EXPLANATORY MEMORANDUM TO

THE LICENSING ACT 2003 (SECOND APPOINTED DAY) ORDER 2005

2005 No. 2091

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Order appoints 24th November 2005 as the "second appointed day" for the purposes of the transitional provisions contained in Schedule 8 to the Licensing Act 2003. The second appointed day marks the date on which new licences issued under paragraph 5(1) of Schedule 8 and new certificates issued under paragraph 17(1) of the Schedule take effect.

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 cafés (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 2003 Act. Those provisions required 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 2003 Act. That date was specified as 7th February 2005 by the Licensing Act 2003 (First appointed day and personal licences transitional period) Order 2004 (S.I. 2004/1739).

4.2 The present Order specifies 24th November as the second appointed day for the purposes of Parts 1 and 2 of Schedule 8. The second appointed day is the day on which new licences and certificates, which have been issued on conversion from authorisations under the earlier legislative systems, take effect.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Licensing Act 2003 provides for a period of six months for applications to convert existing licences and certificates to new premises licences, club premises certificates and personal licences. Under Schedule 8 to the Act, all such applications will have been determined within a further period of three months at latest. It is open to the Secretary of State to set the second appointed day as any day after the end of the aggregate nine month period following the first appointed day (7 February 2005). On the second appointed day, all existing licences and certificates will cease to have effect and all new premises licences and club premises certificates will be brought into effect. The Government considers it important to bring the new arrangements into effect as soon as possible because they should provide greater flexibility for business, greater choice for consumers, more effective intervention by local residents and a range of new powers intended to contribute more effectively to the control of alcohol-related crime and disorder. However, following representations from the circus industry, the Government has agreed to delay the second appointed day for a short period until 24 November 2005, which is after the start of that industry's closed season for travelling circuses. This would enable the industry to make an easier adjustment to the new regime.

7.2 There is likely to be a high degree of public interest in the Order, in particular because it marks the end of the existing permitted hours in England and Wales for the sale by retail of alcohol and the introduction of flexible hours of trading.

7.3 The Joint Committee may wish to be aware that it is intended to make a further commencement order shortly to bring into effect remaining provisions of the Licensing Act 2003.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this Order.

8.2 The impact of the Order flows from its specifying the date from which new licences and certificates issued under the transitional provisions set out in Schedule 8 to the Licensing Act 2003 will take effect.

9. Contact

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