EXPLANATORY MEMORANDUM TO

THE LICENSING ACT 2003 (HER MAJESTY THE QUEEN'S BIRTHDAY LICENSING HOURS) ORDER 2016

2016 No. 591

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 and provision of late night refreshment to mark the occasion of Her Majesty The Queen's official 90th birthday.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 This entire instrument applies only to England and Wales.

3.3 This instrument applies only to England and Wales as it is made under sections 172(1) and 197(2) of the Licensing Act 2003, which extend to England and Wales only. The instrument does not have minor or consequential effects outside England and Wales.

3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P 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.

4. Legislative Context

4.1 The 2003 Act enables a regime under which premises are 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; and the provision of late night refreshment (the provision of hot food and hot drink between 11pm and 5am). 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: 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.

4.2 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.

4.3 A licensing hours order provides that during specified periods, which is part 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.

4.4 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.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales (see paragraph 3.3 above).

5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

6. European Convention on Human Rights

6.1 Karen Bradley, Parliamentary Under-Secretary of State for Preventing Abuse, Exploitation and Crime has made the following statement regarding Human Rights:

"In my view the provisions of the Licensing Act 2003 (Her Majesty The Queen's Birthday Licensing Hours) Order 2016 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 Her Majesty The Queen's 90th birthday is an occasion of exceptional national significance, with public events planned to celebrate the occasion. The Government therefore considers it appropriate to extend licensing hours to celebrate this occasion. The order would permit licensed premises to open for 2 hours beginning at 11pm on each of Friday 10 June and Saturday 11 June, for the sale of alcohol for consumption on the premises. This would allow premises to open later for celebratory events without having to give a temporary event notice (a temporary authorisation to use premises for licensable activities available under the 2003 Act). It was considered inappropriate to relax licensing hours for the sale of alcohol for consumption off the premises because anyone wishing to celebrate at home could buy alcohol in advance, or during normal trading hours.

Consolidation

7.2 Not applicable.

8. Consultation outcome

8.1 The Home Office consulted partner agencies and received responses from: the Welsh Government, the national police lead on alcohol, police and crime commissioners lead on alcohol, Local Government Association, Institute of Licensing, National

Organisation of Residents Associations, British Beer and Pub Association, Association of Multiple Licensed Retailers. The consultation asked three specific questions:

- Do you agree that the order should apply to the sale of alcohol for consumption on the premises?
- Do you agree that the order should apply to England and Wales?
- Do you agree that the order should extend licensing hours until 01.00 on 12 and 13 June 2016?

8.2 All of the organisations listed above responded 'yes' to all three questions, with the exception of the Association of Police and Crime Commissioners (APCC). The APCC considered the Order to be disruptive to planning police resources and pose an increased risk of alcohol-related disorder. However, the Government is not aware of any evidence of alcohol-related disorder during periods covered by previous Licensing Hours Orders. The Welsh Government agreed that the Order should cover England and Wales. Consultation responses have not been published.

9. Guidance

9.1 The Government is not issuing Guidance in relation to this Order.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that this order will save money for those already licensed to sell alcohol on the premises which wish to remain open after their licensed hours. The order saves such businesses and bodies the cost of giving a Temporary Event Notice, the fee for which is £21. Businesses licensed to sell alcohol on the premises which choose to open late are likely to benefit from additional sales of alcohol during this time. Explanatory memoranda for The Licensing Act 2003 (Royal Wedding Licensing Hours) Order 2011 and The Licensing Act 2003 (Diamond Jubilee Licensing Hours) Order 2012, estimate a saving to business, charities and voluntary bodies of £240,000 to £480,000. Both of those Orders extended licensing hours for a similar period of two hours on a Friday and Saturday evening. 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.

10.2 The impact on the public sector may comprise additional policing costs. However, the operational response will vary from force to force and within force, depending on the perception of likely crime and disorder associated with late night opening. The Government would expect forces to meet these costs from within their existing budgets.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small business, but will not have an adverse impact on it.

12. Monitoring & review

12.1 This Order will only apply on the specified days. There are, therefore, no plans to review it.

13. Contact

13.1 Anna Dawson, Drugs and Alcohol Unit, the Home Office on 020 7035 8711 can answer any queries regarding the instrument.