

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (ALCOHOL CONSUMPTION IN
DESIGNATED PUBLIC PLACES) REGULATIONS 2007

2007 No 806

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 Designated Public Place Orders (DPPOs) can be made by local authorities to help the police deal with the problem of alcohol misuse in the public place. The purpose of these Regulations is to consolidate with amendments the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 (“the 2001 Regulations”) which cover the consultation and publicity arrangements that need to be followed before and after making a DPPO. This follows on from legislative changes that have been made by the Violent Crime Reduction Act 2006 to the times at which certain licensed premises fall within a designated public place.

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

3.1 None.

4. **Legislative Background**

4.1 Section 13 of the Criminal Justice and Police Act 2001 (CJPA) enables local authorities to designate a public place by order – a DPPO. Once a public place is designated, the police have the power to require individuals in that place to stop drinking alcohol and to surrender any alcohol and any opened or sealed containers they may have. Failure to comply with the request is an offence. Generally, legitimate business premises within that public place that have licences to sell or supply alcohol (e.g. pubs and clubs etc) do not form part of the designated public place by virtue of section 14 of the CJPA (as amended by the Licensing Act 2003 and the Violent Crime Reduction Act 2006). Section 13(4) of the CJPA provides for the making of regulations that set out the procedure for making DPPOs.

4.2 These Regulations consolidate with amendments and repeal the 2001 Regulations. These Regulations, like the 2001 Regulations, inform local authorities about the steps they need to take to introduce a DPPO, in particular the consultation and publicity requirements that apply.

4.3 The amendments made by these Regulations are necessary due to changes introduced by section 26 of the Violent Crime Reduction Act 2006, which responded to an unintended consequence of the Licensing Act 2003. The 2003 Act brought the licensing arrangements for a range of activities

under the same licensing regime. This means that premises licensed for the sale of alcohol and the provision of regulated entertainment and the provision of late night refreshment hold the same, single authorisation. The Licensing Act 2003 statutory guidance encourages local authorities to seek premises licences for public spaces to enable a range of events to be held in that space, some of which may involve selling or supplying alcohol. However, where such a premises licence is held, those public spaces cannot be designated public places even when such an event is not being held. This therefore impacted on the ability of local authorities to designate public places under the CJPA.

4.4 To address this issue, section 26 of the Violent Crime Reduction Act 2006 was used to amend section 14 of the CJPA to clarify that certain premises covered by a premises licence authorising the supply of alcohol will only be prevented from falling within a designated public place when alcohol is being sold or supplied and for 30 minutes thereafter. The premises in question are those for which a local authority holds a premises licence and those for which another person holds a premises licence but which are occupied by or managed by or on behalf of such an authority. Other business premises within the public space that have licences to sell or supply alcohol will continue to be excluded from a designated public place.

5. Extent

5.1 This instrument extends to England and 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

7.1 The British Crime Survey reports that drunk or rowdy behaviour in the public place is a problem in some local areas. DPPOs are a useful tool that can help the police deal with such alcohol misuse problems in public spaces. To date local authorities have introduced over 400 DPPOs. Increasingly local authorities are also seeking to apply for premises licences for the same public spaces, to allow local community events such as farmers markets, open-air festivals, concerts and carnivals, to take place. Local authorities therefore raised concerns that while they wish to promote such community events they often also wanted to make use of DPPOs to tackle the problems of anti-social drinking in the same public space at other times. The position offered no flexibility and needed to be addressed.

7.2 The objective of these Regulations is therefore to ensure that in the consultation and publicity stages of introducing a DPPO, the local authority draws attention to the effect that the introduction of a DPPO will have on all premises that sell or supply alcohol within the proposed area to be covered by the DPPO. In particular, when consulting on a proposal to introduce a DPPO,

the local authority must identify each licensed premises in the public place in question that will, as a result of the amendments made to section 14 CIPA by section 26 of the Violent Crime Reduction Act 2006, form part of the designated public place when alcohol is not being sold or supplied and has not been sold or supplied for 30 minutes.

7.3 The Local Government Association, LACORs (Local Authorities Coordinators of Regulatory Services), The Civic Trust and the Association of Chief Police Officers have been consulted on the regulations in draft. They are supportive of the changes that have been made. Revised guidance will be issued to local authorities and the police to help them interpret the Regulations when seeking to introduce a Designated Public Place Order.

8. Impact

8.1 A Regulatory Impact Assessment (RIA) has not been prepared for this instrument as it has no significant impact on business, charities or voluntary bodies. The only impact on business is the requirement on the local authority to consult any licensed premises in the proposed public place that may be affected by a designation. There is also no additional impact on the public sector over and above the present arrangements for introducing DPPOs.

9. Contact

Nigel Lawrence at the Home Office (Tel: 020 7035 1825, email: Nigel.Lawrence@homeoffice.gsi.gov.uk) can answer any queries relating to the instrument.