EXPLANATORY MEMORANDUM TO

THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (AMENDMENT No.2) (ENGLAND) REGULATIONS 2009

2009 No. 2711

1. 1.1 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Planning (Listed Buildings and Conservation Areas) Regulations 1990 to update the prescribed forms of notice to be served by local authorities on owners and occupiers of buildings that have been included in or excluded from one of the statutory lists of buildings of special architectural or historic interest approved by the Secretary of State for Culture, Media and Sport under the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

3.1 None.

4. Legislative Context

4.1 Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the 1990 Act') provides that the Secretary of State for Culture, Media and Sport shall compile or approve lists of buildings of special architectural or historic interest and may amend any list so compiled or approved.

4.2 Section 2(3) of the 1990 Act gives local authorities a statutory responsibility to notify every owner and occupier of a building that the building has been included in or excluded from a list compiled or approved under section 1. The Planning (Listed Buildings and Conservation Areas) Regulations 1990 provide local authorities with a prescribed form of words on which they must base this notification.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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

7.1 The Planning (Listed Buildings and Conservation Areas) Regulations 1990 are being amended following an internal Departmental review of listing policies and

procedures as part of the Government's ongoing heritage protection reform programme. In 2007 the Government published the White Paper *Heritage Protection for the 21st Century* setting out its proposed reforms to the system for protecting heritage assets in England and Wales. The draft Heritage Protection Bill, published in 2008, contains legislative provisions to implement some of these reforms. Other elements of the reforms do not require primary legislation and are being taken forward as part of the reform programme.

7.2 One of the reforms has been to make changes to the administration of the listing system. Section 1 of the 1990 Act requires the Secretary of State to compile lists of buildings of special architectural or historic interest, or to approve such lists compiled by the Historic Buildings and Monuments Commission for England (English Heritage) or by any person or bodies of persons. On 2nd November 2009, arrangements will be introduced to transfer the responsibility for compiling the lists of buildings, under section 1 of the 1990 Act, from the Secretary of State to English Heritage, with the Secretary of State being responsible for the approval of those lists. These changes are designed to make the system simpler and more streamlined, and to reduce the double handling of cases between the Department and English Heritage.

7.3 The current Regulations need to be updated to reflect these new arrangements. References to the list having been compiled by the Secretary of State for Culture, Media and Sport have been replaced with references to it having been compiled by English Heritage and approved by the Secretary of State.

- ***Consolidation***

7.4 The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2005 (SI 2005/1085) ('the 2005 Regulations') substituted Schedule 4 to the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI 1990/1519) ('the 1990 Regulations'). These Regulations make a further substitution of Schedule 4 to the 1990 Regulations and revoke the 2005 Regulations. There are no plans to consolidate these Regulations with the 1990 Regulations at this time.

8. Consultation outcome

8.1 The policy underlying the amendment to these Regulations has been subject to extensive consultation over recent years. The amendment itself is a technical matter which is as a consequence of changes to internal administrative procedures.

9. Guidance

9.1 The Department will be writing to all local authorities to inform them of the need to use the new prescribed form of notice from the date the new Regulations come into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is small. Local authorities will be required to amend the notices which they are required to serve under section 2(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

10.3 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 No monitoring or review is required as a result of this instrument.

13. Contact

13.1 Elizabeth Ager at the Department of Culture, Media and Sport Tel: 0207 211 2371 or e-mail: elizabeth.ager@culture.gsi.gov.uk can answer any queries regarding the instrument.