

EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (CONSEQUENTIAL AMENDMENTS) ORDER 2005
2005 No. 3048

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. Description

2.1 This Order makes consequential amendments in connection with the commencement of provisions of the Licensing Act 2003.

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

3.1 None

4. Legislative Background

4.1 The Order forms part of the implementation of the Licensing Act 2003, which is due to come fully into force on 24th November 2005.

4.2 Section 198(2) of the Licensing Act 2003 provides that the Secretary of State may, in consequence of any provision of the 2003 Act or of any instrument made under it, make such amendments (including repeals or revocations) in any Act passed or any subordinate legislation made before the provision comes into force. This Order is the first use of this power.

5. Extent

5.1 This instrument applies to England and Wales only.

6. European Convention on Human Rights

The Parliamentary Under-Secretary of State, James Purnell, has made the following statement regarding Human Rights:

In my view the provisions of the Licensing Act 2003 (Consequential Amendments) Order 2005 are compatible with the Convention rights.

7. Policy background

7.1 From 24th November 2005 the Licensing Act 2003 will establish a single integrated scheme for the licensing of certain activities conducted on or from particular premises. Previously, there were different licensing regimes and procedures for different kinds of activity.

- 7.2 In consequence of the coming into force of the Licensing Act 2003 and the repeal of the existing licensing provisions, certain primary and secondary legislation needs to be amended or revoked.
- 7.3 Article 2 of the order amends the table in section 1(1) of the Criminal Justice and Police Act 2001, which lists offences leading to fixed penalties on the spot, in order to replace the references to provisions of the Licensing Act 1964 (which are repealed by the Licensing Act 2003) by references to provisions of the Licensing Act 2003 which create equivalent offences.
- 7.4 Article 3 and Part 1 of the Schedule to the order revoke certain regulations and orders, which have become redundant following the repeal of the Licensing Act 1964.
- 7.5 Article 3 and Part 2 of the Schedule to the order amend certain regulations and orders as follows:
- 7.5.1 Schedule 6 to the Visiting Forces and International Headquarters (Application of Law) Order 1999 is amended to remove the reference to the Licensing Act 1964 and to modify enactments to confer on visiting forces and headquarters the same exemptions, privileges and immunities as are enjoyed by the home forces.
- 7.5.2 Article 2 of the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 is amended to remove the definition of “licensed premises”, which is defined as having the same meaning as in the 2003 Act. Article 3(1) is amended by substituting the relevant provisions of the 2003 Act.
- 7.5.3 The Schedule to the Penalties for Disorderly Behaviour (Amount of Penalty) Order 2002 is amended by substituting for offences under the 1964 Act the corresponding offences under the 2003 Act.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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