

Appendix 1

Local Authorities [Alcohol Consumption in Designated Public Places] Regulations 2001

1.1. Section 13 [2] of the Criminal Justice and Police Act 2001 states:

“ A Local Authority may for the purposes of subsection [1] by order identify any public place in their area if they are satisfied that:

[a] nuisance or annoyance to members of the public or a section of the public; or

[b] disorder has been associated with the consumption of intoxicating liquor [alcohol] in that place.”

1.2. Section 13 [4] further states:

“ The Secretary of State shall by regulations prescribe the procedure to be followed in connection with the making of orders under subsection [2].”

1.3. The Local Authorities [Alcohol Consumption in Designated Public Places] Regulations 2001 came into force on 1st September, 2001.

1.4. The Regulations prescribe the process of consultation, and publicity which must be followed before a Local Authority takes action to make an order creating a designated public place.

2. THE REGULATIONS

2.1. Regulation 3 [1] states:

“ Before making an order, a local authority shall consult:

[a] the Chief Officer of Police for the area in which the public place proposes to be identified in the order is situated;

[b] the parish or community council in whose area the public place is situated;

[c] the chief officer of police, the local authority and the parish or community council for any area near to the public place which they consider may be affected by the designation; and

[d] the licensee of any licensed premises in that place or which they consider may be affected by the designation.”

2.2. Regulation 3 [2] goes on to require the Local Authority to take reasonable steps to consult the owners or occupiers of any land proposed to be identified.

2.3. Wider publicity to a proposed order is required under Regulation 5 which states:

“Before making an order, a Local Authority shall cause to be published in a newspaper circulating in their area a notice:

[a] identifying specifically or by description the place proposed to be identified:

[b] setting out the effect of an order being made in relation to that place: and

[c] inviting representations as to whether or not an order should be made.”

2.4. No order shall be made until at least 28 days after the publication of the notice referred to in Regulation 5 [detailed in paragraph 3.3 above.

2.5. After making an order and before it takes effect the Local Authority must “cause to be published in a newspaper circulating in their area a notice:

[a] identifying the place which has been identified in the order;

[b] setting out the effect of the order in relation to that place; and

[c] indicating the date on which the order will take effect.”

2.6. Regulation 4 provides:

“ A Local Authority shall consider any representations as to whether or not a particular public place should be identified in an order whether made as a result of consultation under Regulation 3, in response to a notice under Regulation 5, or otherwise.”

2.7. If the Local Authority make an order and before that order has effect the Local Authority must erect in the place identified in the order such signs as they consider sufficient to “draw to the attention of members of the public in that place to the effect of the order”. There is essentially a requirement to have signs that specify that it is an offence to consume alcohol in the designated area. Additionally the Local authority must send a copy of any order made to the Secretary of State.

3. EFFECT OF DESIGNATING A PUBLIC PLACE

3.1. Designation of a Public Place in accordance with the Regulations invokes sections 12 and 14 of the Criminal Justice and Police Act 2001. Section 12 States:

“12. 1 Subsection [2] applies if a constable reasonably believes that a person is, or has been, consuming intoxicating liquor [alcohol] in a designated public place or intends to consume intoxicating liquor [alcohol] in such a place.

12.2 The constable may require the person concerned:

[a] not to consume in that place anything which is, or which the constable reasonably believes to be, intoxicating liquor [alcohol];

[b] to surrender anything in his possession which is, or which the constable reasonably believes to be , intoxicating liquor [alcohol] or a container for such liquor [alcohol].

12.3 A constable may dispose of anything surrendered to him under subsection [2] in such manner as he considers appropriate.

12.4 A person who fails without reasonable excuse to comply with a requirement imposed on him under subsection [2] commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale [£500].

12.5 A constable who imposes a requirement on a person under subsection [2] shall inform the person concerned that failing without reasonable excuse to comply with the requirement is an offence.”

3.2. Section 14 provides for places which “are not public places”. Such places are exempted from the impact of an order made by the Council:

[a] a licensed premises or a registered club;

[b] a place within the curtilage of any licensed premises or registered club;

[c] a place where the sale of intoxicating liquor is for the time being authorised by an occasional permission or was so authorised within the last twenty minutes;

[d] a place where the sale of intoxicating liquor is not for the time being authorised by an occasional licence but was so authorised within the last twenty minutes;

NB. The above description relate to the provisions of the Licensing Act 1964. They are altered when the Licensing Act 2003 takes full effect later this year.

[e] a place where facilities or activities relating to the sale or consumption of intoxicating liquor [alcohol] are for the time being permitted by virtue of a permission granted under section 115E of the Highways Act 1980.