

**EXPLANATORY MEMORANDUM TO THE
LICENSING ACT 2003 (FIRST APPOINTED DAY AND PERSONAL
LICENCES TRANSITIONAL PERIOD) ORDER 2004 No.1739**

1. Introduction

1.1 This explanatory memorandum has been prepared by the department for Culture, Media and Sport and is laid before Parliament by Command of her Majesty.

2. Description

2.1 This Order appoints 7th February 2005 as the "first appointed day" for the purposes of the transitional provisions contained in Schedule 8 to the Licensing Act 2003, which marks the date on which existing licences and certificates must have effect to be capable of being converted and commences the period of six months for the conversion of those licences and certificates to new licences and certificates. Further, it specifies the period from and including 7th February 2005 until 6th August 2005 as the transitional period during which a holder of a justices' licence may apply for the grant of a personal licence and benefit from relaxed requirements.

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

3.1 None

4. Legislative background

4.1 Schedule 8 to the Licensing Act 2003 (the 2003 Act) makes provision for transitional arrangements from six existing licensing legislative systems covering the regulation of the sale and supply of intoxicating liquor, public entertainment, theatre, cinema, late night refreshment and night café (respectively, the Licensing Act 1964, the Local Government (Miscellaneous Provisions) Act 1982, the London Government Act 1963, the Private Places of Entertainment (Licensing) Act 1967, the Theatres Act 1968, the Cinemas Act 1985, the Late night Refreshment Houses Act 1969 and the London Local Authorities Act 1990) to the new,

unified licensing system introduced by the Act. Those provisions require the Secretary of State by order to specify a day upon which authorisations under those existing legislative systems must have effect to be capable of being converted to authorisations under the Act. Further, the provisions use the specified day as the beginning of a period of six months during which applications for conversions may take place. Also, the transitional provisions require the Secretary of State by order to specify a period of not less than six months during which the holder of a justices' licence under Part 1 of the Licensing Act 1964 can apply for the grant of a personal licence under the 2003 Act without having to comply with the requirements of section 120 of that Act (which sets out certain criteria for the grant of a personal licence).

5. Extent

5.1 The Licensing Act 2003 extends to England and Wales.

6. Policy background

6.1 The Government's published policy in respect of the implementation of the new, unified licensing regime introduced by the Licensing Act 2003 (the 2003 Act) has been to allow licensing authorities a period of six months from the issuing by the Secretary of State of her guidance under section 182 of the 2003 Act to the authorities on the discharge of their functions under the 2003 Act to the first appointed day to fulfil their obligation to determine their policy with regard to the exercise of their functions and to publish a statement of that policy. Following discussions with interested stakeholders, the Government has decided that this period should be seven months.

6.2 Section 4 of the 2003 Act provides that a licensing authority must have regard to its statement of policy in carrying out its functions under the Act. Section 5 of the 2003 Act requires each licensing authority to

determine and publish its statement of policy before the beginning of each three year period which the Secretary of State appoints. That period must commence on or before the first appointed day.

- 6.3 The provisions of the Order form part of the paving requirements to enable the transitional provisions to have effect. There is likely to be a high degree of public interest in the Order, in particular as it is scheduled to be laid before Parliament contemporaneously with the issuing of the Guidance under section 182 of the 2003 Act by the Secretary of State.

7. Impact

- 7.1 A Regulatory Impact Assessment has not been prepared for this Order.
- 7.2 The impact on the public sector is to provide licensing authorities with the date on which and the commencement of the period during which their functions under the Licensing Act 2003 become operational.

8. Contact

- 8.1 Andrew Cunningham at the department for Culture, Media and Sport. Telephone: 020 7211 6344 or e-mail: Andrew.Cunningham@culture.gsi.gov.uk can answer any queries regarding the instrument.