

2010 No. 722 (C.48)

LICENCES AND LICENSING, ENGLAND

**The Policing and Crime Act 2009 (Commencement No. 1 and
Transitional and Saving Provisions) (England) Order 2010**

Made - - - -

10th March 2010

The Secretary of State makes the following Order in exercise of the powers conferred by sections 27(11) and 116(4)(a) and (7) of, and paragraphs 3 and 5 of Schedule 3 to, the Policing and Crime Act 2009(a).

Citation and application

1.—(1) This Order may be cited as the Policing and Crime Act 2009 (Commencement No. 1 and Transitional and Saving Provisions) (England) Order 2010.

(2) This Order applies only in relation to England.

Interpretation

2.—(1) In this Order—

“the 2009 Act” means the Policing and Crime Act 2009,

“the 2007 Act” means the London Local Authorities Act 2007(b),

“the 2003 Act” means the Licensing Act 2003(c),

“the 1986 Act” means the Greater London Council (General Powers) Act 1986(d),

“the 1982 Act” means the Local Government (Miscellaneous Provisions) Act 1982(e),

“the first appointed day”, in relation to the area of a local authority, means the day on which Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act comes into force in that area in consequence of a resolution of the local authority under section 2 of the 1982 Act or paragraph 2(2) of Schedule 3 to the 2009 Act,

“hostess bar” has the meaning given by paragraph 3B of Schedule 3 to the 1982 Act as it has effect by virtue of section 33 of the 2007 Act,

“local authority” has the meaning given by section 2(5) of the 1982 Act,

(a) 2009 c. 26.

(b) 2007 c. ii.

(c) 2003 c. 17.

(d) 1986 c. iv. There are amendments to that Act not relevant to this Order.

(e) 1982 c. 30. Schedule 3 to that Act has been amended by section 52 of, and paragraph 7 of Schedule 14 to, the Police and Justice Act 2006 (c. 48), section 198 of, and paragraphs 82 and 85 of Schedule 6 to, the Licensing Act 2003 (c. 17), section 24 of, and paragraph 16 of Schedule 2 to, the Cinemas Act 1985 (c. 13), section 26(1) of the Police and Criminal Evidence Act 1984 (c. 60), sections 111 and 174 of, and paragraph 22 of Schedule 7 and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15), S.I. 1984/447, S.I. 2005/886 and in relation to certain London boroughs by section 12 of the Greater London Council (General Powers) Act 1986 (c. iv), section 33 of the London Local Authorities Act 2007 (c. ii) and S.I. 2005/1541. It will also be amended by section 27 of the Policing and Crime Act 2009 (c. 26) as from 6th April 2010.

“premises” (other than in the expressions “premises licence” and “club premises certificate”) has the meaning given by paragraph 2A(14) of Schedule 3 to the 1982 Act,

“premises licence” (and “club premises certificate”) have the same meaning as in the 2003 Act,

“relevant entertainment” has the same meaning as in paragraph 2A of Schedule 3 to the 1982 Act,

“the second appointed day”, in relation to the area of a local authority, means the first day after the end of the period of 6 months beginning with the day which is the first appointed day in relation to that area,

“sex cinema” has the meaning given by paragraph 3 of Schedule 3 to the 1982 Act,

“sex encounter establishment” has the meaning given by paragraph 3A of Schedule 3 to the 1982 Act as it has effect by virtue of section 12 of the 1986 Act,

“sex shop” has the meaning given by paragraph 4 of Schedule 3 to the 1982 Act,

“sexual entertainment venue” (and references to the use of premises as such a venue) have the meanings given by paragraph 2A of Schedule 3 to the 1982 Act,

“the third appointed day”, in relation to the area of a local authority, means the first day after the end of the period of 12 months beginning with the day which is the first appointed day in relation to that area.

(2) The references in articles 7(1), 8(1) and 9(1) to an application for the grant of a licence under Schedule 3 to the 1982 Act in relation to a sexual entertainment venue include references to an application for a variation or renewal of a licence under Schedule 3 to the 1982 Act for a sex shop, sex cinema or hostess bar so as also to enable the use of the premises concerned as a sexual entertainment venue.

(3) The references in articles 7 to 9 to the determination of an application do not include references to the determination of any appeal against a refusal to grant such an application.

Provisions coming into force on 6th April 2010

3. The day appointed for the coming into force of the following provisions of the 2009 Act is 6th April 2010:

- (a) section 27 (regulation of lap dancing and other sexual entertainment venues etc) so far as not already in force;
- (b) Schedule 3 (lap dancing and other sexual entertainment venues etc: transitional provision) so far as not already in force;
- (c) paragraph 23 of Schedule 7 (amendment to the 2003 Act) and section 112(1) (minor and consequential amendments and repeals) so far as it relates to that paragraph.

Transitional and saving provisions

4. Articles 5 to 12 apply if Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act comes into force in the area of a local authority in consequence of a resolution of the authority under section 2 of the 1982 Act or paragraph 2(2) of Schedule 3 to the 2009 Act.

5.—(1) Paragraphs 28 and 29 of Schedule 3 to the 1982 Act (existing transitional provision) do not apply in relation to sexual entertainment venues.

(2) Paragraph (1) does not prevent any continued application on or after the first appointed day of paragraphs 28 and 29 of Schedule 3 to the 1982 Act, as modified by article 2(3) of the Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010(a), so far as those paragraphs applied immediately before that day in relation to sex encounter establishments.

(a) S.I. 2010/723.

6.—(1) It is lawful for any person who, immediately before the first appointed day—

- (a) has a 2003 Act licence, but not a sex encounter establishment licence, in relation to any premises, and
- (b) uses the premises as a sexual entertainment venue under the 2003 Act licence or is undertaking preparatory work to use the premises as such a venue under that licence,

to use the premises as a sexual entertainment venue under a 2003 Act licence until the third appointed day or the determination of any application to which article 7 or 8 applies and which is made by that person (including the determination of any appeal against a refusal to grant the application), whichever is the later.

(2) In paragraph (1) —

“2003 Act licence”, in relation to any premises, means a premises licence or club premises certificate under which it is lawful to provide relevant entertainment at those premises,

“sex encounter establishment licence” means a licence for a sex encounter establishment under Schedule 3 to the 1982 Act as it has effect by virtue of section 12 of the 1986 Act.

(3) Paragraph (1) applies despite Schedule 3 to the 1982 Act (and therefore any use authorised by that paragraph is not contrary to paragraph 6 of that Schedule) but is otherwise without prejudice to any other enactment.

7.—(1) This article applies to an application, which is made under Schedule 3 to the 1982 Act on or after the first appointed day but on or before the second appointed day, for the grant of a licence under that Schedule in relation to a sexual entertainment venue.

(2) The local authority concerned must not determine any application to which this article applies until they have considered all such applications.

(3) Where the local authority grant such an application before the third appointed day in relation to premises to which article 6(1) applies, the licence does not take effect until the third appointed day.

(4) Paragraph (3) does not prevent any other licence granted on an application to which this article applies from having immediate effect.

8.—(1) This article applies to an application, which is made under Schedule 3 to the 1982 Act after the second appointed day but before the third appointed day, for the grant of a licence under that Schedule in relation to a sexual entertainment venue.

(2) The local authority concerned must not determine any application to which this article applies until they have determined all the applications to which article 7 applies.

(3) Where the local authority grant an application to which this article applies before the third appointed day in relation to premises to which article 6(1) applies, the licence does not take effect until the third appointed day.

(4) Paragraph (3) does not prevent any other licence granted on an application to which this article applies from having immediate effect.

9.—(1) This article applies to an application, which is made under Schedule 3 to the 1982 Act on or after the third appointed day, for the grant of a licence under that Schedule in relation to a sexual entertainment venue.

(2) The local authority concerned must not determine any application to which this article applies until they have determined all the applications to which article 7 applies.

10.—(1) The amendment made to Schedule 3 to the 1982 Act by section 27(5) of the 2009 Act (grounds for refusal of licences) does not apply to any application made under that Schedule before the first appointed day for the grant or renewal of a licence for a sex shop or sex cinema.

(2) The amendment made to Schedule 3 to the 1982 Act by section 27(7) of the 2009 Act (fees) does not apply to any application made under that Schedule before the first appointed day for the variation of a licence for a sex shop or sex cinema.

(3) The amendment made to Schedule 3 to the 1982 Act by section 27(8) of the 2009 Act (powers of constables and local authority officers) does not apply where a constable or authorised officer of a

local authority is acting in relation to a sex shop or sex cinema under the authority of a warrant granted under that Schedule before the first appointed day.

(4) The amendment made to Schedule 3 to the 1982 Act by section 27(9) of the 2009 Act (appeals) does not apply to any application made under that Schedule before the first appointed day for the renewal of a licence for a sex shop or sex cinema.

(5) This article does not apply in relation to any application made, or warrant granted, under Schedule 3 to the 1982 Act as it has effect by virtue of section 12 of the 1986 Act or section 33 of the 2007 Act.

11. The amendment made by paragraph 23 of Schedule 7 to the 2009 Act does not apply in relation to premises to which article 6(1) applies until the authority granted by that article to use the premises expires.

12.—(1) Paragraph (2) applies if, on an application to which article 7 or 8 applies in relation to premises to which article 6(1) applies, a person is granted a licence under Schedule 3 to the 1982 Act to use the premises as a sexual entertainment venue.

(2) Any conditions in the premises licence or club premises certificate concerned which—

- (a) relate expressly and exclusively to the regulation of relevant entertainment at the premises, or
- (b) are inconsistent with, and less onerous than, the conditions in the licence granted under Schedule 3 to the 1982 Act,

are to be treated as if deleted from the premises licence or club premises certificate concerned from the day on which the licence granted under Schedule 3 to the 1982 Act has effect.

Home Office
10th March 2010

Alan Campbell
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This is the first Commencement Order made under the Policing and Crime Act 2009 (“the 2009 Act”) for England only. Article 3 brings the remainder of the provisions of the 2009 Act relating to sexual entertainment venues into force on 6th April 2009. Articles 4 to 12 contain transitional and saving provisions in relation to these provisions of the Act. Broadly speaking, existing lap dancing clubs with a premises licence or club premises certificate under the Licensing Act 2003, under which it is lawful to provide such entertainment, will continue to be able to operate for one year after local authorities adopt the 2009 Act provisions or, if later, the determination of any application submitted during that year.

The Welsh Ministers have the power to commence and make equivalent transitional and saving provisions for Wales.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force, or will be brought into force, by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1	15th March 2010	2010/125
Section 5	12th March 2010	2010/507
Section 6	25th January 2010	2009/3096
Section 7	25th January 2010	2009/3096
Section 8	25th January 2010	2009/3096
Section 9	25th January 2010	2009/3096
Section 10	29th January 2010	2010/125
Section 11	29th January 2010	2010/125
Section 12	29th January 2010	2010/125
Section 13	29th January 2010	2010/125
Section 14	1st April 2010	2010/507
Section 15	1st April 2010	2010/507
Section 16	1st April 2010	2010/507
Section 17	1st April 2010	2010/507
Section 18	1st April 2010	2010/507
Section 19	1st April 2010	2010/507
Section 20	1st April 2010	2010/507
Section 21 (for England and Wales only)	1st April 2010	2010/507
Section 22	1st April 2010	2010/507
Section 23	1st April 2010	2010/507
Section 24	1st April 2010	2010/507
Section 25	1st April 2010	2010/507
Section 26	25th January 2010	2009/3096
Section 27 (partially for England only)	2nd March 2010	2010/507
Section 28	29th January 2010	2010/125
Section 29	29th January 2010	2010/125
Section 30	29th January 2010	2010/125
Section 31	29th January 2010	2010/125
Section 32	29th January 2010	2010/125
Section 33	29th January 2010	2010/125
Section 51	25th January 2010	2009/3096
Section 61	25th January 2010	2009/3096
Section 62	25th January 2010	2009/3096
Section 64	25th January 2010	2009/3096
Section 67	25th January 2010	2009/3096
Section 68	25th January 2010	2009/3096
Section 69	25th January 2010	2009/3096
Section 70	25th January 2010	2009/3096
Section 71	25th January 2010	2009/3096
Section 72	25th January 2010	2009/3096
Section 73	25th January 2010	2009/3096
Section 74	25th January 2010	2009/3096
Section 75	25th January 2010	2009/3096
Section 76	25th January 2010	2009/3096
Section 77	25th January 2010	2009/3096

Section 78	25th January 2010	2009/3096
Section 79 (England, Wales and Scotland)	29th January 2010	2010/125
(Northern Ireland)	1st April 2010	2010/507
Section 80 (England, Wales and Scotland)	29th January 2010	2010/125
(Northern Ireland)	1st April 2010	2010/507
Section 83	29th January 2010	2010/125
Section 84 (partially)	29th January 2010	2010/125
Section 88	30th November 2009	2009/3096
Section 91	30th November 2009	2009/3096
Section 98	25th January 2010	2010/52
Section 97	29th January 2010	2010/125
Section 99	25th January 2010	2010/52
Section 101	25th January 2010	2010/52
Section 103	1st April 2010	2010/507
Section 104	1st April 2010	2010/507
Section 105	1st April 2010	2010/507
Section 106	1st April 2010	2010/507
Section 107	1st April 2010	2010/507
Section 108	2nd March 2010	2010/507
	1st April 2010	2010/507
Section 110	29th January 2010	2010/125
Section 112 (partially)	25th January 2010	2009/3096
	25th January 2010	2010/52
	29th January 2010	2010/125
	12th March 2010	2010/507
	1st April 2010	2010/507
Schedule 1	1st April 2010	2010/507
Schedule 2 (England and Wales only)	1st April 2010	2010/507
Schedule 3 (partially for England only)	2nd March 2010	2010/507
Schedule 4	29th January 2010	2010/125
Schedule 6 (England, Wales and Scotland)	29th January 2010	2010/125
(Northern Ireland)	1st April 2010	2010/507
Schedule 7 (partially)	25th January 2010	2009/3096
	29th January 2010	2010/125
	12th March 2010	2010/507
	1st April 2010	2010/507
Schedule 8 (partially)	25th January 2010	2009/3096
	25th January 2010	2010/52
	29th January 2010	2010/125
	1st April 2010	2010/507

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STATUTORY INSTRUMENTS

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The Policing and Crime Act 2009 (Commencement No. 1 and
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