EXPLANATORY MEMORANDUM TO

THE MISUSE OF DRUGS (SUPPLY TO ADDICTS) (AMENDMENT) REGULATIONS 2012

2012 No. 2394

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 amend the Misuse of Drugs (Supply to Addicts) Regulations 1997 (the "1997 Regulations") to give the Scottish Ministers the power to license doctors practising in Scotland to administer or supply, or to authorise the administration or the supply of, the substances specified in regulation 3(3) of the 1997 Regulations with effect from 31st October 2012, when relevant amendments to the Misuse of Drugs Act 1971 (the "1971 Act") made by the Scotland Act 2012 (the "2012 Act") come into force.

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

3.1 None.

4. Legislative Context

4.1 The 1997 Regulations currently provide that the Secretary of State has the power to license doctors to prescribe the specified drugs for the treatment of addiction. The 1997 Regulations as amended by these Regulations will provide that this power in relation to licences issued by doctors practising in Scotland will transfer to the Scottish Ministers.

4.2 The ACMD has been consulted on these changes.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

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 Under the 1997 Regulations the power to license doctors for the prescribing of substances specified in regulation 3(3) of the 1997 Regulations is given to the Secretary of State. In June 2009 the Commission on Scottish Devolution chaired by Sir Kenneth Calman published its final report, *Serving Scotland Better: Scotland and the United Kingdom in the*

21st Century. The Commission recommended that "*responsibility for those aspects of the licensing and control of controlled substances that relate to their use in the treatment of addiction should be transferred to Scottish Ministers"*. The Coalition Agreement included a commitment to implement the Calman Commission's recommendation. Provisions amending the 1971 Act to transfer licensing power to Scottish Ministers were included in the 2012 Act, which received Royal Assent on 1 May 2012, and the relevant provisions of which are being brought into force on 31st October 2012.

- ***Consolidation***

7.2 As these Regulations make only minor amendments to the 1997 Regulations the department does not propose to consolidate the 1997 Regulations.

8. Consultation outcome

8.1 As this amendment only transfers administrative functions between two public bodies it is not considered that any further consultation is needed.

9. Guidance

9.1 The legal changes and their consequences will be communicated to key stakeholders and the wider public. The Home Office will issue a Circular with legislative guidance primarily for the police and the courts.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies as a result of the transfer of power between public bodies and no impact assessment is necessary.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Government does not intend to monitor the exercise of this power once it is transferred to the Scottish Government.

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.