



# Licensing Act 2003

## 2003 CHAPTER 17

### PART 8

#### CLOSURE OF PREMISES

##### *[<sup>F1</sup>Closure notices*

#### Textual Amendments

**F1** Ss. 169A, 169B and preceding cross-heading inserted (6.4.2007) by [Violent Crime Reduction Act 2006](#) (c. 38), [ss. 24\(1\), 66\(2\)\(3\)](#); S.I. 2007/858, [art. 2\(a\)](#)

#### **169A Closure notices for persistently selling alcohol to children**

- (1) A relevant officer may give a notice under this section (a “closure notice”) applying to any premises if—
  - (a) there is evidence that a person (“the offender”) has committed an offence under section 147A in relation to those premises;
  - (b) the relevant officer considers that the evidence is such that, if the offender were prosecuted for the offence, there would be a realistic prospect of his being convicted; and
  - (c) the offender is still, at the time when the notice is given, the holder of a premises licence in respect of those premises, or one of the holders of such a licence.
- (2) A closure notice is a notice which—
  - (a) proposes a prohibition for a period not exceeding 48 hours on sales of alcohol on the premises in question; and
  - (b) offers the opportunity to discharge all criminal liability in respect of the alleged offence by the acceptance of the prohibition proposed by the notice.
- (3) A closure notice must—

*Status: Point in time view as at 06/04/2007.*

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- (a) be in the form prescribed by regulations made by the Secretary of State;
  - (b) specify the premises to which it applies;
  - (c) give such particulars of the circumstances believed to constitute the alleged offence (including the sales to which it relates) as are necessary to provide reasonable information about it;
  - (d) specify the length of the period during which it is proposed that sales of alcohol should be prohibited on those premises;
  - (e) specify when that period would begin if the prohibition is accepted;
  - (f) explain what would be the effect of the proposed prohibition and the consequences under this Act (including the maximum penalties) of a sale of alcohol on the premises during the period for which it is in force;
  - (g) explain the right of every person who, at the time of the alleged offence, held or was one of the holders of a premises licence in respect of those premises to be tried for that offence; and
  - (h) explain how that right may be exercised and how (where it is not exercised) the proposed prohibition may be accepted.
- (4) The period specified for the purposes of subsection (3)(d) must be not more than 48 hours; and the time specified as the time from which that period would begin must be not less than 14 days after the date of the service of the closure notice in accordance with subsection (6).
- (5) The provision included in the notice by virtue of subsection (3)(h) must—
- (a) provide a means of identifying a police officer or trading standards officer to whom notice exercising the option to accept the prohibition may be given;
  - (b) set out particulars of where and how that notice may be given to that police officer or trading standards officer;
  - (c) require that notice to be given within 14 days after the date of the service of the closure notice; and
  - (d) explain that the right to be tried for the alleged offence will be taken to have been exercised unless every person who, at the time of the notice, holds or is one of the holders of the premises licence for the premises in question accepts the proposed prohibition.
- (6) Section 184 (giving of notices) does not apply to a closure notice; but such a notice must be served on the premises to which it applies.
- (7) A closure notice may be served on the premises to which it applies—
- (a) only by being handed by a constable or trading standards officer to a person on the premises who appears to the constable or trading standards officer to have control of or responsibility for the premises (whether on his own or with others); and
  - (b) only at a time when it appears to that constable or trading standards officer that licensable activities are being carried on there.
- (8) A copy of every closure notice given under this section must be sent to the holder of the premises licence for the premises to which it applies at whatever address for that person is for the time being set out in the licence.
- (9) A closure notice must not be given more than 3 months after the time of the last of the sales to which the alleged offence relates.

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- (10) No more than one closure notice may be given in respect of offences relating to the same sales; nor may such a notice be given in respect of an offence in respect of which a prosecution has already been brought.
- (11) In this section “relevant officer” means—
- (a) a police officer of the rank of superintendent or above; or
  - (b) an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985.

### **169B Effect of closure notices**

- (1) This section applies where a closure notice is given under section 169A in respect of an alleged offence under section 147A.
- (2) No proceedings may be brought for the alleged offence or any related offence at any time before the time when the prohibition proposed by the notice would take effect.
- (3) If before that time every person who, at the time of the notice, holds or is one of the holders of the premises licence for the premises in question accepts the proposed prohibition in the manner specified in the notice—
- (a) that prohibition takes effect at the time so specified in relation to the premises in question; and
  - (b) no proceedings may subsequently be brought against any such person for the alleged offence or any related offence.
- (4) If the prohibition contained in a closure notice takes effect in accordance with subsection (3)(a) in relation to any premises, so much of the premises licence for those premises as authorises the sale by retail of alcohol on those premises is suspended for the period specified in the closure notice.
- (5) In this section “related offence”, in relation to the alleged offence, means an offence under section 146 or 147 in respect of any of the sales to which the alleged offence relates.
- (6) The operation of this section is not affected by any contravention of section 169A(8).

### **170 Exemption of police from liability for damages**

- (1) [<sup>F2</sup>Neither a constable nor a trading standards officer is] 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 [<sup>F3</sup>or of his functions in relation to a closure notice].
- [<sup>F4</sup>(2) Neither a chief officer of police nor a local weights and measures authority is liable for relevant damages in respect of any act or omission of a person in the performance or purported performance, while under the direction or control of such a chief officer or local weights and measures authority—
- (a) of a function of that person in relation to a closure order, or any extension of it; or
  - (b) of a function in relation to a closure notice.]
- (3) But neither subsection (1) nor (2) applies—
- (a) if the act or omission is shown to have been in bad faith, or

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- (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).
- [ In this section references to a constable include references to a person exercising the powers of a constable by virtue of a designation under section 38 of the Police Reform Act 2002 (community support officers etc.); and, in relation to such a person, the first reference in subsection (2) to a chief officer of police has effect as a reference to a police authority.]
- (5) In this section, “relevant damages” means damages awarded in proceedings for judicial review, the tort of negligence or misfeasance in public office.]

#### Textual Amendments

- F2** Words in s. 170(1) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), ss. 24\(2\)\(a\), 66\(2\)\(3\); S.I. 2007/858, art. 2\(a\)](#)
- F3** Words in s. 170(1) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), ss. 24\(2\)\(b\), 66\(2\)\(3\); S.I. 2007/858, art. 2\(a\)](#)
- F4** S. 170(2) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), ss. 24\(3\), 66\(2\)\(3\); S.I. 2007/858, art. 2\(a\)](#)
- F5** S. 170(4A) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), ss. 24\(4\), 66\(2\)\(3\); S.I. 2007/858, art. 2\(a\)](#)

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