

2010 No. 723

LICENCES AND LICENSING, ENGLAND

**The Policing and Crime Act 2009 (Consequential Provisions)
(England) Order 2010**

<i>Made</i>	- - - -	<i>9th March 2010</i>
<i>Laid before Parliament</i>		<i>15th March 2010</i>
<i>Coming into force</i>	- -	<i>6th April 2010</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 112 of the Policing and Crime Act 2009(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010.

(2) This Order comes into force on 6th April 2010.

(3) In this Order—

“the 2009 Act” means the Policing and Crime Act 2009,

“the 2007 Act” means the London Local Authorities Act 2007(b),

“the 1986 Act” means the Greater London Council (General Powers) Act 1986(c),

“the 1982 Act” means the Local Government (Miscellaneous Provisions) Act 1982(d),

“local authority” has the meaning given by section 2(5) of the 1982 Act.

Repeal and saving of section 12 of the 1986 Act and provisions of Schedule 3 to the 1982 Act

2.—(1) Subject as follows, the following provisions are repealed—

- (a) section 12 of the 1986 Act (amendment of law relating to sex establishments), and
- (b) any provisions of Schedule 3 to the 1982 Act (control of sex establishments) so far as they have effect by virtue of section 12 of the 1986 Act.

(a) 2009 c. 26.

(b) 2007 c. ii

(c) 1986 c. iv

(d) 1982 c. 30. Schedule 3 to that Act has been amended by section 52 of, and paragraph 7 of Schedule 14 to, the Police and Justice Act 2006 (c. 48), section 198 of, and paragraphs 82 and 85 of Schedule 6 to, the Licensing Act 2003 (c. 17), section 24 of, and paragraph 16 of Schedule 2 to, the Cinemas Act 1985 (c. 13), section 26(1) of the Police and Criminal Evidence Act 1984 (c. 60), sections 111 and 174 of, and paragraph 22 of Schedule 7 and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15), S.I. 1984/447, S.I. 2005/886 and in relation to certain London boroughs by section 12 of the Greater London Council (General Powers) Act 1986 (c. iv), section 33 of the London Local Authorities Act 2007 (c. ii) and S.I. 2005/1541. It will also be amended by section 27 of the Policing and Crime Act 2009 (c. 26) as from 6th April 2010.

(2) Section 12 of the 1986 Act and any such provisions of Schedule 3 to the 1982 Act continue to apply on and after the commencement date in a relevant area until the amendments to Schedule 3 to the 1982 Act made by section 27 of the 2009 Act come into force in that area.

(3) Anything done or omitted to be done in relation to any sex encounter establishment under or in connection with any provision of Schedule 3 to the 1982 Act so far as it has effect in a relevant area by virtue of section 12 of the 1986 Act is, if in force or effective immediately before the operative date, to be treated as if done or omitted to be done in relation to the premises as a sexual entertainment venue under or in connection with the corresponding provision of Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act so far as that is required for continuing its effect on or after the operative date and so far as the use of the premises is of a kind for which a licence for a sexual entertainment venue is required.

(4) In particular and to this extent, a licence for a sex encounter establishment which is in force immediately before the operative date under Schedule 3 to the 1982 Act as it has effect by virtue of section 12 of the 1986 Act is to be treated, on and after the operative date, as a licence for a sexual entertainment venue under Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act (and the licence is to be read as modified accordingly).

(5) Paragraphs (3) and (4) are without prejudice to section 16 of the Interpretation Act 1978(a) (general provisions) (and, in particular, the continued operation in relation to any offence committed before the operative date of Schedule 3 to the 1982 Act so far as it has effect in a relevant area by virtue of section 12 of the 1986 Act).

(6) In this article—

“the commencement date” means 6th April 2010,

“the operative date”, in relation to a relevant area, means the day on which the amendments to Schedule 3 to the 1982 Act made by section 27 of the 2009 Act come into force in that area,

“relevant area” means an area in relation to which the local authority have, before the commencement date, resolved that the amendments to Schedule 3 to the 1982 Act as set out in section 12(4) of the 1986 Act shall apply,

“premises” has the meaning given by paragraph 2A(14) of Schedule 3 to the 1982 Act,

“sex encounter establishment” has the meaning given by paragraph 3A of Schedule 3 to the 1982 Act as it has effect by virtue of section 12 of the 1986 Act,

“sexual entertainment venue” has the meaning given by paragraph 2A of Schedule 3 to the 1982 Act.

Amendment of section 22 of the London Local Authorities Act 2004

3. After section 22(2A) of the London Local Authorities Act 2004(b) (soliciting for custom) insert—

“(2B) It shall be a defence in any proceedings for an offence under subsection (1)(b) if, at the time of the alleged offence—

- (a) the premises concerned were subject to a licence for a sexual entertainment venue under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982,
- (b) a waiver under paragraph 7 of that Schedule from the requirement for such a licence was in force, or
- (c) article 6(1) of the Policing and Crime Act 2009 (Commencement No. 1 and Transitional and Saving Provisions) (England) Order 2010(c) applied to the premises.”

(a) 1978 c. 30.

(b) 2004 c i. Section 22 has been amended by section 72 of the London Local Authorities Act 2007 (c ii).

(c) S.I. 2010/722 (C.48).

Amendment of section 33 of the 2007 Act

4.—(1) Subject to paragraphs (7) to (9), section 33 of the 2007 Act (hostess bars) is amended as follows.

(2) For subsection (1)(b) there is substituted—

“(b) as from the appointed day as regards any other borough, where the borough council have resolved under section 2 of the Local Government (Miscellaneous Provisions) Act 1982 or paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009 that Schedule 3 to the Act of 1982 as amended by section 27 of the Act of 2009 is to apply to their area.”

(3) In subsection (3) for “sex encounter establishment” substitute “sex cinema”.

(4) Subsections (4) and (7), and any provisions of Schedule 3 to the 1982 Act so far as they have effect by virtue of those subsections, are repealed.

(5) In subsection (5) for “paragraph 3A” substitute “paragraph 3”.

(6) In subsection (6) for “sex establishments” substitute “sex cinemas”.

(7) The amendments made by this article do not apply to section 33 of the 2007 Act so far as it applies to the area of a local authority in relation to which section 12 of the 1986 Act continues to apply by virtue of article 2(2).

(8) Paragraph (9) applies where section 33 of the 2007 Act is in operation in relation to a local authority immediately before section 12 of the 1986 Act ceases to apply in the area of the authority as mentioned in article 2(2).

(9) Section 33 of the 2007 Act applies Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act in the area of the authority after that time subject to the modifications made by section 33 as amended by paragraphs (3) to (6) above.

Home Office
9th March 2010

Alan Campbell
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order repeals provisions of a number of local Acts as a result of the coming into force of section 27 (lap dancing and other sexual entertainment venues) of the Policing and Crime Act 2009 (the “2009 Act”).

Article 2 repeals section 12 of the Greater London Council (General Powers) Act 1986 (the “1986 Act”) which requires sex encounter establishments to be licensed as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the “1982 Act”) in London borough councils which have resolved to adopt these provisions. This category is replaced by sexual entertainment venues save in areas where section 12 of the 1986 Act is in force and the local authority has not yet adopted the amendments to Schedule 3 to the 1982 Act made by section 27 by resolution under paragraph 2(2) of Schedule 3 to the 2009 Act. It also provides for premises with a sex encounter establishment licence immediately before Schedule 3 to the 1982 Act as amended by section 27 comes into force in the area to continue to operate by deeming the licence to be a licence for a sexual entertainment venue.

Article 3 makes amendments to section 22 of the London Local Authorities Act 2004 in areas where a local authority has resolved to adopt Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act. In particular, the amendments mean that it will not be an offence to solicit persons, or to permit the soliciting of persons, to attend premises which are licensed as sexual entertainment venues (or where the requirement for such a licence has been waived), in contrast to other types of sex establishment.

Article 4 makes further consequential amendments to section 33 of the London Local Authorities Act 2007 which relates to the regulation of hostess bars. Specifically, it will allow London borough councils to continue to adopt the provisions in that section by resolution.

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