charge to all known recipients of the 2010 Regulations.

- ***Consolidation***

7.4 As these Regulations make only short textual amendments to the 2010 Regulations the department does not propose to consolidate the two instruments.

8. Consultation outcome

8.1 As this amendment only omits regulation 1(3) of the 2010 Regulations, and the devolved Northern Ireland department is the appropriate department for introducing any such charges in future, it is not considered that any further consultation was necessary in relation to this amending instrument.

9. Guidance

9.1 Guidance for licensees on the fees introduced in 2010 is available on the Home Office drugs licensing website:
http://www.homeoffice.gov.uk/drugs/licensing/fees/

10. Impact

10.1 A full impact assessment was prepared and attached to the 2010 Regulations. The relevant fees under the 2010 Regulations are not applicable to Northern Ireland.

11. Regulating small business

11.1 This legislation applies to small businesses. A small Firms Impact Test was prepared and annexed to the full Impact Assessment attached to the 2010

Regulations. The relevant fees under the 2010 Regulations are not applicable to Northern Ireland.

12. Monitoring and Review

12.1 The Home Office intends to conduct an annual review of fees. This will not be applicable to Northern Ireland. The Devolved Administration of Northern Ireland has responsibility for monitoring and reviewing fees applicable to Northern Ireland.

13. Contact

Angharad Steff at the Home Office Tel: 020 7035 3731 or email: Angharad.Steff@Homeoffice.gsi.gov.uk can answer any queries regarding the instrument.