EXPLANATORY MEMORANDUM TO

THE STATUTORY NUISANCE (APPEALS) (AMENDMENT) (ENGLAND) REGULATIONS 2006

2006 No. 771

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Select Committee on the Merits of Statutory Instruments.

2. Description

2.1 These regulations amend the Statutory Nuisance (Appeals) Regulations 1995 to extend them to cover statutory nuisances caused by insects and artificial light.

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

3.1 None.

4. Legislative Background

4.1 These regulations are made under paragraph 1(4) of Schedule 3 to the Environmental Protection Act 1990.

5. Extent

5.1 This instrument applies in England only.

6. European Convention on Human Rights

6.1 The Minister for Local Environmental Quality has made the following statement regarding Human Rights:

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

7. Policy background

7.1 Sections 101 and 102 of the Clean Neighbourhoods and Environment Act 2005 amend section 79 the Environment Protection Act 1990 so as to extend the statutory nuisance regime to include artificial light from premises and insects emanating from relevant industrial, trade or business premises Section 103 of the former Act amends section 80 of the latter Act to extend the

defence of Best Practicable Means to insects, and to artificial light emitted either from industrial, trade or business premises or from an outdoor relevant sports facility where such a facility does not constitute industrial, trade or business premises, in the event that a person is prosecuted for the offence (under section 80(4) of the 1990 Act) for contravening or failing to comply with an abatement notice that has been served on him in respect of an abatement notice.

7.2 The 1995 Regulations describe the grounds, which a person may rely on when appealing to a magistrates' court against the initial service upon him of an abatement notice. These can include, in circumstances similar to those where section 80(4) permits it to be used as a defence to prosecution, the fact that he has used Best Practicable Means to abate, or counteract the effect of, such a nuisance. The amending regulations extend the 1995 Regulations to cover the changes introduced to the statutory nuisance regime by the Clean Neighbourhoods and Environment Act 2005, and, in particular, section 103.

Consultation

7.3 These amendments have not been subject to consultation as are a direct consequence of the changes to the Environment Protection Act 1990 introduced by the Clean Neighbourhoods and Environment Act 2005, and simply implement these changes

8. Impact

8.1 A full and final Regulatory Impact Assessment on the Clean Neighbourhoods and Environment Act was completed in April 2005. This instrument will have no additional impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is neutral.

9. Contact

Helen Matthews at the Department for Environment, Food and Rural Affairs Tel: 020 7082 8414 or e-mail: Helen.matthews@defra.gsi.gov.uk can answer any queries regarding the instrument.