



Licensing Act 2003

2003 CHAPTER 17

PART 8

CLOSURE OF PREMISES

Closure of premises in an identified area

160 Orders to close premises in area experiencing disorder

- (1) Where there is or is expected to be disorder in any petty sessions area, a magistrates' court acting for the area may make an order requiring all premises—
 - (a) which are situated at or near the place of the disorder or expected disorder, and
 - (b) in respect of which a premises licence or a temporary event notice has effect, to be closed for a period, not exceeding 24 hours, specified in the order.
- (2) A magistrates' court may make an order under this section only on the application of a police officer who is of the rank of superintendent or above.
- (3) A magistrates' court may not make such an order unless it is satisfied that it is necessary to prevent disorder.
- (4) Where an order is made under this section, a person to whom subsection (5) applies commits an offence if he knowingly keeps any premises to which the order relates open, or allows any such premises to be kept open, during the period of the order.
- (5) This subsection applies—
 - (a) to any manager of the premises,
 - (b) in the case of licensed premises, to—
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence, and
 - (c) in the case of premises in respect of which a temporary event notice has effect, to the premises user in relation to that notice.

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- (6) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) A constable may use such force as may be necessary for the purpose of closing premises ordered to be closed under this section.

Closure of identified premises

161 Closure orders for identified premises

- (1) A senior police officer may make a closure order in relation to any relevant premises if he reasonably believes that—
 - (a) there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety, or
 - (b) a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent that nuisance.
- (2) A closure order is an order under this section requiring relevant premises to be closed for a period not exceeding 24 hours beginning with the coming into force of the order.
- (3) In determining whether to make a closure order in respect of any premises, the senior police officer must have regard, in particular, to the conduct of each appropriate person in relation to the disorder or nuisance.
- (4) A closure order must—
 - (a) specify the premises to which it relates,
 - (b) specify the period for which the premises are to be closed,
 - (c) specify the grounds on which it is made, and
 - (d) state the effect of sections 162 to 168.
- (5) A closure order in respect of any relevant premises comes into force at the time a constable gives notice of it to an appropriate person who is connected with any of the activities to which the disorder or nuisance relates.
- (6) A person commits an offence if, without reasonable excuse, he permits relevant premises to be open in contravention of a closure order or any extension of it.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000, or to both.
- (8) In this section—
 - “relevant premises” means premises in respect of which one or more of the following have effect—
 - (a) a premises licence,
 - (b) a temporary event notice; and
 - “senior police officer” means a police officer of, or above, the rank of inspector.

162 Extension of closure order

- (1) Where, before the end of the period for which relevant premises are to be closed under a closure order or any extension of it (the “closure period”), the responsible senior police officer reasonably believes that—
 - (a) a relevant magistrates' court will not have determined whether to exercise its powers under section 165(2) in respect of the closure order, and any extension of it, by the end of the closure period, and
 - (b) the conditions for an extension are satisfied,he may extend the closure period for a further period not exceeding 24 hours beginning with the end of the previous closure period.
- (2) The conditions for an extension are that—
 - (a) in the case of an order made by virtue of section 161(1)(a), closure is necessary in the interests of public safety because of disorder or likely disorder on, or in the vicinity of and related to, the premises,
 - (b) in the case of an order made by virtue of section 161(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises.
- (3) An extension in relation to any relevant premises comes into force when a constable gives notice of it to an appropriate person connected with any of the activities to which the disorder or nuisance relates or is expected to relate.
- (4) But the extension does not come into force unless the notice is given before the end of the previous closure period.

163 Cancellation of closure order

- (1) The responsible senior police officer may cancel a closure order and any extension of it at any time—
 - (a) after the making of the order, but
 - (b) before a relevant magistrates' court has determined whether to exercise its powers under section 165(2) in respect of the order and any extension of it.
- (2) The responsible senior police officer must cancel a closure order and any extension of it if he does not reasonably believe that—
 - (a) in the case of an order made by virtue of section 161(1)(a), closure is necessary in the interests of public safety because of disorder or likely disorder on, or in the vicinity of and related to, the premises,
 - (b) in the case of an order made by virtue of section 161(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises.
- (3) Where a closure order and any extension of it are cancelled under this section, the responsible senior police officer must give notice of the cancellation to an appropriate person connected with any of the activities related to the disorder (or anticipated disorder) or nuisance in respect of which the closure order was made.

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164 Application to magistrates' court by police

- (1) The responsible senior police officer must, as soon as reasonably practicable after a closure order comes into force in respect of any relevant premises, apply to a relevant magistrates court for it to consider the order and any extension of it.
- (2) Where an application is made under this section in respect of licensed premises, the responsible senior officer must also notify the relevant licensing authority—
 - (a) that a closure order has come into force,
 - (b) of the contents of the order and of any extension of it, and
 - (c) of the application under subsection (1).

165 Consideration of closure order by magistrates' court

- (1) A relevant magistrates' court must as soon as reasonably practicable after receiving an application under section 164(1)—
 - (a) hold a hearing to consider whether it is appropriate to exercise any of the court's powers under subsection (2) in relation to the closure order or any extension of it, and
 - (b) determine whether to exercise any of those powers.
- (2) The relevant magistrates' court may—
 - (a) revoke the closure order and any extension of it;
 - (b) order the premises to remain, or to be, closed until such time as the relevant licensing authority has made a determination in respect of the order for the purposes of section 167;
 - (c) order the premises to remain or to be closed until that time subject to such exceptions as may be specified in the order;
 - (d) order the premises to remain or to be closed until that time unless such conditions as may be specified in the order are satisfied.
- (3) In determining whether the premises will be, or will remain, closed the relevant magistrates' court must, in particular, consider whether—
 - (a) in the case of an order made by virtue of section 161(1)(a), closure is necessary in the interests of public safety because of disorder or likely disorder on the premises, or in the vicinity of and related to, the premises;
 - (b) in the case of an order made by virtue of section 161(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises.
- (4) In the case of licensed premises, the relevant magistrates' court must notify the relevant licensing authority of any determination it makes under subsection (1)(b).
- (5) Subsection (2) does not apply if, before the relevant magistrates' court discharges its functions under that subsection, the premises cease to be relevant premises.
- (6) Any order made under subsection (2) ceases to have effect if the premises cease to be relevant premises.
- (7) A person commits an offence if, without reasonable excuse, he permits relevant premises to be open in contravention of an order under subsection (2)(b), (c) or (d).

- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000, or to both.
- (9) The powers conferred on a magistrates' court by this section are to be exercised in the place required by the Magistrates' Courts Act 1980 (c. 43) for the hearing of a complaint and may be exercised by a single justice.
- (10) Evidence given for the purposes of proceedings under this section must be given on oath.

166 Appeal from decision of magistrates' court

- (1) Any person aggrieved by a decision of a magistrates' court under section 165 may appeal to the Crown Court against the decision.
- (2) An appeal under subsection (1) must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day the decision appealed against was made.

167 Review of premises licence following closure order

- (1) This section applies where—
 - (a) a closure order has come into force in relation to premises in respect of which a premises licence has effect, and
 - (b) the relevant licensing authority has received a notice under section 165(4) (notice of magistrates' court's determination), in relation to the order and any extension of it.
- (2) The relevant licensing authority must review the premises licence.
- (3) The authority must reach a determination on the review no later than 28 days after the day on which it receives the notice mentioned in subsection (1)(b).
- (4) The Secretary of State must by regulations—
 - (a) require the relevant licensing authority to give, to the holder of the premises licence and each responsible authority, notice of—
 - (i) the review,
 - (ii) the closure order and any extension of it, and
 - (iii) any order made in relation to it under section 165(2);
 - (b) require the authority to advertise the review and invite representations about it to be made to the authority by responsible authorities and interested parties;
 - (c) prescribe the period during which representations may be made by the holder of the premises licence, any responsible authority or any interested party;
 - (d) require any notice under paragraph (a) or advertisement under paragraph (b) to specify that period.
- (5) The relevant licensing authority must—
 - (a) hold a hearing to consider—
 - (i) the closure order and any extension of it,
 - (ii) any order under section 165(2), and
 - (iii) any relevant representations, and

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- (b) take such of the steps mentioned in subsection (6) (if any) as it considers necessary for the promotion of the licensing objectives.
- (6) Those steps are—
- (a) to modify the conditions of the premises licence,
 - (b) to exclude a licensable activity from the scope of the licence,
 - (c) to remove the designated premises supervisor from the licence,
 - (d) to suspend the licence for a period not exceeding three months, or
 - (e) to revoke the licence;
- and for this purpose the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (7) Subsection (5)(b) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (8) Where the authority takes a step within subsection (6)(a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months).
- (9) In this section “relevant representations” means representations which—
- (a) are relevant to one or more of the licensing objectives, and
 - (b) meet the requirements of subsection (10).
- (10) The requirements are—
- (a) that the representations are made by the holder of the premises licence, a responsible authority or an interested party within the period prescribed under subsection (4)(c),
 - (b) that they have not been withdrawn, and
 - (c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (11) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- (12) Where a licensing authority determines a review under this section it must notify the determination and its reasons for making it to—
- (a) the holder of the licence,
 - (b) any person who made relevant representations, and
 - (c) the chief officer of police for the police area (or each police area) in which the premises are situated.
- (13) Section 168 makes provision about when the determination takes effect.
- (14) In this section “interested party” and “responsible authority” have the same meaning as in Part 3.

168 Provision about decisions under section 167

- (1) Subject to this section, a decision under section 167 does not have effect until the relevant time.

- (2) In this section “the relevant time”, in relation to any decision, means—
- (a) the end of the period given for appealing against the decision, or
 - (b) if the decision is appealed against, the time the appeal is disposed of.
- (3) Subsections (4) and (5) apply where—
- (a) the relevant licensing authority decides on a review under section 167 to take one or more of the steps mentioned in subsection (6)(a) to (d) of that section, and
 - (b) the premises to which the licence relates have been closed, by virtue of an order under section 165(2)(b), (c) or (d), until that decision was made.
- (4) The decision by the relevant licensing authority to take any of the steps mentioned in section 167(6)(a) to (d) takes effect when it is notified to the holder of the licence under section 167(12).
- This is subject to subsection (5) and paragraph 18(3) of Schedule 5 (power of magistrates' court to suspend decision pending appeal).
- (5) The relevant licensing authority may, on such terms as it thinks fit, suspend the operation of that decision (in whole or in part) until the relevant time.
- (6) Subsection (7) applies where—
- (a) the relevant licensing authority decides on a review under section 167 to revoke the premises licence, and
 - (b) the premises to which the licence relates have been closed, by virtue of an order under section 165(2)(b), (c) or (d), until that decision was made.
- (7) The premises must remain closed (but the licence otherwise in force) until the relevant time.
- This is subject to paragraph 18(4) of Schedule 5 (power of magistrates' court to modify closure order pending appeal).
- (8) A person commits an offence if, without reasonable excuse, he allows premises to be open in contravention of subsection (7).
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000, or to both.

169 Enforcement of closure order

A constable may use such force as may be necessary for the purposes of closing premises in compliance with a closure order.

170 Exemption of police from liability for damages

- (1) A constable is not liable for relevant damages in respect of any act or omission of his in the performance or purported performance of his functions in relation to a closure order or any extension of it.
- (2) A chief officer of police is not liable for relevant damages in respect of any act or omission of a constable under his direction or control in the performance or purported

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performance of a function of the constable's in relation to a closure order or any extension of it.

- (3) But neither subsection (1) nor (2) applies—
- (a) if the act or omission is shown to have been in bad faith, or
 - (b) so as to prevent an award of damages in respect of an act or omission on the grounds that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42) (incompatibility of act or omission with Convention rights).
- (4) This section does not affect any other exemption from liability for damages (whether at common law or otherwise).
- (5) In this section, “relevant damages” means damages awarded in proceedings for judicial review, the tort of negligence or misfeasance in public office.

Interpretation

171 Interpretation of Part 8

- (1) This section has effect for the purposes of this Part.
- (2) Relevant premises are open if a person who is not within subsection (4) enters the premises and—
- (a) he buys or is otherwise supplied with food, drink or anything usually sold on the premises, or
 - (b) while he is on the premises, they are used for the provision of regulated entertainment.
- (3) But in determining whether relevant premises are open the following are to be disregarded—
- (a) where no premises licence has effect in respect of the premises, any use of the premises for activities (other than licensable activities) which do not take place during an event period specified in a temporary event notice having effect in respect of the premises,
 - (b) any use of the premises for a qualifying club activity under and in accordance with a club premises certificate, and
 - (c) any supply exempted under paragraph 3 of Schedule 2 (certain supplies of hot food and drink by clubs, hotels etc. not a licensable activity) in circumstances where a person will neither be admitted to the premises, nor be supplied as mentioned in sub-paragraph (1)(b) of that paragraph, except by virtue of being a member of a recognised club or a guest of such a member.
- (4) A person is within this subsection if he is—
- (a) an appropriate person in relation to the premises,
 - (b) a person who usually lives at the premises, or
 - (c) a member of the family of a person within paragraph (a) or (b).
- (5) The following expressions have the meanings given—
- “appropriate person”, in relation to any relevant premises, means—
- (a) any person who holds a premises licence in respect of the premises,
 - (b) any designated premises supervisor under such a licence,

- (c) the premises user in relation to any temporary event notice which has effect in respect of the premises, or
 - (d) a manager of the premises;
 - “closure order” has the meaning given in section 161(2);
 - “extension”, in relation to a closure order, means an extension of the order under section 162;
 - “manager”, in relation to any premises, means a person who works at the premises in a capacity, whether paid or unpaid, which authorises him to close them;
 - “relevant licensing authority”, in relation to any licensed premises, has the same meaning as in Part 3;
 - “relevant magistrates' court”, in relation to any relevant premises, means a magistrates' court acting for the petty sessions area in which the premises are situated;
 - “relevant premises” has the meaning given in section 161(8);
 - “responsible senior police officer”, in relation to a closure order, means—
 - (a) the senior police officer who made the order, or
 - (b) if another senior police officer is designated for the purpose by the chief officer of police for the police area in which the premises are situated, that other officer;
 - “senior police officer” has the meaning given in section 161(8).
- (6) A temporary event notice has effect from the time it is given in accordance with Part 5 until—
- (a) the time it is withdrawn,
 - (b) the time a counter notice is given under that Part, or
 - (c) the expiry of the event period specified in the temporary event notice,
- whichever first occurs.