



department for
**culture, media
and sport**

Consultation on the Royal Parks and Other Open Spaces (Amendment) (No. 2) Regulations 2012

improving
the quality
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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1. The context for regulations

Introduction

- 1.1 The Government is committed to restoring rights to non-violent protest, but are also committed to ensuring that non protesters aren't prevented from enjoying our public spaces too, as has happened with encampments and other disruptive activities in and around Parliament Square.
- 1.2 The *Police Reform and Social Responsibility Act 2011*¹ ("2011 Act") contains provisions repealing section 132-138 of *Serious Organised Crime and Police Act 2005*² to remove unnecessary restriction on right to peaceful protest, whilst introducing measures to prevent disruptive activities such as erection of tents and use of sleeping equipment which prevents others from using public spaces in Parliament Square. The 2011 Act does so by replacing the ban on protests with a system under which it is an offence to refuse a direction not to undertake these disruptive activities in Parliament Square. The 2011 Act also creates a power of seizure, retention, disposal and forfeiture of items used in connection with such an offence.
- 1.3 The Secretary of State has powers under the *Parks Regulations (Amendment) Act 1926* to make regulations to secure the proper management of the Royal Parks. The current principal regulations are the *Royal Parks and Other Open Spaces Regulations 1997*³ ("the 1997 Regulations"), as amended. The Royal Parks is an Executive Agency of the Department for Culture, Media and Sport and manages the Royal Parks on behalf of the Secretary of State.
- 1.4 Amongst the Royal Parks are certain open spaces in the vicinity of Parliament Square. The 1997 Regulations, which are enforced by police constables, already prohibit a range of activities in these spaces, as well as in the larger Royal Parks, including camping, speechmaking, and using amplified noise equipment.⁴
- 1.5 Section 150 of the 2011 Act gives the Secretary of State the additional power to allow the seizure by police of items used in connection with any offence under any Royal Parks regulations, as appropriate and justified, and the retention, disposal and forfeiture of those items. Prior to the 2011 Act, the Secretary of State could only apply this seizure power to parks trading offences.

¹ www.legislation.gov.uk/ukpga/2011/13/contents/enacted

² www.legislation.gov.uk/ukpga/2005/15/contents

³ <http://www.legislation.gov.uk/ukpga/Geo5/16-17/36/contents>

⁴ Canning Green is to be added to the list of open spaces covered by the 1997 Regulations by way of the Royal Parks and Other Open Spaces (Amendment) Regulations 2012, laid before Parliament on 14 November 2011

- 1.6 This consultation is seeking your views on proposed amendments to the 1997 Regulations to do two things:
- To include new offences for the open spaces near Parliament Square mirroring the offences in the 2011 Act, to ensure consistency across the area, and
 - To attach powers of seizure, retention, disposal and forfeiture to these offences, in the same limited area.
- 1.7 The 2011 Act also enables local authorities in England and Wales to attach the power of seizure to their byelaws to effectively deal with such activities in their own areas. The Westminster City Council and Greater London Authority are using this power to amend their byelaws at the same time. This will allow these bodies to provide a consistent approach to the land around Parliament. You may want to also contribute to their consultations relating to land they manage, at these websites (note the consultations have different closing dates):
- Greater London Authority: <http://www.london.gov.uk/consultation/draft-byelaws-traffic-square-and-parliament-square-garden>
 - Westminster City Council: <http://www.westminster.gov.uk/services/transportandstreets/strategy/parliament-square-proposed-byelaws/>

What we are consulting on

- 1.8 We are consulting on regulations that provide the Police with seizure powers for items that can be used in association with offences relating to camping and using amplified noise equipment on Royal Parks land in the vicinity of Parliament.
- 1.9 The Royal Parks land in the vicinity of Parliament that the proposed regulations will cover is:
- *Canning Green* – the area of grass next to the Supreme Court
 - *Victoria Tower Gardens* – the park running from the south end of the Palace of Westminster to the roundabout at Lambeth Bridge
 - The lawn around the King George V statue, and
 - The garden around the Jewel Tower.

The additional powers proposed

- 1.10 The 1997 Regulations already prohibit camping, giving a public speech (other than in Speakers' Corner) or using amplified noise equipment without the prior written

consent of the Secretary of State, or refusing the instructions of a police constable to leave a park. Under the *Parks Regulations (Amendment) Act 1926* these are criminal offences, the penalty being a maximum fine of level 1 on the standard scale (presently £200).

- 1.11 The new regulations are very close to what is already prohibited. They create an offence specifically for the Parks in the vicinity of Parliament that mirrors the offences in the 2011 Act. That makes it an offence to fail, without reasonable excuse, to comply with a direction by a police constable to cease doing, or not to start doing, a prohibited activity. The prohibited activities include setting up or using camping or sleeping equipment, or using amplified noise equipment. The offences carry the same penalty as other offences under the 1997 Regulations.
- 1.12 The new regulations give police new powers of seizure of items used in connection with this offence, namely camping equipment and equipment used to amplify noise. They also give the Secretary of State the power to retain and dispose of the items, and the court the power to order their forfeiture. These powers mirror the powers of seizure, retention, disposal and forfeiture that exist in relating to park trading offences under the *Royal Parks (Trading) Act 2000*.

Why these powers are being proposed

- 1.13 The 2011 Act restores the ability to protest in Parliament Square, but subject to control to avoid the establishment of protest encampments.
- 1.14 The Department for Culture, Media and Sport wishes the public to continue to enjoy the use of the land around Parliament and avoid the displacement of protests from Parliament Square onto the Royal Parks land in the vicinity. The activities covered by the proposed new offences are already prohibited under the 1997 Regulations. However, the precise wording of the new offences will allow for more effective policing by ensuring the same powers apply across different areas in the vicinity, providing certainty to the police and to the public.
- 1.15 The 2011 Act gave additional seizure powers to the Police and authorised persons of Westminster City Council and Greater London Authority in relation to Parliament Square itself. These new powers are to be mirrored in bye laws that are being proposed by Westminster City Council and the Greater London Authority in relation to land under their authority in the vicinity.
- 1.16 To ensure consistency the Act has given us the ability to make regulations applying the seizure, retention, disposal and forfeiture powers under the Royal Parks (Trading) Act 2000, to other offences contravening Royal Parks regulations. We are proposing to do so in relation to the proposed new offences for Parks in the vicinity of Parliament. This will provide a consistent approach for all the land, regardless of ownership, around Parliament.

The scope to influence the regulations

- 1.17 This consultation is seeking your views about extending the powers in force as a result of the 2011 Act to the Royal Parks land around Parliament. Given the risk of displacement of protests to Royal Parks land, we do wish to bring in regulations, and there is very limited scope to influence what activities and places are regulated. However, we recognise the importance of the issue and wish to consider the public's views on the approach we propose to take.
- 1.18 The consultation will be run until the 24th January 2012. This time period is judged to be appropriate for the level of change proposed.
- 1.19 We welcome your views on the approach and any issues you envisage with its enforcement.

2. Questions for comment

Geographical area in scope

- 2.1 Are there any Royal Parks or parts of the Royal Parks covered by the proposed regulations that you think should not be so covered?
- 2.2 If so, please give your reasons.
- 2.3 Are there any Royal Parks or parts of the Royal Parks not covered by the proposed regulations that you think should be covered?
- 2.4 If so, please give your reasons.

The type of offences being created

- 2.5 Do you agree with the creation of the offence described in the draft regulation (**Annex A**)?
- 2.6 If you disagree, please give your reasons

The new powers attached to the offences

- 2.7 Do you agree with the attachment of seizure, retention, disposal and forfeiture powers to those offences described in the draft regulations (**Annex A**)?
- 2.8 If you disagree, please give your reasons.

Other comments

- 2.9 Is there anything else within these regulations that you would like to comment on?

3. Process going forward & timetable

Responding to the consultation

- 3.1 The consultation will run between the 14th December 2011 and the 24th January 2012. We cannot guarantee that responses received after the deadline will be taken into consideration.
- 3.2 We would appreciate it if you structured your responses around the questions set out in section 2 (*Questions for comment*) of this document.
- 3.3 You can submit your comments via email or post.
- **Email:** TRPConsultation@culture.gsi.gov.uk
 - **Post:** TRP Consultation, Department for Culture Media and Sport, 2-4 Cockspur Street, London, SW1Y 5DH
- 3.4 We will send an acknowledgement response to all respondents.
- 3.5 Please note responses may be published, unless you ask us not to do so. In addition under the Freedom of Information Act 2000 all information in responses, including personal information, may be subject to publication or disclosure. If any correspondent requests confidentiality this cannot be guaranteed, and will only be possible if considered appropriate under the legislation.
- 3.6 We intend to publish a summary of responses and a Government response to the consultation. Given the time constraints, we will aim to do the two together.

Ministerial approval

- 3.7 Under the 2011 Act and the *Parks Regulation (Amendment) Act 1926*, the Secretary of State for the Olympics, Culture, Media, and Sport has the power to make regulations in relation to the Royal Parks. The current principal regulations are the *Royal Parks and Other Open Spaces Regulations 1997*, as amended.
- 3.8 Subject to changes following this consultation we intend to seek the Secretary of State's approval to the regulations set out in Annex A.

Legislative process

- 3.9 Under section 6 of the *Statutory Instruments Act 1946*, the draft regulations will need to be laid before Parliament for forty days before coming into effect.
- 3.10 During this time either House of Parliament may hold a debate and vote on the regulations, where they can resolve that the regulations are not made.

Timetable

- 3.11 We are aiming to have the new regulations in place as soon as possible. The timetable below sets out a broad framework on the basis that there are no substantive issues raised during the consultation that require further time to deal with, and Parliament has no objections to the regulations coming into force. We will review the timetable immediately after the consultation.

Date	Activity
14 December 2011	Consultation opens
24 January 2012	Consultation closes
24 to 27 January 2012	Assessment of consultation and revision of regulations
1 February 2012	Publication of summary consultation and the Government response
1 February 2012	Regulations laid in Parliament
13 March 2012	Regulations in force

- 3.12 For enquiries about the consultation (handling) process only, please email enquiries@culture.gsi.gov.uk heading your communication 'Royal Parks Consultation'.

Annex A – Proposed regulations

Draft Regulations laid before Parliament under section 6(2) of the Statutory Instruments Act 1946 (superseding section 2(2) of the Parks Regulation (Amendment) Act 1926) on [date]; draft to lie for forty days pursuant to section 6(1) of the said Act of 1946, during which either House of Parliament may resolve that the Regulations be not made.

STATUTORY INSTRUMENTS

2012 No.

OPEN SPACES

The Royal Parks and Other Open Spaces (Amendment) (No. 2) Regulations 2012

Made - - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(1) and 2(1A) of the Parks Regulation (Amendment) Act 1926⁽⁵⁾ and now vested in the Secretary of State.

A draft of these Regulations has been laid before Parliament for a period of forty days pursuant to section 6 of the Statutory Instruments Act 1946⁽⁶⁾, and that period has expired without either House resolving that the Regulations not be made.

Citation and commencement

These Regulations may be cited as the Royal Parks and Other Open Spaces (Amendment) (No. 2) Regulations 2012 and come into force on the day after the day on which they are made.

⁽⁵⁾ 1926 c.36 (16 & 17 Geo 5); section 2(1) was extended by section 1 of the Royal Parks (Trading) Act 2000 (c.13) and section 2(1A) was inserted by section 150(1) of the Police Reform and Social Responsibility Act 2011 (c.13). The functions of the Commissioners of Works were transferred to the Minister of Works by section 1 of the Minister of Works Act 1942 (c.23) (repealed), and the Ministry of Works (Transfer of Powers) (No 1) Order 1945, SR & O 1945/991. The Minister of Works was renamed the Minister of Public Building and Works by the Minister of Works (Change of Style and Title) Order 1962, S.I. 1962/1549. The functions of the Minister of Public Building and Works were transferred to the Secretary of State for the Environment by virtue of the Secretary of State for the Environment Order 1970, S.I. 1970/1681, and then to the Secretary of State for Culture, Media and Sport by article 6 of the Transfer of Functions (National Heritage) Order 1992, S.I. 1992/1311, and then to the Secretary of State for Culture, Olympics, Media and Sport by article 4 of the Secretary of State for Culture, Olympics, Media and Sport Order 2010 S.I. 2010/1551

⁽⁶⁾ 1946 c.36 (9 & 10 Geo 6)

Amendment of the Royal Parks and Other Open Spaces Regulations 1997

—a) The Royal Parks and Other Open Spaces Regulations 1997⁽⁷⁾ are amended in accordance with this regulation.

After regulation 3, insert—

“Acts prohibited in designated Parks

3A.—(1) A constable who has reasonable grounds for believing that a person is doing, or is about to do, a prohibited activity may direct the person—

- (a) to cease doing that activity, or
- (b) (as the case may be) not to start doing that activity.

(2) For the purposes of this regulation, a “prohibited activity” is any of the following—

- (a) operating any amplified noise equipment in a designated Park;
- (b) erecting or keeping erected in a designated Park—
 - (i) any tent, or
 - (ii) any other structure that is designed, or adapted, (solely or mainly) for the purpose of facilitating sleeping or staying in a place for any period;
- (c) using any tent or other such structure in a designated Park for the purpose of sleeping or staying in that area;
- (d) placing or keeping in place in a designated Park any sleeping equipment with a view to its use (whether or not by the person placing it or keeping it in place) for the purpose of sleeping overnight in that area;
- (e) using any sleeping equipment in a designated Park for the purpose of sleeping overnight in that area.

(3) But an activity is not to be treated as a “prohibited activity” within paragraph (2) if it is done—

- (a) for police, fire and rescue authority or ambulance purposes,
- (b) by or on behalf of a relevant authority,
- (c) in respect of the prohibited activity in paragraph 2(a), by a person so far as that person has the prior written permission of the Secretary of State.

(4) In paragraph (2)(a) “amplified noise equipment” means any device that is designed or adapted for amplifying sound, including (but not limited to)—

- (a) loudspeakers, and
- (b) loudhailers.

(5) In paragraph (3)(b) “relevant authority” means any of the following—

- (a) a Minister of the Crown or a government department,
- (b) the Greater London Authority, or
- (c) Westminster City Council.

(6) It is immaterial for the purposes of a prohibited activity—

- (a) in the case of an activity within paragraph (2)(b) or (c) of keeping a tent or similar structure erected or using a tent or similar structure, whether the tent or structure was first erected before or after the coming into force of this regulation;
- (b) in the case of an activity within paragraph (2)(d) or (e) of keeping in place any sleeping equipment or using any such equipment, whether the sleeping equipment was first placed before or after the coming into force of this regulation.

(7) In this regulation “sleeping equipment” means any sleeping bag, mattress or other similar item designed, or adapted, (solely or mainly) for the purpose of facilitating sleeping in a place.

(8) No person shall without reasonable excuse fail to comply with a direction under paragraph (1).

⁽⁷⁾ S.I. 1997/1639, amended by S.I. 2000/2949, 2004/1308, 2004/3168, 2010/1194, 2010/2695, 2012/[]

(9) For the purposes of the prohibited activities in paragraph 2(a) to (e), a “designated Park” is any Park listed in paragraphs 1, 3A and 20 of Schedule 1.

(10) In Canning Green the reference to “constable” in paragraph (1) means—

- (a) a park constable, if he or she he has jurisdiction in Canning Green, or
- (b) a constable belonging to the Metropolitan Police Service.

(11) In this regulation—

“Canning Green” means the Park described in regulation 3A of Schedule 1;

“park constable” has the meaning given by section 3 of the Parks Regulation Act 1872⁽⁸⁾.

Directions under regulation 3A: further provision

3B.—(1) A direction requiring a person to cease doing a prohibited activity may include a direction that the person does not start doing that activity again after having ceased it.

(2) A direction requiring a person not to start doing a prohibited activity continues in force until—

- (a) the end of such period beginning with the day on which the direction is given as may be specified by the constable or authorised officer giving the direction, or
- (b) if no such period is specified, the end of the period of 90 days beginning with the day on which the direction is given.

(3) A period specified under paragraph (2)(a) may not be longer than 90 days.

(4) A direction may be given to a person to cease operating, or not to start operating, any amplified noise equipment only if it appears to the constable or authorised officer giving the direction that the following condition is met.

(5) The condition is that the person is operating, or is about to operate, the equipment in such a manner as to produce sound that other persons in or in the vicinity of the designated Park can hear or are likely to be able to hear.

(6) A direction—

- (a) may be given orally,
- (b) may be given to any person individually or to two or more persons together, and
- (c) may be withdrawn or varied by the person who gave it.

(7) In this regulation—

“amplified noise equipment” has the meaning given by regulation 3A(4);

“designated Park” has the meaning given by regulation 3A(9);

“direction” means a direction given under regulation 3A(1).

Seizure of property

3C.—(1) A constable who reasonably suspects that a person has committed an offence under the Parks Regulation Act 1872 or the Parks Regulation (Amendment) Act 1926⁽⁹⁾ in connection with failing to comply with regulation 3A(8) may, subject to paragraph (2), seize anything which—

⁽⁸⁾ 1872 c.15 (35 & 36 Vict)

⁽⁹⁾ An offence of failing to comply with, or acting in contravention of, any regulations made under the Parks Regulation (Amendment) Act 1926 is an offence against that Act if it relates to a park that is a specified park under section 162 of the Serious Organised Crime and Police Act 2005 (c.15). Abingdon Street Garden was incorrectly listed as a specified park under the Royal Parks (Regulation of Specified Parks) Order 2005, S.I. 2005/1522, because it was not a park to which the Parks Regulation Act 1872 then applied. Therefore, it is not a specified park for the purposes of the Serious Organised Crime and Police Act 2005. An offence of failing to comply with, or acting in contravention of, any regulations made under the Parks Regulation (Amendment) Act 1926 is an offence against the Parks Regulation Act 1872 if the Parks Regulation Act 1872 applies to that park and it is not a park that is a specified park under section 162 of the Serious Organised Crime and Police Act 2005. For this reason, an offence relating to Canning Green is an offence against the Parks Regulation Act 1872.

- (a) the person has in his or her possession or under his or her control, and
 - (b) the constable reasonably believes to have been used in the commission of the offence.
- (2) In Canning Green the reference to “constable” in paragraph (1) means —
- (a) a park constable, if he or she he has jurisdiction in Canning Green, or
 - (b) a constable belonging to the Metropolitan Police Service.
- (3) In this regulation—

“Canning Green” means the Park described in regulation 3A of Schedule 1;

“park constable” has the meaning given by section 3 of the Parks Regulation Act 1872.

Retention and disposal

3D.—(1) The Secretary of State may retain anything which has been seized under regulation 3C until the end of the period of 28 days beginning with the date of the seizure.

(2) Paragraph (3) applies where before the end of that period an information for [the offence] is laid—

- (a) against the person from whom the thing was seized, and
- (b) in respect of his or her activities at the time of the seizure.

(3) Where this paragraph applies—

- (a) the Secretary of State may retain the thing seized until the conclusion of proceedings relating to the offence (including any appeal), and
- (b) if an award is made of costs to be paid by the accused to the Secretary of State, the Secretary of State may retain the thing seized until the costs have been paid.

(4) Paragraph (3) has effect subject to any order for forfeiture under regulation 3E.

(5) If the Secretary of State has retained a thing in reliance on paragraph (3)(b) for the period of 28 days beginning with the date of the conclusion of proceedings relating to the offence (including any appeal)—

- (a) the Secretary of State may sell it for the best price which the Secretary of State can reasonably obtain and apply the proceeds in discharge of the award of costs, and
- (b) if the Secretary of State does so, the Secretary of State shall pay any balance to the person whom the Secretary of State believes to have owned the thing immediately before the sale.

(6) Where the Secretary of State ceases to be entitled to retain a thing under this regulation the Secretary of State shall, subject to any order for forfeiture under regulation 3E, return it to the person whom the Secretary of State believes to be its owner.

(7) If the Secretary of State cannot after reasonable inquiry identify a person for the purposes of paragraph (5)(b) or (6)—

- (a) the Secretary of State shall apply to a magistrates’ court for directions, and
- (b) the court shall make an order about the treatment of the thing or the balance of its price.

Forfeiture

3E.—(1) A court which convicts a person of an offence under the Parks Regulation Act 1872 or the Parks Regulation (Amendment) Act 1926 in connection with failing to comply with regulation 3A(8) may order anything to which paragraph (2) applies to be forfeited and dealt with in a manner specified in the order.

(2) This paragraph applies to anything which—

- (a) was seized under regulation 3C,
- (b) is retained by the Secretary of State under regulation 3D, and
- (c) the court believes to have been used in the commission of the offence.

(3) Before making an order for the forfeiture of a thing a court shall—

- (a) permit anyone who claims to be its owner or to have an interest in it to make representations, and
- (b) consider its value and the likely consequences of forfeiture.”

[Date]

Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Royal Parks and Other Open Spaces Regulations 1997 (S.I. 1997/1639) (“1997 Regulations”) to introduce prohibitions against certain acts in parks near Parliament Square. The prohibition is to act contrary to a police direction to cease, not to start, a prohibited activity. The prohibited activities are camping or using amplified noise equipment without permission. Acting contrary to a prohibition under the 1997 Regulations is an offence under the Parks Regulation Act 1872 (c.15 (35 & 36 Vict)) or (for specified parks under section 162 of the Serious Organised Crime and Police Act 2005 (c.15)) the Parks Regulation (Amendment) Act 1926 (c.36 (16 & 17 Geo 5))

The regulations also amend the 1997 Regulations to introduce powers of seizure, retention, disposal and forfeiture in relation to objects used in connection with offences under the Parks Regulation Act or the Parks Regulation (Amendment) Act 1926 that arise from contravention of the prohibitions that these regulations introduce to the 1997 Regulations.

The prohibitions introduced by these regulations apply in Canning Green, Victoria Tower Gardens, the garden around the Jewel Tower, and the lawn around the statue of George V.



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