

EXPLANATORY MEMORANDUM TO
THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014
(PUBLICATION OF PUBLIC SPACES PROTECTION ORDERS) REGULATIONS 2014

2014 No. 2591

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

2. Purpose of the instrument

2.1 Under the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”), a local authority may make a public spaces protection order (“PSPO”) if they are satisfied on reasonable grounds that the following two conditions are met:

- activities carried on in a public place within the authority’s areas have had a detrimental effect on the quality of life of those in the locality or it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- that the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature; is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.

2.2 A local authority must publish a PSPO when it is made, extended, varied or discharged in accordance with regulations made by the Secretary of State. The purpose of these regulations is to set out how a PSPO that is made, extended, varied or discharged is to be published.

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

3.1 None.

4. Legislative Context

4.1 Section 59(8) of the Act gives the Secretary of State the power to set out how a PSPO must be published when it is made; section 60(3)(b) of the Act gives the Secretary of State the power to prescribe how a PSPO that is extended must be published; section 61(5) of the Act gives the Secretary of State the power to prescribe how a PSPO that is varied must be published, and section 61(6) gives the Secretary of State the power to prescribe how a PSPO that is discharged must be published.

5. Territorial Extent and Application

5.1 This instrument applies 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

- What is being done and why

7.1 The overall policy aims of the anti-social behaviour provisions within the Anti-social Behaviour, Crime and Policing Act 2014 are to:

- Reform the powers available to deal with anti-social behaviour, streamlining the formal powers available to frontline professionals down to a faster, more effective, six. These measures will reduce bureaucracy and allow frontline professionals to respond to the needs of victims quickly.
- Introduce the community trigger which will give victims and communities the right to require agencies to deal with persistent anti-social behaviour that has previously been ignored. This will ensure that victims of persistent anti-social behaviour have a say in the way their complaints are dealt with.
- Introduce the community remedy which will require Police and Crime Commissioners to consult victims and the public on the menu of sanctions available for those committing low-level crime and anti-social behaviour. Police officers will be required to work from the resulting menu thereby empowering the public to hold the police to account.
- Bring faster relief to victims and witnesses by removing the court's discretion to consider whether it would be reasonable to grant possession of a dwelling house where serious housing related anti-social behaviour or criminality has already been proven, and enabling possession to be sought by landlords where tenants have committed certain offences beyond the locality of the property in exceptional cases.

7.2 Part 4, chapter 2, of the Act introduces the PSPO which will provide Councils with a flexible power to put in place local restrictions to address a range of anti-social behaviour issues in public places, and prevent future problems. The Act sets out when a PSPO can be used, by whom, what information it must contain and what happens if it is breached. It also requires local authorities to publish a PSPO when it is made, extended, varied and discharged in accordance with regulations made by the Secretary of State so that members of the public are aware of an order that is in place and where it applies.

- Consolidation

7.3 There is no requirement for consolidation because these regulations are not amending another statutory instrument.

8. Consultation outcome

8.1 No formal consultation took place, however draft Regulations were put before Parliament during the passage of the Anti-social Behaviour, Crime and Policing Bill. The Regulations that are being laid do not substantively depart from that version.

9. Guidance

9.1 On 21 July 2014, the Home Office published statutory guidance for frontline professionals on the new powers and how they could be used, including the PSPO¹. The guidance was first published in draft in October 2013 and was updated to reflect amendments made to the Anti-social Behaviour, Crime and Policing Act 2014 in Parliament and feedback received from agencies such as the police, local councils, social landlords and other government departments.

10. Impact

10.1 The impact on business, charities and voluntary bodies is minimal. However, if a PSPO is issued in an area where they are operating then they will need to ensure they are complying with the restrictions or requirements stated within the order.

10.2 The impact on the public sector is that councils will need to ensure that when a PSPO is made, extended, varied or discharged that it is published in accordance with the Regulations.

10.3 An Impact Assessment has not been prepared for this instrument. However, an Impact Assessment for the Anti-social Behaviour, Crime and Policing Bill was published on 9 May 2013². Two further Impact Assessments covering the specific powers and measures that will be introduced under the new legislation were published including one which covers the PSPO.

11. Regulating small business

11.1 The legislation does not apply to small business.

¹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332839/StatutoryGuidanceFrontline.pdf

² <http://www.parliament.uk/documents/impact-assessments/IA13-17.pdf>

12. Monitoring & review

12.1 The success criteria for this instrument will be members of the public being aware of a PSPO when it is made, extended, varied or discharged and a reduction in anti-social behaviour when an order has been made.

12.2 It is expected that this instrument will be reviewed as part of our post-legislative scrutiny three to five years after Royal Assent of the Act. This will include the impact of the proposals to better understand any associated costs and benefits.

13. Contact

Breesha Lowe at the Home Office Tel: 020 7035 8471 or email: breesha.lowe3@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.