EXPLANATORY MEMORANDUM TO

THE WELSH LANGUAGE (GAMBLING AND LICENSING FORMS) REGULATIONS 2010

2010 No. 2440

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

2. Purpose of the instrument

2.1 These Regulations prescribe the Welsh, and in some cases bilingual, versions of the forms which may be accepted by the Welsh licensing authorities in place of the forms prescribed by secondary legislation made under the Gambling Act 2005 ("the 2005 Act") and Licensing Act 2003 ("the 2003 Act"). These Regulations prescribe Welsh or bilingual forms for use under the 2005 Act for the first time. These Regulations also prescribe Welsh or bilingual forms for use under the 2003 Act which were originally prescribed in an earlier instrument (which is revoked by these Regulations) and three forms which have come into existence since relevant licensing forms were prescribed in the Welsh language in that earlier instrument.

2.2 The Department entered into a Welsh language scheme on 8 June 2007 and this includes a commitment to prescribe forms (if required for use by the Welsh public) in Welsh or bilingual format.

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

3.1 These Regulations revoke the Licensing Act 2003 (Welsh Language Forms) Order 2007 (S.I. 2007/805), and prescribe the Welsh or bilingual forms to which that Order related. The Committee reported the Order for defective drafting in its Nineteenth Report for the 2006/2007 Session, on the basis that this instrument should instead have been made in the form of regulations. The Department, therefore, agreed to correct this error and this is achieved by the making of these Regulations.

4. Legislative Context

4.1 Section 7 of the Welsh Language Act 1993 ("the 1993 Act") enables the Welsh Language Board to send notice to a "public body" which provides services to the public in Wales or exercises statutory functions in relation to the provision by other public bodies of services to the public in Wales. The Department does not fall within the definition of a public body under the 1993 Act but, by virtue of adopting a Welsh Language Scheme on 8 June 2007, was required by the 1993 Act to prepare a scheme specifying the measures which it proposed to take as to the use of the Welsh language in connection with the exercise of its statutory

functions in relation to the provision by other public bodies (i.e. licensing authorities) of services to the public in Wales. One measure included the provision of Welsh and bilingual forms in the gambling context.

4.2 Section 26(3) of the 1993 Act include a power to prescribe a separate form of a document in Welsh or partly in Welsh and partly in English where another Act of Parliament confers a power to specify the form of the document. The 2003 Act and 2005 Act each contain powers to prescribe the form of a range of documents for use by and in dealings with licensing authorities in England and Wales. The Department is, therefore, introducing these Regulations to fulfill its commitment to prescribe these forms in Welsh or bilingual form.

5. Territorial Extent and Application

5.1 These Regulations extend to England and Wales and apply in relation to Wales.

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 These Regulations fulfil the Department's duty to implement its Welsh Language Scheme (as set out in paragraphs 2 and 4 above) and is a recognition of the principle in the 1993 Act that the English and Welsh languages should be treated on a basis of equality in the conduct of public business and the administration of justice in Wales. To achieve this, it is necessary to introduce Welsh and bilingual forms for use by and in dealings with Welsh licensing authorities in the gambling and licensing contexts.

- ***Consolidation***

7.2 Not applicable. These Regulations do not consolidate any legislation.

8. Consultation outcome

8.1 The Department has not carried out a consultation. The Welsh and bilingual versions of existing gambling and licensing forms are being introduced in line with a commitment made by the Department in its Welsh Language Scheme. Moreover, the content and utility of the existing forms is prescribed by existing legislation and these Regulations simply serve to make translated versions available.

8.2 The Department does not, therefore, believe that a consultation is a necessary or proportionate way of seeking input from interested parties. The Department does not believe that there is any scope for a consultation to influence a policy outcome.

9. Guidance

9.1 The Department does not believe that any guidance is necessary.

10. Impact

10.1 The Department has not prepared an Impact Assessment. The introduction of the Welsh and bilingual forms does not represent a change in policy, in the gambling or licensing contexts, and the associated costs and impacts of the policy of placing English and Welsh on an equal footing in relation to the provision of public services in Wales was decided and assessed in the Regulatory Impact Assessment for the 1993 Act. Moreover, the content and utility of the prescribed forms was subject to a regulatory impact assessment in relation to each of the regulations laid under the 2005 Act and 2003 Act.

11. Regulating small business

11.1 The Department does not believe that these Regulations raise any relevant issues.

12. Monitoring and review

12.1 The Department will continue to monitor and review its commitments under its Welsh Language Scheme, and introduce further Welsh and bilingual forms if and when the need arises.

13. Contact

Andrew Birleson at the Department for Culture, Media and Sport, Tel: 020 7211 6528; or e-mail: andy.birleson@culture.gsi.gov.uk can answer any queries regarding the instrument.