

VIOLENT CRIME REDUCTION ACT 2006

EXPLANATORY NOTES

BACKGROUND

Part 1: Alcohol-related violence and disorder

35. In January 2005 the Government published a consultation paper called “Drinking Responsibly – The Government’s Proposals”. This set out proposals for introducing drinking banning orders. The range of prohibitions available through drinking banning orders – which could include exclusions from certain premises – will render the provisions of the Licensed Premises (Exclusion of Certain Persons) Act 1980 redundant. Schedule 5 therefore repeals the 1980 Act.
36. The Government’s proposals for powers for local authorities and the police to designate alcohol disorder zones and to charge licensed premises for the costs of dealing with alcohol-related crime and disorder were also included in the “Drinking Responsibly” consultation paper.

Alcohol disorder zones

37. Alcohol disorder zones are designed to tackle the problem of alcohol-related crime and disorder in town and city centres by focussing intervention activity on the public space around licensed premises and/or the management of individual premises.
38. Alcohol disorder zones will sit alongside other measures to change individuals’ behaviour, enforce the provisions of the Licensing Act 2003 and secure the collective responsibility of licensed premises to help build a robust local infrastructure to manage the night time economy. They are intended to be an intervention of the last resort.

Power of police to require review of premises licence

39. Through this legislation the Government is seeking to introduce a power for police to require an expedited review of an alcohol licence where the premises are associated with serious crime and disorder, and a power for councils to take temporary steps in relation to the licence (including imposing additional conditions) pending the determination of the review.
40. These objectives fit into the overall government aim of achieving a 15% reduction in crime, (including violent crime) by 2008 by:
 - contributing to changing the culture of carrying weapons – searching pubs and clubs where this is a demonstrable risk will serve as a clear deterrent to carrying knives;
 - reducing the risk of injury caused by glass – requiring pubs and clubs to use toughened glass where there is a demonstrable risk will help reduce the risk of injury from glassing.
41. These are selective measures. It is not the aim to require all licensed premises to undertake these searches or use toughened glass. Rather, the policy aim is to provide a selective tool, to be used proportionately, to limit this condition to those pubs that are at

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risk either because police intelligence shows there is a risk of knives/guns being carried or because crime and disorder has occurred on the premises.

42. The Licensing Act 2003 is the main statutory lever to regulate both on and off licence traders. Operators are issued with a licence to sell alcohol, and this licence is the main vehicle for regulating their behaviours.
43. There are conditions applied to this licence, relating to crime and disorder, which are on the face of the Licensing Act 2003 (e.g. not knowingly allowing alcohol to be sold to a person who is drunk) and apply universally to all licensed establishments.
44. There is also a provision which allows other conditions to be attached to licences, by licensing authorities, which are tailored to the particular circumstances of individual establishments. Searching for weapons and use of toughened glass are examples of this type of selective provision that can already be applied to licences where there is a demonstrable need.
45. The aim of this provision is to supplement the existing provisions in the Licensing Act 2003, which provide for conditions to be attached to licences. This is achieved by giving the police the power to issue a certificate where they believe that a premise is associated with serious crime and disorder. This would trigger an accelerated review of the licence with the attaching of temporary conditions to the licence.
46. The provision would cover serious crime and disorder generally (rather than be limited to weapons and glass related incidents – although the need to use the provision for these purposes could be brought out in guidance). And the appropriate modifications and conditions to the licence could be set.

Persistent selling of alcohol to children

47. The requirement to have reached 18 in order to make alcohol purchases has been the law in England and Wales since the coming into force of the Intoxicating Liquor (Sale to Persons under Eighteen) Act 1923. Despite measures over subsequent years aimed at reducing the underage purchase and consumption of alcohol, it remains the case that many children are able to obtain alcohol from some licensed sources now with ease. Since 1988, several attempts have been made to strengthen the offences and to make prosecution and conviction of offenders easier. These efforts have included:
 - replacing the “knowingly” aspect of the offence provisions with a restricted due diligence defence (Licensing Act 1988);
 - expanding those who are liable to prosecution for the offences (Licensing (Young Persons) Act 2000);
 - further restricting the defence of due diligence (Criminal Justice and Police Act 2001);
 - placing “test purchasing” of alcohol on a statutory footing (Criminal Justice and Police Act 2001); and
 - making the offence of selling alcohol to children subject to fixed penalty notice procedures (November 2004).
48. An Alcohol Misuse Enforcement Campaign in the summer of 2004 found that in premises targeted by test purchasing operations almost 50 per cent were committing offences of selling alcohol to children. A similar campaign during the Christmas/New Year period of 2004/2005 found that out of 989 test purchasing operations on targeted establishments, 32 per cent of on licence and off licence premises were found to be selling to under-18s.
49. Although the Licensing Act 2003 increased the maximum fines for offences related to sales of alcohol to children from £1,000 to £5,000, the impact of convictions for such

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offences falls on the individual offender and therefore not necessarily on the business carrying on the licensable activity at the premises. Similarly, conviction may lead to the suspension of a personal licence if one is held by the offender, but not the premises licence which authorises sales of alcohol at the premises concerned. Whether any action is taken in respect of the premises licence depends on the police or trading standards officers applying to the licensing authority for a review of the premises licence. Whether any action is taken to suspend or revoke the premises licence would then depend on the view taken by the licensing authority following a hearing.

50. In the “Drinking Responsibly” consultation paper, the Government argued that the existing and future offence provisions and the increased penalties associated with the implementation of the Licensing Act 2003 may be insufficient in themselves to curb the current level of unlawful sales. A key proposal was to legislate to create a power for the police and trading standards officers (inspectors of weights and measures) to close premises for a period of up to 48 hours where there was evidence of persistent unlawful selling to children. The provisions in sections 23 and 24 of the Act give effect to these proposals.
51. [Part 3](#) introduces a new power for a police constable to issue an individual with a direction to leave a public place where it is necessary to prevent alcohol-related crime or disorder. The direction can prohibit the person’s return to the area for up to 48 hours. This provision will be particularly useful to the police as an early intervention tool as a direction could be given to a person who it is considered is likely to be involved in alcohol-related crime or disorder. It will therefore help the police to reduce the potential risk of alcohol-related crime or disorder taking place.