
STATUTORY INSTRUMENTS

2006 No. 591

**LICENCES AND LICENSING
RATING AND VALUATION, ENGLAND**

The Licensing Act 2003 (Consequential Amendment)(Non-Domestic Rating)(Public Houses in England) Order 2006

<i>Made</i>	- - - -	<i>7th March 2006</i>
<i>Laid before Parliament</i>		<i>7th March 2006</i>
<i>Coming into force</i>	- -	<i>31st March 2006</i>

It appears to the Secretary of State that it is appropriate to make the amendments set out in this Order. Accordingly, the Secretary of State makes the following Order in exercise of the powers conferred by sections 197(2) and 198(2) of the Licensing Act 2003(1):

Citation and commencement

1. This Order may be cited as the Licensing Act 2003 (Consequential Amendment)(Non-Domestic Rating)(Public Houses in England) Order 2006 and comes into force on 31st March 2006.

Interpretation

2. In this Order—

- (a) “the 2001 Order” means the Non-Domestic Rating (Public Houses and Petrol Filling Stations)(England) Order 2001(2);
- (b) “transitional public house” means the whole or part of a hereditament which—
 - (i) as a result of the coming into force of this Order ceases to be a public house within the meaning of paragraph (2) of article 1 of the 2001 order, and
 - (ii) continues to be a public house within the meaning of that paragraph as it stood before this Order came into force.

(1) 2003 c. 17.
(2) S.I. 2001/1345.

Amendment

3. In article 1(2) of the 2001 Order omit the definition of “public house” and after the definition of “petrol filling station” add—

““premises” has the meaning given by section 193 of the Licensing Act 2003(3);

“premises licence” means—

- (a) a premises licence granted under Part 3 of that Act, or
- (b) a licence granted under Part 1 of Schedule 8 to that Act;

“public house” means premises in respect of which a relevant premises licence has effect;

“relevant premises licence” means a premises licence which—

- (a) authorises the sale by retail of alcohol for consumption on the premises, or for consumption on or off the premises;
- (b) is not subject to any condition restricting the sale of alcohol by reference to—
 - (i) the use or intended use of the premises for the habitual provision of customary main meals;
 - (ii) a requirement that alcohol be sold or supplied on the premises only to persons taking meals on the premises for consumption ancillary to their meals;
- (c) is not subject to any condition restricting the sale of alcohol by reference to—
 - (i) the use or intended use of the premises for the purpose of habitually providing board and lodging (including breakfast and at least one other customary main meal) for reward;
 - (ii) a requirement that alcohol be sold or supplied on the premises only to persons residing there (or to their private friends entertained by them at their own expense) for consumption by such a person (or their private friend) on the premises, or with a meal supplied at but to be consumed off the premises.”.

Transitional provision

4. Before 1st April 2007 a transitional public house is to be taken to be a public house within the meaning of article 1(2) of the 2001 Order.

7th March 2006

James Purnell
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential amendments to the Non-Domestic Rating (Public Houses and Petrol Filling Stations)(England) Order 2001 (S.I. 2001/1345) (“the 2001 Order”) to take account of the commencement of the Licensing Act 2003 (“the 2003 Act”).

Article 2 of the 2001 Order prescribes conditions that public houses and petrol filling stations must meet in order to qualify for the relief from non-domestic rates established by section 43(6A) and (6B) of the Local Government Finance Act 1988 (c. 41). Qualifying premises are entitled to have their rate liability determined by reference to an alternative formula to that set out in subsection (4) of section 43, provided they satisfy the prescribed conditions.

The 2001 Order defines a “public house” by reference to the Licensing Act 1964, which Act was repealed by the 2003 Act.

This Order amends the 2001 Order so that “public house” will in future be defined by reference to the 2003 Act rather than the 1964 Act. This requires an approach based on particular descriptions of licence conditions, rather than the particular kinds of licences defined in the 1964 Act. In summary, the new definition of “public house” is intended to include any premises in respect of which there is in force a premises licence under the 2003 Act authorising the retail sale of alcohol for consumption on the premises, or for consumption both on and off the premises. It excludes cases where the licence contains conditions restricting alcohol sales to customers in premises being used as a restaurant, hotel or boarding house. This reproduces the relevant elements of the definition of a “Part IV licence” under the 1964 Act, and so preserves the position under the 2001 order in so far as it is possible to do so.

The Order also contains a transitional provision to the effect that any premises which were a “public house” under the old definition but not the new will continue to be regarded as a “public house” for the purposes of the 2001 order until 1st April 2007.