WELSH STATUTORY INSTRUMENTS

2010 No. 1395 (W.124)

LOCAL GOVERNMENT, WALES
LICENCES AND LICENSING, WALES

The Policing and Crime Act 2009 (Transitional and Saving Provisions)(Wales) Order 2010

Made - - - - 4 May 2010

The Welsh Ministers, in exercise of the powers conferred by section 27(11) and paragraphs 3 and 5 of Schedule 3 to the Policing and Crime Act 2009(**1**) make the following Order:

Title and application

1. The title of this Order is the Policing and Crime Act 2009 (Transitional and Saving Provisions) (Wales) Order 2010 and it applies in relation to Wales.

Interpretation

2.—(1) In this Order—

"the 2009 Act" ("*Deddf 2009*") means the Policing and Crime Act 2009,

"the 2003 Act" ("*Deddf 2003*") means the Licensing Act 2003(**2**),

"the 1982 Act" ("*Ddeddf 1982*") means the Local Government (Miscellaneous Provisions) Act 1982(**3**),

"the first appointed day" ("*y diwrnod penodedig cyntaf*") 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,

"local authority" ("*awdurdod lleol*")has the meaning given by section 2(5) of the 1982 Act,

(**1**) 2009 c. 26.
(**2**) 2003 c. 17.
(**3**) 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 5 to, the Licensing Act 2003, 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 to, the Serious Organised Crime and Police Act 2005 (c. 15), S.I.1984/447, S.I. 2005/886, S.I. 2009/2999, 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 the 6 April 2010 in relation to England and the 8 May 2010 in relation to Wales.

"premises" ("*mangre*") (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" ("*trwydded i fangre*") (and "club premises certificate" ("tystrsgrif mangre clwb")) have the same meaning as in the 2003 Act,

"relevant entertainment" ("*adloniant perthnasol*") has the same meaning as in paragraph 2A of Schedule 3 to the 1982 Act,

"the second appointed day" ("*yr ail ddiwrnod penodedig*") 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" ("*sinema ryw*") has the meaning given by paragraph 3 of Schedule 3 to the 1982 Act,

"sex shop" ("*siop ryw*") has the meaning given by paragraph 4 of Schedule 3 to the 1982 Act,

"sexual entertainment venue" ("*lleoliad adloniant rhywiol*") (and references to the use of the premises as such a venue) have the meaning given by paragraph 2A of Schedule 3 to the 1982 Act,

"the third appointed day" ("*y trydydd diwrnod penodedig*"), 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 6(1), 7(1) and 8(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 or sex cinema so as to enable the use of the premises concerned as a sexual entertainment venue.

(3) The references in articles 6 to 8 to the determination of an application do not include references to the determination of any appeal against a refusal to grant such an application.

Transitional and saving provisions

3. Articles 4 to 11 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.

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

5.—(1) It is lawful for any person who, immediately before the first appointed day has a 2003 Act licence in relation to any premises and 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 the 2003 Act licence until the third appointed day, or the determination of an application to which article 6 or 7 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.

(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.

6.—(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.