EXPLANATORY MEMORANDUM TO

THE LICENSING ACT 2003 (VICTORY IN EUROPE DAY LICENSING HOURS) ORDER 2020

2020 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office ("the Department") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This order will extend the hours during which licensed premises can be used for the sale of alcohol for consumption on the premises, the on-trade provision of late-night refreshment, and the provision of regulated entertainment, to mark the 75th anniversary of Victory in Europe ("VE") Day.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 This entire instrument applies to England and Wales only as it is made under sections 172(1) and 197(2) of the Licensing Act 2003 ("the 2003 Act"), which extend to England and Wales only.

3.3 This instrument does not have any minor or consequential effects outside of England and Wales.

3.4 In the view of the Department, for the purposes of Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament.

3.5 The Department has reached this view because it considers that the purpose of the instrument is to extend licensing hours, which is within the devolved legislative competence of the Northern Ireland Assembly and the Scottish Parliament. The instrument does not relate to an excepted matter or a reserved matter in Schedules 2 and 3 respectively to the Northern Ireland Act 1998 and is not otherwise outside the legislative competence of the Northern Ireland Assembly (see section 6 of that Act). The instrument does not relate to a reserved matter in Schedule 5 to the Scotland Act 1998 and is not otherwise outside the legislative competence of the Scottish Parliament (see section 29 of that Act).

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 set out in Section 3 under "Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)".

5. European Convention on Human Rights

5.1 Kit Malthouse, Minister for Crime, Policing and the Fire Service has made the following statement regarding Human Rights:

"In my view the provisions of the Licensing Act 2003 (Victory in Europe Day Licensing Hours) Order 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The 2003 Act enables a regime under which premises can be authorised to be used for certain activities (referred to as "licensable activities"), namely: the sale of alcohol by retail (for consumption on or off the premises); the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club; the provision of regulated entertainment (plays, live and recorded music, indoor sport, films and boxing and wrestling); and the provision of late night refreshment (the provision of hot food and hot drink between 11pm and 5am).

6.2 The grant of an authorisation by a licensing authority must be made with a view to promoting one or more of the four licensing objectives under the 2003 Act: the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. Indefinite authorisation for a premises is given by means of a premises licence or club premises certificate (for members' clubs), and this authorisation sets out which licensable activities may be carried on, during which hours and subject to what conditions.

6.3 Section 172 of the 2003 Act gives the Secretary of State the power to make a licensing hours order if she considers that a period (the "celebration period") marks an occasion of exceptional international, national or local significance. This power has only been exercised on five occasions since the 2003 Act has been in force.

6.4 A licensing hours order provides that during specified periods (which can include part of or all of the celebration period but cannot exceed 4 days), premises licences and club premises certificates have effect (to the extent that this is not already the case) as if times specified in the order were included in the opening hours authorised by the licence or certificate. An order may be applied to all licensed premises in England and Wales or restricted to licensed premises in one or more specified areas. It is also possible to impose different opening hours on different days during the relaxation and to allow different opening hours for different licensable activities.

6.5 The exercise of the power in section 172 is subject to a condition that the Secretary of State must consult such persons as she considers appropriate.

7. Policy background

What is being done and why?

7.1 The Government considers the 75th anniversary of VE Day, which takes place on Friday 8 May 2020, to be an occasion of exceptional national significance for the purposes of section 172 of the Licensing Act 2003 and wishes to mark this occasion by extend licensing hours. This order will permit licensed premises in England and Wales to remain open for two additional hours beginning 11pm on Friday 8 May 2020 to 1am the following morning, and 11pm on Saturday 9 May 2020 to 1am the following morning, for the sale of alcohol for consumption on the premises and for the provision of regulated entertainment. This will allow premises wishing to remain open later for celebratory events to be able to do so without having to serve a temporary event notice (a temporary authorisation to use premises for licensable activities available under the 2003 Act) to their local authority at a fee. It was considered inappropriate to relax licensing hours for the sale of alcohol for consumption off the licensed premises because anyone wishing to celebrate at home could buy alcohol in advance, or during normal trading hours. The provision of late-night refreshment in on-trade licensed premises will be in scope of this order.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

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 Not applicable.

10. Consultation outcome

10.1 The Home Office ran a truncated consultation by email with selected partners from 25 October to 11 November 2019. Views were sought from the Welsh Government, the police, local government representative bodies, industry, community groups and veterans' groups.

10.2 19 responses were received from the British Beer and Pub Association, UKHospitality, the National Association of Licensing and Enforcement Officers, the National Police Chiefs Council on behalf of fifteen force areas, and a district council.

10.3 A majority of the respondents (17 out of the 19) indicated that they were in favour of, or had no objections to, an extension to licensing hours to mark the 75th anniversary of VE Day. The consultation asked six closed questions on the scope, duration and geographical extent of an order and one open question inviting further comments:

- Should licensing hours be extended on Friday 8 May 2020, to 1am the following morning?
- Should licensing hours be extended on Saturday 9 May 2020, to 1am the following morning?
- Should licensing hours be extended across the entirety of England and Wales?
- Should the order apply to the sale of alcohol for consumption on the premises on both nights in question to 1am the following morning?

- Should the order apply to the provision of regulated entertainment on both nights in question to 1am the following morning, only where the venues are also licensed for the sale of alcohol?
- Should the order apply to the provision of regulated entertainment on both nights in question until 1am the following morning, regardless of whether they are licensed to sell alcohol?

10.4 More detailed responses were provided in response to the open question. Representatives of the licensed trade felt that a licensing hours extension would be a boost for the pub sector, as well as an opportunity for the nation to come together and celebrate. Local authority representatives felt that a licensing hours extension would reduce the number of temporary event notice applications from premises that would require processing, in turn reducing the administrative burden on licensing staff given the surge in such applications attracted by Bank Holidays. Most police force areas had no objections to a licensing hours extension. Several noted that operationally, it will create additional policing demand as any increased availability of alcohol is likely to, especially with the move of the Early May Bank Holiday from a Monday to a Friday. However, they deemed the impacts to be negligible and sustainable. The same forces noted that many premises in their areas are already licensed to be open later on Friday and weekend evenings.

11. Guidance

11.1 The Government is not issuing guidance in relation to this order.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that premises already licensed to sell alcohol for consumption on the premises and to provide regulated entertainment who wish to remain open beyond their normal licensed hours will save time and costs from giving a temporary event notice. Businesses licensed to sell alcohol on the premises that choose to open late are likely to benefit from additional sales of alcohol during this time. There is no impact on business, charities or voluntary bodies which do not hold a premises licence or club premises certificate to sell alcohol on the premises or provide regulated entertainment.

12.2 The impact on the public sector is that this order is likely to generate a benefit for police forces and environmental health authorities from not having to review an increased number of temporary event notices from premises that choose to stay open late. The order may introduce additional policing costs if it is decided to add extra officers or increase patrolling hours for the affected nights. However, it is not expected that there will be a significant increase in enforcement activity as the perception of likely crime and disorder associated with late night opening on the two nights is low.

12.3 A full Impact Assessment is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision to not take specific action is that the legislation will not have an adverse impact on small businesses.

14. Monitoring & review

14.1 This legislation will only apply on specified days (8-10 May 2020), therefore there are no plans to review this legislation. Review is not required by the Small Business, Enterprise and Employment Act 2015 as the provisions will cease to have effect before the end of the period of 5 years beginning with the commencement date.

15. Contact

15.1 The Home Office Alcohol Policy team can be contacted on alcoholteam2@homeoffice.gov.uk with any queries regarding the instrument.

15.2 Katherine Merrifield and Gwen Nightingale, Deputy Director for the Home Office Drugs and Alcohol Unit, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kit Malthouse MP, the Minister for Crime, Policing and the Fire Service at the Home Office can confirm that this Explanatory Memorandum meets the required standard.