EXPLANATORY MEMORANDUM TO THE

LICENSING ACT 2003 (LICENSING STATEMENT PERIOD) ORDER 2004 No.2362

1. Introduction

1.1 This explanatory memorandum has been prepared by the department for Culture, Media and Sport.

2. Description

2.1 This Order appoints 7th January 2005 as the day on which the three year period for the purposes of section 5(2) of the Licensing Act 2003 is to begin. This day represents the start of the first period of three years in respect of which each licensing authority must determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy.

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

3.1 None

4. Legislative background

4.1 Section 5 of the Licensing Act 2003 makes provision for the determination by each licensing authority of its policy with respect to the exercise of its licensing functions and publication of its statement of licensing policy. In carrying out it licensing functions, among other things, section 4 of the Licensing Act 2003 provides that a licensing authority must have regard to its licensing statement published under section 5 of the licensing Act 2003. Section 5 of the Licensing Act 2003 requires each licensing authority to consult a wide range of interested parties before determining its policy and provides that each licensing authority must keep that policy under review during each three year period.

5. Extent

5.1 The Licensing Act 2003 extends to England and Wales.

6. Policy background

6.1 As section 4 of the Licensing Act 2003 provides that a licensing authority must have regard to its statement of policy in carrying out its functions under the Act, the Government's

policy is that such statements are published as far in advance of the first appointed day for the purposes of the transitional provisions contained in Schedule 8 to the Act as is practicable. The three year period must commence on or before the first appointed day as licensing authorities must have regard to it in exercising their functions which begin on that day. SI Number 2004/1739 appointed 7th February 2005 as the first appointed day. The Government's policy is that each licensing authority should determine its policy and publish a statement of its licensing policy at least a month before the first appointed day. This is so that those who wish to exercise rights conferred upon them for exercise during the transitional period and those who wish to apply for new authorisations within that period before the new licensing regime comes fully into force have time to consider the policy when preparing an application.

6.2 There is likely to be a degree of public interest in the Order, in particular by those who intend to apply for the conversion of their existing authorisations to new authorisations under the Licensing Act 2003. Such persons will want to be aware of the local policy to which the licensing authority to which they will be making applications intends to have regard.

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 the first three year period begins which sets the date by which their licensing policies must be consulted upon and determined and published.

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.

Department for Culture, Media and Sport
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