

EXPLANATORY MEMORANDUM TO
THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014
(PUBLICATION OF PUBLIC SPACES PROTECTION ORDERS) REGULATIONS
2022

2022 No. 511

1. Introduction

- 1.1 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 2014 Act”) as amended by the Police, Crime, Sentencing and Courts Act 2022 (“the 2022 Act”), a local authority may make an expedited public spaces protection order (“PSPO”) if they are satisfied on reasonable grounds that certain conditions are met. An expedited PSPO must be published in accordance with regulations when one is made, extended, reduced, varied or discharged. The purpose of these regulations is to amend the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (“the 2014 Regulations”) to set out the publishing requirements for expedited PSPO.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The 2014 Act introduced regular PSPOs and the requirements for governing regular PSPOs. The 2014 Act as amended by the 2022 Act introduced expedited PSPOs. Section 59A(12) of the 2014 Act gives the Secretary of State the power to set out how an expedited PSPO must be published when it is made; section 60A(4) of the 2014 Act gives the Secretary of State the power to prescribe how an expedited PSPO that is extended or reduced must be published; section 61(5) of the 2014 Act gives the Secretary of State the power to prescribe how an expedited PSPO that is varied must be published, and section 61(6) gives the Secretary of State the power to prescribe how an expedited PSPO that is discharged must be published.

7. Policy background

What is being done and why?

- 7.1 The overall policy aims of the public order provisions within the 2022 Act are to help ensure the general public can go about their daily lives free from serious disruption or harm, while respecting the right to protest peacefully. Chapter 2 of Part 4 of the 2014 Act, as amended by the 2022 Act, introduces the expedited PSPO.
- 7.2 Regular PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the quality of life of those in the locality, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that people can use and enjoy public spaces, safe from anti-social behaviour. Before making a PSPO, the local authority must consult the following: whatever community representatives they think appropriate, the chief officer of police, and the local policing body, for the police area that includes the restricted area and the owner or occupier of land within the restricted area. This typically takes the form of an open and public consultation.
- 7.3 Expedited PSPOs are intended to deal with disruptive activities, harassment and intimidation around schools, vaccination sites, and NHS Test and Trace/Test, Trace, Protect sites. Unlike regular PSPOs, there are no consultation requirements before making an expedited PSPO. The local authority must obtain the necessary consents before making, extending, reducing varying or discharging an expedited order. The local authority should carry out a consultation as soon as reasonably practicable after the expedited order is made.
- 7.4 The expedited PSPO power applies if the following conditions below and in paragraph 7.5 are met. The first condition that must be met is the public space the expedited PSPO applies to is in the vicinity of: a school in the local authority's area, or a site in the local authority's area which provides vaccines to the public by, or pursuant to arrangements with, an NHS body or a site in the local authority's area which provides NHS Test & Trace (T&T) or Test, Trace, Protect (TTP) services.
- 7.5 The second condition is activities carried out in a qualifying public place in the course of a protest or a demonstration within the local authority's areas have had, or are likely to have, the effect of: harassing or intimidating members of staff, volunteers, or persons using the service of the school or site, or impeding the provision of services of the school or site by staff or volunteers; or impeding access of persons seeking to use the services of the school or site. The third condition is 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.
- 7.6 The 2014 Act, as amended by the 2022 Act, sets out when an expedited PSPO can be made, by whom, what information it must contain and the penalty if it is breached. It also requires local authorities to publish an expedited PSPO when it is made, extended, reduced, 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.
- 7.7 These regulations require that local authorities publish orders, changes to orders, and notice of discharges of orders on their website and next to the public place to which

the order applies or applied. This is in line with what is required for regular PSPOs under the 2014 Regulations.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 These regulations amend the 2014 Regulations which set out how a PSPO that is made, extended, varied or discharged under sections 59(8), 60(3)(b), 61(5) and (6) of the 2014 Act is to be published.

10. Consultation outcome

- 10.1 No formal consultation took place, however the Regulations that are being laid do not substantively depart from the 2014 Regulations. The 2014 regulations were not subject to consultation.

11. Guidance

- 11.1 The Home Office will shortly publish an update to the statutory guidance for frontline professionals for the powers in the 2014 Act to reflect the new expedited PSPO.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is minimal. However, if an expedited 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.
- 12.2 The impact on the public sector is that councils will need to ensure that when an expedited PSPO is made, extended, reduced, varied or discharged that it is published in accordance with the Regulations. Schools, sites which provide vaccines to the public by, or pursuant to arrangements with, an NHS body, and sites which provides NHS Test and Trace or Test, Trace, Protect services will need to ensure they are complying with the restrictions or requirements stated within the order.
- 12.3 A full Impact Assessment has not been prepared for this instrument because of low level impact on businesses. However, an impact assessment for the 2022 Act will be published.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The success criteria for this instrument will be members of the public being aware of an expedited PSPO when it is made, extended, reduced, varied or discharged and a reduction in, or prevention of, harassing, intimidating, or impeding activities when an order has been made. In addition, success criteria will be councils knowing how to publish an expedited PSPO and doing it in line with the regulations.

14.2 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 2022 Act. This will include the impact of the proposals to better understand any associated costs and benefits.

15. Contact

15.1 Thomas Latham at the Home Office Telephone: 0300 104 1718 or email: Thomas.latham@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Mark Williams, Deputy Director for Police Powers Unit, at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Home Secretary at the Home Office can confirm that this Explanatory Memorandum meets the required standard.