EXPLANATORY MEMORANDUM TO

THE VIOLENT CRIME REDUCTION ACT 2006 (DRINKING BANNING ORDERS) (APPROVED COURSES) REGULATIONS 2009

2009 No. 1839

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes provision about approved courses for drinking banning orders (DBOs). A DBO is a civil order designed to protect persons from further criminal or disorderly conduct by an individual while under the influence of alcohol. Recipients of a DBO can be referred by the court to an approved course provider to attend a course which will educate the recipient about the social and health implications of heavy alcohol consumption.

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

3.1 None

4. Legislative Context

4.1 The instrument is made under the powers in sections 12(5), 13(2) and (8) and 14(5) of the Violent Crime Reduction Act 2006. This is the first use of these powers.

4.2 DBOs can be made either on application to the courts by the police or local authority, or following conviction for an alcohol-related offence. The Home Office is currently only implementing DBOs on application. This will mean that the police and local authorities will be able to apply to the magistrates' court (and the county court in certain circumstances) for the imposition of a DBO on an individual.

4.3 This instrument makes provision about approved courses, which an individual may agree to attend as part of a DBO. The instrument sets out how applications by course providers must be made in order for their course to be approved by the Secretary of State for the purposes of DBOs. It sets out the arrangements for monitoring of approved courses, and prescribes the forms to be used to show completion or non-completion of an approved course.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

7.1 DBOs are civil orders that can be made against an individual aged at least 16 if s/he has engaged in criminal or disorderly conduct while under the influence of alcohol and a DBO is necessary to protect other persons from further conduct of that kind. The order may impose any prohibition on the individual that the court considers necessary to protect others from alcohol-related crime or disorderly conduct. The prohibitions must include whatever the court thinks necessary for that purpose with regard to the individual entering premises that sell alcohol (e.g. whether they should be banned from entering pubs/clubs in a given vicinity).

7.2 DBOs are seeking to change behaviour and therefore reduce alcohol-related crime and disorder. It has been estimated that alcohol-related crime and disorder costs between £8 billion and £13 billion per year.

7.3 Recipients of a DBO have the opportunity to attend an approved course, which if completed satisfactorily, will allow the length of the order to be reduced. Approved courses are undertaken on a voluntary basis as a means of addressing alcohol-related behaviour. These courses focus on educating individuals about the serious social and health impact of heavy alcohol consumption.

7.4 This instrument makes provision related to approved courses. Regulations 2 and 3 set out how applications are to be made to the Secretary of State for the purpose of approval and the range of fees that may be charged to attend a course.

7.5 Regulations 5 to 7 make provision about monitoring of courses, including a requirement on approved course providers to record certain information about persons who attend them. Course providers are required to provide certain information to the Secretary of State on a periodic basis.

7.6 Regulation 8 provides for the withdrawal of approvals.

7.7 Regulations 10 and 11 prescribe the forms to be used on completion or non-completion of an approved course.

8. Consultation outcome

8.1 Consultation on DBOs was first carried out in January/February 2005 in 'Drinking Responsibly, The Government's Proposals', which covered all alcohol-related aspects of the Violent Crime Reduction Bill. The public along with the police, local authorities and the alcohol industry were consulted on proposals and over 150 responses were received. These included responses for example from:

- Association of Chief Police Officers (ACPO)
- Alcohol Concern
- Local Government Association (LGA)
- Local Authorities Co-ordinating Office on Regulatory Services (LACORS)
- Police Federation
- Various responses from the alcohol industry

8.2 There was general support for the principle of DBOs from the enforcement authorities, the alcohol industry and other organisations. A number of responses questioned why the Government were proposing to introduce DBOs when authorities were already using Anti-Social Behaviour Orders (ASBOs). However, ASBOs last for a minimum of two years and they generally contain more prohibitions than just exclusion zones relating to alcohol. What was needed was a tool with a more flexible, shorter time span that could be particularly used to tackle alcohol misuse. Broad proposals for DBOs have been discussed with ACPO, LGA, LACORS and other stakeholders, including the alcohol industry, since the 2005 General Election and they were broadly supportive.

8.3 Further consultation was carried out from August-December 2006 with various external organisations, the judiciary, the alcohol industry and within the Home Office on guidance for drinking banning orders. This included a number of meetings and email circulation groups collecting comments and feedback from different stakeholders. These included ACPO, LACORS, the Crown Prosecution Service, other Government Departments, 7 members of the judiciary, the Wine and Spirit Trade Association and the British Beer and Pubs Association.

8.4 A steering group has been set up to advise the Home Secretary in his role of approving course providers. The group has consulted on and has agreed the policy set out in the regulations. The steering group has discussed DBOs in general, course providers and their relationship with the courts, course content and provision throughout the country. The steering group includes advisers from ACPO, Magistrates' Association, Department of Health, National Treatment Agency, Home Office Alcohol Strategy and Drug Strategy Units, as well as practitioners with expert knowledge of alcohol misuse and rehabilitation of alcohol-related offenders.

8.5 The Home Office has run a number of workshops from October 2008 to April 2009 aimed at promoting the use of alcohol tools and powers. Information on DBOs has been included so that enforcement officers and the judiciary are aware that the powers are shortly due to be commenced. Workshops have given stakeholders the chance to share their feedback on the practical implementation of DBOs, while having direct contact with Home Office officials in question and answer sessions. Building on the success of the 2008/09 seminars aimed at enforcement officers in 2009/10 the Home Office will run a series of at least forty 2-day alcohol-enforcement training seminars aimed at magistrates, courts officials, elected members who sit on licensing committees and operational police officers which will again include information and discussion on DBOs. The first pilot event took place in Islington in June. The following 39 seminars will all be held in our priority areas.

8.6 In addition DBOs are also being included in discussions for practitioner focused consultation in the nine Government Office regions (and Wales) on the proposals outlined in 'Safe. Sensible. Social. Selling Alcohol Responsibly: A Consultation on the New Mandatory Code of Practice for Alcohol Retailers'. These events will be attended by around 100 stakeholders taken from the enforcement, local authority, health and alcohol industry fields to allow discussion on the content of the consultation to inform Ministerial decision-making on the final content of the Mandatory Code of Practice.

9. Guidance

9.1 Guidance for practitioners, magistrates and course providers will be published by the Home Office and sent to key stakeholders in advance of DBOs coming into force. The guidance will also be available on the Home Office website.

9.2 DBO course providers will be required under their terms and conditions to make contact with the courts in the areas they are covering. Course providers will provide training for court staff and produce leaflets explaining the courses.

9.3 In support of the alcohol enforcement skills seminars outlined above the Home Office are also publishing in July 2009 a comprehensive guide for delivery partners on alcohol-enforcement tools and powers, of which DBOs is a part. This will be coupled with the production of a comprehensive digital resource pack to ensure delivery partners have ready access to all the information and reference material they need to improve enforcement, particularly against problem premises.

10. Impact

10.1 No impact on business, charities or voluntary bodies is foreseen.

10.2 The impact on the public sector is small, affecting the courts and legal aid.

10.3 An Impact Assessment has not been prepared for this instrument. This is because no impact on business, charities or voluntary bodies is foreseen and the impact on the public sector is small.

11. Regulating small business

11.1 The instrument does not apply to small business.

12. Monitoring & review

12.1 Approved courses focus on educating individuals about the serious social and health impact of heavy alcohol consumption, and through this education re-offending rates are expected to be reduced.

12.2 Monitoring of course providers and those attending/completing approved courses will be carried out by the Home Office through quarterly and annual reports from the approved course providers. The instrument will be subject to review by the Home Office in consultation with the steering group and may be amended accordingly.

12.3 The introduction of DBOs on application will be closely monitored and reviewed by the Home Office to enable a decision to be made on the introduction of DBOs on conviction.

13. Contact

Joanne French at the Home Office Tel: 0207 035 0066 or email: Joanne.French@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.