EXPLANATORY MEMORANDUM TO

THE LICENSING ACT 2003 (THE CORONATION LICENSING HOURS) ORDER 2023

2023 No. 498

1. Introduction

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

2. Purpose of the instrument

2.1 This order will extend the hours during which licensed premises can be used for the on-sale of alcohol (consumption of alcohol on premises), the provision of late-night refreshment, and the provision of regulated entertainment, to mark His Majesty the King's Coronation. This order will not apply to the off-sales of alcohol (consumption of alcohol off the premises). It will apply over the bank holiday, Friday 5 May to Sunday 7 May 2023.

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 extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

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

5. European Convention on Human Rights

5.1 Chris Philp, Minister for Crime, Policing and Fire has made the following statement regarding Human Rights:

"In my view the provisions of the Licensing Act 2003 (The Coronation Licensing Hours) Order 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 The Licensing Act 2003 ("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 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 authorisation by a licensing authority for the sale of alcohol must be made with a view to promoting 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 extend licensing hours by means of 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 infrequently since the 2003 Act has been in force, including Her Majesty the Queen's Platinum Jubilee in 2022. 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 His Majesty the King's Coronation to be an occasion of exceptional national significance for the purposes of section 172 of the Licensing Act 2003 (see paragraph 6.3) and wishes to mark this occasion by extending licensing hours over the Bank Holiday weekend, Friday 5 May to Sunday 7 May 2023. This order will permit licensed premises in England and Wales, subject to their existing licence conditions, to remain open over those dates from 11pm until 1am the following morning, for the sale of alcohol for consumption on the premises and for the provision of regulated entertainment and late-night refreshment. We will not be applying this extension to off-sales due to responses received in the consultation which expressed concerns of a potential increase in crime and disorder.

7.2 The Business and Planning Act provisions which automatically allow off-sales where a premises licence permits on-sales will not apply, because such off-sales have to stop at 11pm.

7.3 The alternative to an Order would be that if individual premises wish to remain open later, they would each have to give a temporary event notice (TEN) (a temporary authorisation to use premises for licensable activities available under the 2003 Act) to their local authority. That would be at additional cost to hospitality businesses and represents a potential significant administrative burden on Local Authorities.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union or 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 public consultation which ran for five weeks from 19 December 2022 to 23 January 2023. This covered the specific duration of the proposed extension and invited comments on the wider approach to extending licensing hours on this occasion, including whether this should apply to off-sales, for example to off-licence shops and supermarkets, as well as on-sales of alcohol where alcohol is consumed on the premises. The consultation had 48 fully completed

responses[1]. Within the consultation, there were six closed questions and one open question.

10.2 In response to the first question out of those 48 respondents, 37 agreed with the extension to licensing hours and 11 opposed the proposal. The second question asked whether the extension should only apply to the sale of alcohol on the premises. Out of the 48 respondents, 37 agreed that the extension should only apply to on sales and 11 disagreed. The third question asked whether the licensing extension should apply to England and Wales; 42 responded that it should and 6 disagreed. The following 3 questions asked about extending opening hours on individual dates. In respect of 5 May 2023, 36 respondents agreed that the extension should proceed and 12 disagreed; in respect of 6 May 2023, 36 agreed and 12 disagreed; in respect of 7 May 2023, 33 agreed, and 15 disagreed.

10.3 The final question of the consultation asked respondents to give feedback if they had disagreed with the proposal to extend licensing hours for the Coronation. The overall responses fell into three categories, namely concerns around alcohol consumption, crime and disorder and general inappropriateness.

10.4 Responses were received from the National Police Chiefs Council and the Local Government Association as well as various trade organisations, who were all in support of the extension.

10.5 Overall, the majority of respondents agreed with the extended licensing hours in line with our proposal. Therefore, the Government considers that the extension is appropriate, as it is limited in duration and given the national importance of marking the Coronation of His Majesty the King.

11. Guidance

11.1 The Government is not issuing guidance in relation to this Order. This is because this order has been previously used on several occasions to mark other occasions of exceptional national significance.

12. Impact

12.1 The main 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 not having to give a temporary event notice. The hospitality industry continues to feel the after-effects of the pandemic, as well as cost of living challenges, and some licence holders may welcome the opportunity to extend their trading hours. 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 lead to some modest cost savings for police forces, environmental health authorities and licensing authorities from not having to review an increased number of temporary event notices from premises that choose to stay open late during this period. There might be some additional costs associated with an increased risk of alcohol-related crime and disorder. However based on previous assessments of similar events, it is not expected

[1] There were two additional fully completed responses which were sent in via email past the close of the consultation. Both of these responses reflected the majority of the other responses to the consultation.

that the late night opening on the three nights will lead to a significant increase in crime and associated enforcement activity.

12.3 An Economic Note setting out the impacts and uncertainty around estimates 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 not to 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 the specified days (5 May, 6 May and 7 May 2023). 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 five years beginning with the commencement date.

15. Contact

15.1 Rebecca Kuzmin at the Home Office Alcohol Policy team can be contacted with any queries regarding the instrument [rebecca.kuzmin@homeoffice.gov.uk].

15.2 Paul Regan, Head of the Neighbourhood Crime Unit, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Chris Philp, Minister for Crime, Policing and Fire at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.