

VIOLENT CRIME REDUCTION ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Alcohol-related violence and disorder

Chapter 3: Other provisions

Section 24: Closure notices for persistently selling alcohol to children

185. *Subsection (1)* amends the Licensing Act 2003 by inserting new sections 169A and 169B.
186. New section 169A(1) provides that a relevant officer may give a closure notice applying to any premises if there is evidence that a person (“the offender”) has committed an offence under section 147A in relation to those premises; 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 conviction; and that the offender is still, at the time the notice is given, the holder, or one of the holders, of the premises licence in respect of those premises. New section 169A(11) defines a “relevant officer” as a police officer of the rank of superintendent or above; or an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985.
187. New section 169A(2) defines a “closure notice” for the purposes of section 169A. It is a notice that proposes a prohibition on sales of alcohol at the premises in question for a period not exceeding 48 hours; and offers the opportunity to discharge all criminal liability in respect of the alleged offence under section 147A by the acceptance of the prohibition proposed in the notice.
188. New section 169A(3) provides that a closure notice must:
- be in a form prescribed by the Secretary of State in regulations;
 - specify the premises to which it applies;
 - give particulars of the alleged offence;
 - specify the length of the period during which sales of alcohol would be prohibited;
 - specify when that period would begin;
 - explain the effect of the proposed prohibition and the consequences under the Licensing Act 2003 (including maximum penalties) of a sale on the premises during the period for which it is in force;
 - explain the right of every person who was one of the holders of the premises licence at the time of the alleged offence to be tried for that offence; and
 - explain how that right may be exercised and how the proposed prohibition may be accepted.

*These notes refer to the Violent Crime Reduction Act 2006
(c.38) which received Royal Assent on 8 November 2006*

189. New section 169A(4) provides that the period of the prohibition on sales of alcohol must not exceed 48 hours. It also provides that the time specified as the time from which the period of the prohibition would begin must not be less than 14 days after the date on which the closure notice was served.
190. New section 169A(5) provides that the notice must explain how the right to be tried for the alleged offence under section 147A may be exercised and how the proposed prohibition may be accepted. The closure notice must:
- provide a means of identifying a police officer or trading standards officer to whom notice exercising the option accepting the prohibition may be given;
 - set out particulars of where and how that notice may be given;
 - require the notice to be given within 14 days after the date on which the closure notice was served; and
 - explain the right to be tried for the alleged offence will be taken to have been exercised unless every person who was a holder of the premises licence at the time the notice was given accepts the proposed prohibition.
191. New section 169A(6) disapplies section 184 of the Licensing Act 2003 (giving of notices) to the arrangements for giving closure notices; and provides that a closure notice must be served on the premises to which it applies.
192. New section 169A(7) provides that a closure notice may be served only at a time when it appears to a constable or trading standards officer that licensable activities are being carried on there, for example, when the premises are open for sales of alcohol. It also provides that a closure notice may only be given 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.
193. New section 169A(8) provides that a copy of every closure notice given must be sent to the holder of the premises licence for the relevant premises at whatever address for that person is given on the premises licence itself.
194. New section 169A(9) provides that a closure notice must not be given more than 3 months after the time of the last of the three unlawful sales described in section 147A(1).
195. New section 169A(10) provides that no more than one closure notice may be given in respect of offences relating to the same sales; and that a closure notice may not be given in respect of an offence in respect of which a prosecution has already been brought.
196. New section 169B, to be inserted into the Licensing Act 2003, applies where a closure notice is given under section 169A in respect of an alleged offence under section 147A. New section 169B(2) provides that no proceedings may be brought for an alleged offence at any time before the time when the prohibition proposed by the closure notice would take effect.
197. New section 169B(3) provides that if before that time every holder of the premises licence has agreed to accept the proposed prohibition in the manner specified in the notice then:
- the prohibition takes effect at the time specified in the closure notice at the premises in question; and
 - no proceedings may be subsequently brought for the alleged offence against the holders of the premises licence or any related offence. New section 169B(5) provides that any related offence would include any offences under sections 146 and 147 of the Licensing Act 2003 to which the alleged offence under section 147A relates.

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198. New section 169B(4) provides that where the prohibition takes effect, the premises licence is suspended for the period specified in the closure notice insofar as it authorises the sale by retail of alcohol. This means that any sales of alcohol which took place during the period when the premises licence was temporarily suspended would be unauthorised under the terms of the Licensing Act 2003. Under section 136 of the Licensing Act 2003 a person commits an offence if he carries on or attempts to carry on any licensable activity on or from any premises otherwise than under or in accordance with an authorisation; or he knowingly allows a licensable activity to be so carried on. A person guilty of such an offence is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.
199. New section 169B(6) provides that the operation of section 169B is not affected by any contravention of new section 169A(8), which is the requirement to send a copy of every closure notice to the holder of the premises licence for the premises in question.
200. *Sub-sections (2) and (3)* of section 24 amend section 170 of the Licensing Act 2003 by extending the exemption for the police from liabilities for damages to their functions in respect of closure notices and by providing a similar exemption for trading standards officers. *Subsection (4)* also amends section 170 of the 2003 Act to extend the exemption to the actions of community support officers in serving closure notices.
201. *Subsection (5)* amends section 171(5) of the Licensing Act 2003 (interpretation of Part 8) by providing definitions of “trading standards officer” and “weights and measures authority” and “closure notice”. “Closure notice” is defined by reference to section 169A. A trading standards officer is defined as a person authorised by a local weights and measures authority to act in the area where the premises in question are situated in relation to proposed prohibitions contained in closure notices. “Weights and measures authority” is given the same meaning as is given to it by section 69 of the Weights and Measures Act 1985.
202. *Subsection (6)* amends Part 1 of Schedule 4 to the Police Reform Act 2002 (powers of community support officers). It provides that a community support officer shall have the capacity of a constable to serve a closure notice.