

EXPLANATORY MEMORANDUM TO THE

SERIOUS ORGANISED CRIME AND POLICE ACT 2005 (DESIGNATED AREA) ORDER 2005

2005 No. 1537

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

2. Description

2.1 This instrument will, subject to annulment in pursuance of a resolution of either House, come into force on 1st July 2005. It sets out the designated area for the purposes of sections 132-137 of the Serious Organised Crime and Police Act 2005.

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

3.1 None.

4. Legislative Background

4.1 The instrument is made under section 138 of the Serious Organised Crime and Police Act 2005. Sections 132 to 137 are brought into force by the Serious Organised Crime and Police Act 2005 (Commencement No. 1, Transitional and Transitory Provisions) Order 2005. The provisions relating to the procedure for giving notice of a demonstration and obtaining an authorisation come into force on 1st July 2005. The remaining provisions will come into force on 1st August 2005.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 In November 2003 the House of Commons Select Committee on Procedure published a report on Sessional Orders and procedures (Third Report, Session 2002/3, HC 855). Amongst other things, the Report considered the issue of access to Parliament and demonstrations in Parliament Square. The Committee made the following recommendation:

“We therefore recommend that the Government should introduce appropriate legislation to prohibit long-term demonstrations and to ensure that the laws about access are adequate and enforceable. We also expect the appropriate authorities to explore fully the possibility of using existing legislation to control the use of loud-hailers and other amplification equipment; failing that, the Government should consider legislation on this subject.”.

7.2 The Committee published the Government's response to the Committee's Report in May 2004 (Second Special report, 2003/4 Session, HC 613). In response to the recommendation above the Government said:

“The Government's first principle is that the right of free expression under Article 10 of the European Convention on Human Rights should be protected. It accepts that access to Parliament must be maintained, the working environment of Parliament safeguarded and the right of people working in Parliament not to be subject to anti-social behaviour. The Government does, however, note with interest the Mayor of London World Squares for All proposals for Parliament Square and looks forward to the conclusions of the Steering Group.

The Home Office will, however, undertake a consultation exercise on developing police powers and making sure that the police are empowered to act effectively and proportionately, including using their existing powers, taking into account advice from the Police and Security Service on security implications for the Palace of Westminster as a result of their current review.”.

7.3 The Government duly sought views (in the consultation paper “Policing: Modernising Police Powers to Meet Community Needs”) on the effectiveness of existing legislation to control demonstrations in Parliament Square and whether extending the power to impose conditions on all demonstrations in the vicinity of Parliament would be desirable.

7.4 The Procedure Committee's report and the Government's response were debated in the House of Commons on 3 November 2004 (Hansard col. 370-423).

7.5 Consultation took place on the measures in the consultation paper “Policing: Modernising Police Powers to Meet Community Needs.”.

7.6 An undertaking was given in the House of Lords by Baroness Scotland during the Report stage of the Bill that Trafalgar Square would be excluded from the designated area (Hansard 6th April 2005, column 770).

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is as follows. Sections 132- 137 of the Serious Organised Crime and Police Act 2005 introduce new measures to deal with demonstrations in a designated area around Parliament. Section 138(3) states that no point in this area may be more than one kilometre in a straight line from the point nearest to it in Parliament Square.

8.3 Within the designated area, anyone who organises a demonstration, takes part in a demonstration or carries on a demonstration by himself must give written notice to the Commissioner of Police of the Metropolis.

8.4 The Commissioner must give authorisation for the demonstration but he may impose conditions on it. It is an offence to fail to comply with a condition. In addition, the senior police officer at the scene may also impose additional conditions.

8.5 A copy of the map showing the designated area will be published shortly on the Home Office web site.

9. Contact

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catherine.webster@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.