



# Violent Crime Reduction Act 2006

## 2006 CHAPTER 38

### PART 1

#### ALCOHOL-RELATED VIOLENCE AND DISORDER

### CHAPTER 1

#### DRINKING BANNING ORDERS

#### *Introductory*

### **1 Drinking banning orders**

- (1) A drinking banning order is an order that prohibits the individual against whom it is made (“the subject”) from doing the things described in the order.
- (2) Such an order may impose any prohibition on the subject which is necessary for the purpose of protecting other persons from criminal or disorderly conduct by the subject while he is under the influence of alcohol.
- (3) The prohibitions imposed by such an order must include such prohibition as the court making it considers necessary, for that purpose, on the subject's entering—
  - (a) premises in respect of which there is a premises licence authorising the use of the premises for the sale of alcohol by retail; and
  - (b) premises in respect of which there is a club premises certificate authorising the use of the premises for the supply of alcohol to members or guests.
- (4) A drinking banning order may not impose a prohibition on the subject that prevents him—
  - (a) from having access to a place where he resides;
  - (b) from attending at any place which he is required to attend for the purposes of any employment of his or of any contract of services to which he is a party;

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- (c) from attending at any place which he is expected to attend during the period for which the order has effect for the purposes of education or training or for the purpose of receiving medical treatment; or
  - (d) from attending at any place which he is required to attend by any obligation imposed on him by or under an enactment or by the order of a court or tribunal.
- (5) Expressions used in subsection (3) and in the Licensing Act 2003 (c. 17) or in a Part of that Act have the same meanings in that subsection as in that Act or Part.

#### **Commencement Information**

**II** S. 1 in force at 31.8.2009 by S.I. 2009/1840, art. 2(a)

## **2 Duration of drinking banning orders**

- (1) A drinking banning order has effect for a period specified in the order (“the specified period”), which must be not less than two months and not more than two years.
- (2) A drinking banning order may provide that different prohibitions contained in the order have effect for different periods; but, in each case, the period (“the prohibition period”) must be not less than two months and not more than two years.
- (3) A drinking banning order may include provision for—
  - (a) the order, or
  - (b) a prohibition contained in it,
 to cease to have effect before the end of the specified period or the prohibition period if the subject satisfactorily completes the approved course specified in the order.
- (4) Provision under subsection (3) must fix the time at which the order or the prohibition will cease to have effect if the subject satisfactorily completes the specified approved course as whichever is the later of—
  - (a) the time specified in the order in accordance with subsection (5); and
  - (b) the time when he does satisfactorily complete that course.
- (5) The time specified for the purposes of subsection (4)(a) must be a time after the expiry of at least half the specified period or (as the case may be) the prohibition period.
- (6) Provision under subsection (3) may be included in a drinking banning order only if—
  - (a) the court making the order is satisfied that a place on the specified approved course will be available for the subject; and
  - (b) the subject has agreed to the inclusion of the provision in question in the order.
- (7) Before making provision under subsection (3), the court must inform the subject in ordinary language (whether in writing or otherwise) about—
  - (a) the effect of including the provision in the order;
  - (b) what, in general terms, attendance on the course will involve if he undertakes it;
  - (c) any fees he will be required to pay for the course if he undertakes it; and
  - (d) when he will have to pay any such fees.
- (8) Where a court makes a drinking banning order which does not include provision under subsection (3), it must give its reasons for not including such provision in open court.

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- (9) The Secretary of State may by regulations amend subsection (5) so as to modify the earliest time (after the completion of the specified approved course) when by virtue of that subsection—
- (a) a drinking banning order, or
  - (b) a prohibition contained in such an order,
- may cease to have effect.

**Commencement Information**

**I2** S. 2 in force at 31.8.2009 by S.I. 2009/1840, art. 2(b)

*Orders made on application*

**3 Orders on an application to magistrates' court**

- (1) An application to a magistrates' court for the making of a drinking banning order against an individual may be made by a relevant authority if—
- (a) it appears to the authority that the conditions in subsection (2) are satisfied with respect to the individual; and
  - (b) the individual is aged 16 or over.
- (2) The conditions are—
- (a) that the individual has, after the commencement of this section, engaged in criminal or disorderly conduct while under the influence of alcohol; and
  - (b) that such an order is necessary to protect other persons from further conduct by him of that kind while he is under the influence of alcohol.
- (3) An application under this section to a magistrates' court has to be made by complaint.
- (4) Before making an application under this section, a relevant authority must consult the appropriate persons.
- (5) If, on an application under this section with respect to an individual, it is proved that the conditions in subsection (2) are satisfied in his case, the magistrates' court may make a drinking banning order against him.
- (6) Nothing in this section affects the operation of section 127 of the Magistrates' Courts Act 1980 (c. 43) (limitation of time in respect of informations laid or complaints made in magistrates' court).

**Commencement Information**

**I3** S. 3 in force at 31.8.2009 by S.I. 2009/1840, art. 2(c)

**4 Orders in county court proceedings**

- (1) This section applies where proceedings have been brought in a county court.
- (2) If a relevant authority—
- (a) is a party to the proceedings, and

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- (b) considers that another party to the proceedings is an individual in relation to whom it would be reasonable for it to make an application under section 3, it may make an application in the proceedings for a drinking banning order against the individual.
- (3) If a relevant authority—
- (a) is not a party to the proceedings, and
  - (b) considers that a party to the proceedings is an individual in relation to whom it would be reasonable for it to make an application under section 3,
- it may make an application to be joined to those proceedings for the purposes of this section and (if it is joined) may apply for a drinking banning order against the individual.
- (4) Subsection (5) applies if a relevant authority is a party to the proceedings and considers that—
- (a) an individual who is not a party to the proceedings has engaged in criminal or disorderly conduct while under the influence of alcohol; and
  - (b) that conduct is material in relation to the proceedings.
- (5) The relevant authority—
- (a) may make an application for the individual to be joined for the purposes of this section; and
  - (b) if that individual is joined, may apply for a drinking banning order against him.
- (6) A relevant authority must consult the appropriate persons—
- (a) before making an application for a drinking banning order under subsection (2);
  - (b) before making an application to be joined to proceedings under subsection (3);
  - (c) before making an application to join an individual to proceedings under subsection (5).
- (7) If, on an application under this section for a drinking banning order against an individual—
- (a) it is proved that the conditions in section 3(2) are satisfied in relation to the individual, and
  - (b) his criminal or disorderly conduct while under the influence of alcohol is material in relation to the proceedings,
- the court may make a drinking banning order against him.

**Commencement Information**

**I4** S. 4 in force at 31.8.2009 by S.I. 2009/1840, art. 2(d)

**5 Variation or discharge of orders under s. 3 or 4**

- (1) This section applies to a drinking banning order made under section 3 or 4.
- (2) The following persons may apply to the court which made the order for it to be varied or discharged by a further order—
  - (a) the subject;

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- (b) the relevant authority on whose application the order was made.
- (3) In the case of an order under section 3 made by a magistrates' court, the reference in subsection (2) to the court which made the order includes a reference to a relevant local court.
- (4) An application under subsection (2) to a magistrates' court has to be made by complaint.
- (5) The order may not be varied so as to extend the specified period to more than two years.
- (6) The order may not be discharged unless—
  - (a) it is discharged from a time after the end of the period that is half the duration of the specified period; or
  - (b) the relevant authority on whose application the order was made has consented to its earlier discharge.

**Commencement Information**

**I5** S. 5 in force at 31.8.2009 by S.I. 2009/1840, art. 2(e)

*Orders made on conviction*

**6 Orders on conviction in criminal proceedings**

- (1) This section applies where—
  - (a) an individual aged 16 or over is convicted of an offence (the “offender”); and
  - (b) at the time he committed the offence, he was under the influence of alcohol.
- (2) The court must consider whether the conditions in section 3(2) are satisfied in relation to the offender.
- (3) If the court decides that the conditions are satisfied in relation to the offender, it may make a drinking banning order against him.
- (4) If the court—
  - (a) decides that the conditions are satisfied in relation to the offender, but
  - (b) does not make a drinking banning order,it must give its reasons for not doing so in open court.
- (5) If the court decides that the conditions are not satisfied in relation to the offender, it must state that fact in open court and give its reasons.

**Commencement Information**

**I6** S. 6 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 2(a), 4, Schs.

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## 7 Supplementary provision about orders on conviction

- (1) For the purpose of deciding whether to make a drinking banning order under section 6 the court may consider evidence led by the prosecution and evidence led by the defence.
- (2) It is immaterial whether the evidence would have been admissible in the proceedings in which the offender was convicted.
- (3) A drinking banning order under section 6 must not be made except—
  - (a) in addition to a sentence imposed in respect of the offence; or
  - (b) in addition to an order discharging the offender conditionally.
- (4) The court may adjourn any proceedings in relation to a drinking banning order under section 6 even after sentencing the offender.
- (5) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.
- (6) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.
- (7) A drinking banning order under section 6 takes effect on—
  - (a) the day on which it is made; or
  - (b) if on that day the offender is detained in legal custody, the day on which he is released from that custody.
- (8) Subsection (9) applies in relation to proceedings in which a drinking banning order is made under section 6 against a young person.
- (9) In so far as the proceedings relate to the making of the order—
  - (a) section 49 of the Children and Young Persons Act 1933 (c. 12) (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the young person against whom the order is made; and
  - (b) section 39 of that Act (power to prohibit publication of certain matters) does so apply.
- (10) In section 3(2)(fa) of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director), after the first occurrence of “conviction of certain offences)” insert “, section 6 of the Violent Crime Reduction Act 2006 (orders on conviction in criminal proceedings) ”.
- (11) In this section and section 6 “the court” in relation to an offender means—
  - (a) the court by or before which he is convicted of the offence; or
  - (b) if he is committed to the Crown Court to be dealt with for the offence, the Crown Court.

### Commencement Information

**I7** S. 7 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 2(b), 4, Schs.

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## 8 Variation or discharge of orders under s. 6

- (1) The following persons may apply to the court which made a drinking banning order under section 6 for the order to be varied or discharged by a further order—
  - (a) the subject;
  - (b) the Director of Public Prosecutions; or
  - (c) a relevant authority.
- (2) If the subject makes an application under subsection (1), he must also send notice of his application to the Director of Public Prosecutions.
- (3) If the Director of Public Prosecutions or a relevant authority makes an application under subsection (1), he or it must also send notice of the application to the subject.
- (4) In the case of an order under section 6 made by a magistrates' court, the reference in subsection (1) to the court which made the order includes a reference to a relevant local court.
- (5) An order under section 6 may not be varied so as to extend the specified period to more than two years.
- (6) No order under section 6 is to be discharged on an application under subsection (1)
  - (a) unless—
    - (a) it is discharged from a time after the end of the period that is half the duration of the specified period; or
    - (b) the Director of Public Prosecutions has consented to its earlier discharge.
- (7) In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2) after paragraph (fc) insert—
  - “(fd) where it appears to him appropriate to do so, to have the conduct of applications under section 8(1)(b) of the Violent Crime Reduction Act 2006 for the variation or discharge of orders made under section 6 of that Act;
  - (fe) where it appears to him appropriate to do so, to appear on any application under section 8(1)(a) of that Act by a person subject to an order under section 6 of that Act for the variation or discharge of the order.”

### Commencement Information

**18** S. 8 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 2(c), 4, Schs.

### *Supplemental provisions about drinking banning orders*

## 9 Interim orders

- (1) This section applies in each of the following cases—
  - (a) where an application is made for a drinking banning order;
  - (b) where the court is required under section 6 to consider whether the conditions for making a drinking banning order are satisfied.
- (2) Before—

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- (a) determining the application, or
  - (b) considering whether the conditions are satisfied,
- the court may make an order under this section (“an interim order”) if it considers that it is just to do so.
- (3) Where this section applies by virtue of subsection (1)(a), an application for an interim order against an individual—
- (a) may be made without notice being given to that individual; and
  - (b) may be heard in the absence of that individual.
- (4) The following permission is required for the making or hearing of an application in accordance with subsection (3)—
- (a) in the case of proceedings in the county court, the permission of the court; and
  - (b) in the case of an application to a magistrates' court, the permission of the proper officer.
- (5) Permission may only be given under subsection (4) if the court or proper officer is satisfied—
- (a) that it is necessary for the application to be made without notice being given to the individual in question; and
  - (b) that it is not necessary for the application to be heard in the presence of the individual.
- (6) An interim order—
- (a) may contain any provision that may be contained in a drinking banning order; but
  - (b) has effect, unless renewed, only for such fixed period of not more than four weeks as may be specified in the order.
- (7) An interim order—
- (a) may be renewed (on one or more occasions) for a period of not more than four weeks from the end of the period when it would otherwise cease to have effect;
  - (b) must cease to have effect (if it has not previously done so) on the determination of the application mentioned in subsection (1)(a) or on the court's making its decision whether to make a drinking banning order under section 6.
- (8) Section 5 applies in relation to an interim order made in a case falling within subsection (1)(a) as it applies in relation to a drinking banning order made under section 3 or 4, but with the omission of section 5(5) and (6).
- (9) Section 8 applies in relation to an interim order made in a case falling within subsection (1)(b) as it applies in relation to a drinking banning order made under section 6, but with the omission of section 8(5) and (6).

#### **Commencement Information**

**I9** S. 9 in force at 31.8.2009 for specified purposes by [S.I. 2009/1840](#), [art. 3\(a\)](#)

**I10** S. 9 in force at 1.4.2010 for specified purposes by [S.I. 2010/469](#), [arts. 3\(a\), 4](#), [Schs.](#)



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## 10 Appeals

- (1) An appeal lies to the Crown Court against the making by a magistrates' court of a drinking banning order under section 3 or 6.
- (2) On such an appeal the Crown Court—
  - (a) may make such orders as may be necessary to give effect to its determination of the appeal;
  - (b) may also make such incidental or consequential orders as appear to it to be just.
- (3) An order of the Crown Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall be treated for the purposes of sections 5 and 8 as an order of the magistrates' court from which the appeal was brought.

### Commencement Information

- I11** S. 10 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(b)  
**I12** S. 10 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 3(b), 4, Schs.

## 11 Breach of drinking banning orders

- (1) If the subject of a drinking banning order or of an interim order does, without reasonable excuse, anything that he is prohibited from doing by the order, he is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) If a person is convicted of an offence under subsection (1), it is not open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
- (4) A local authority may bring proceedings for an offence under subsection (1).
- (5) The Secretary of State may by order provide that a person of a description specified in the order may bring proceedings for an offence under subsection (1) in such cases and such circumstances as may be prescribed by the order.
- (6) In proceedings for an offence under subsection (1), a copy of the original drinking banning order or interim order, certified as such by the proper officer of the court which made it, is admissible as evidence—
  - (a) of its having been made, and
  - (b) of its contents,to the same extent that oral evidence of those things is admissible in those proceedings.
- (7) If proceedings for an offence under subsection (1) are brought in a youth court, section 47(2) of the Children and Young Persons Act 1933 (c. 12) has effect as if the persons entitled to be present for the purposes of those proceedings included one person authorised to be present by a relevant authority.
- (8) In relation to proceedings brought against a young person for an offence under subsection (1)—

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- (a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the young person against whom the proceedings are brought; and
  - (b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (power to restrict reporting on criminal proceedings involving persons under 18) does so apply.
- (9) If, in relation to any such proceedings, the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it must give its reasons for doing so.
- (10) Subject to paragraph 2(2) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999, until section 45 of that Act comes into force, the references to it in this section are to be read as references to section 39 of the Children and Young Persons Act 1933 (power to prohibit publication of certain matters).

#### **Commencement Information**

**I13** S. 11 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(c)

**I14** S. 11 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 3(c), 4, Schs.

## **12 Approved courses**

- (1) If an application is made to the Secretary of State for the approval of a course for the purposes of section 2, he must decide whether to grant or refuse the application.
- (2) In reaching that decision the Secretary of State—
- (a) must have regard to the nature of the course and to whether the person providing it is an appropriate person both to provide it and efficiently and effectively to administer its provision; and
  - (b) may take into account any recommendations made by persons appointed by the Secretary of State to consider the application.
- (3) A course may be approved subject to conditions specified by the Secretary of State.
- (4) The approval of a course—
- (a) is for the period specified by the Secretary of State (which must not exceed 7 years); and
  - (b) may be withdrawn by him at any time.
- (5) Regulations made by the Secretary of State may make provision in relation to the approval of courses and may, in particular, include—
- (a) provision about the making of applications for approval;
  - (b) provision for the payment of fees, of such amounts as are prescribed by the regulations, in respect of applications for approval, the giving of approvals, or both;
  - (c) provision specifying the maximum fees that a person may be required to pay for a course and about when fees for courses have to be paid;
  - (d) provision for the monitoring of courses and of persons providing courses;
  - (e) provision about the withdrawal of approvals; and

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- (f) provision authorising the Secretary of State (whether on payment of a fee or otherwise) to make available information about courses and about persons providing courses.
- (6) The Secretary of State—
  - (a) may issue guidance about the conduct of approved courses; and
  - (b) in exercising the powers and duties conferred or imposed on him by or under subsections (1) to (5) must have regard to the guidance under this subsection that is for the time being in force.
- (7) Also, a court must have regard to that guidance in determining what for the purposes of section 13 constitutes reasonable instructions or reasonable requirements by a person providing an approved course.

#### **Commencement Information**

**I15** S. 12 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(d)

**I16** S. 12 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 3(d), 4, Schs.

### **13 Certificates of completion of approved courses**

- (1) For the purposes of section 2—
  - (a) the subject of a drinking banning order is to be regarded as having completed an approved course satisfactorily if, and only if, the person providing the course has given a certificate that the subject has done so; and
  - (b) the time at which the subject is to be regarded as having satisfactorily completed the course is the time when that certificate is received by the proper officer of the court that made the order.
- (2) For the purposes of this section a certificate that a person has satisfactorily completed a course—
  - (a) has to be in such form, and
  - (b) has to contain such particulars,as may be specified in, or determined under, regulations made by the Secretary of State.
- (3) The person providing an approved course must give the subject of a drinking banning order in which that course is specified a certificate for the purposes of this section unless that subject—
  - (a) has failed to make due payment of fees for the course;
  - (b) has failed to attend the course in accordance with the reasonable instructions of the person providing the course; or
  - (c) has failed to comply with any other reasonable requirement of that person.
- (4) Where a person providing an approved course decides not to give the subject of a drinking banning order a certificate under subsection (1), he must give the subject written notice of the decision, setting out the grounds of the decision.
- (5) The obligation of the person providing an approved course to give, in the case of the subject of a drinking banning order in which that course is specified, either—
  - (a) a certificate for the purposes of this section, or
  - (b) a notice under subsection (4),

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must be discharged before the end of 14 days beginning with the day on which any request to do so is made by that subject.

- (6) The subject of a drinking banning order who is given a notice under subsection (4) or who claims that a request for the purposes of subsection (5) has not been complied with may, within such period as may be prescribed by rules of court, apply to—
- (a) the court which made the order, or
  - (b) if that court is not the Crown Court or a relevant local court, to either the court which made the order or a relevant local court,
- for a declaration that there has been a contravention of subsection (3).
- (7) If the court grants the application, the applicant is to be treated for the purposes of section 2 as having satisfactorily completed the course at the time of the making of the declaration.
- (8) The Secretary of State may by regulations make provision as to—
- (a) the form of a notice under subsection (4); and
  - (b) the manner in which such a notice is given and the time to be taken as the time of the giving of such a notice.

#### **Commencement Information**

**I17** S. 13 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(e)

**I18** S. 13 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 3(e), 4, Schs.

## **14 Interpretation of Chapter 1**

(1) In this Chapter—

“appropriate persons”, in relation to an application for a drinking banning order or an application referred to in section 4(6)(b) or (c), means such of the following as is not a party to the application—

- (a) the chief officer of police of the police force for the police area where the conduct to which the application relates occurred;
- (b) the chief officer of police of the police force for the police area in which the individual to whose conduct the application relates normally resides;
- (c) every local authority in whose area the place where that individual normally resides is situated; and
- (d) the Chief Constable of the British Transport Police Force;

“approved course” means a course approved by the Secretary of State for the purposes of section 2;

“drinking banning order” means an order under section 3, 4 or 6;

“interim order” means an order under section 9;

“local authority” means—

- (a) a county council in England;
- (b) a district council in England;
- (c) a London borough council;
- (d) the Common Council of the City of London;
- (e) the Council of the Isles of Scilly;
- (f) a county council or a county borough council in Wales;

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“proper officer”—

- (a) in relation to a magistrates' court, means the justices' clerk; and
- (b) in relation to any other court, means the clerk of the court;

“relevant authority” means—

- (a) the chief officer of police of a police force for a police area;
- (b) the Chief Constable of the British Transport Police Force;
- (c) a local authority;

“relevant local court”, in relation to a drinking banning order, means a magistrates' court acting for the local justice area in which the subject normally resides;

“specified period”, in relation to a drinking banning order, means the period specified in the order for the purposes of section 2(1) as the period for which the order is to have effect;

“subject”, in relation to an order, means the individual against whom it is made;

“young person” has the same meaning as in the Children and Young Persons Act 1933 (c. 12) (see section 107(1) of that Act).

- (2) References in this Chapter to protecting persons from criminal or disorderly conduct include references to protecting their property from unlawful loss or damage.
- (3) The Secretary of State may by order provide that a person of a description specified in the order is to be regarded as a relevant authority for such purposes of the provisions of this Chapter as are specified in the order.
- (4) A power of the Secretary of State to make an order or regulations under this Chapter shall be exercisable by statutory instrument.
- (5) Every such power includes power—
  - (a) to make different provision for different cases;
  - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
  - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- (6) No regulations shall be made under section 2 unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (7) A statutory instrument containing—
  - (a) regulations under section 12 or 13, or
  - (b) an order under section 11 or this section,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The power under subsection (5) to make incidental, supplemental and consequential provision includes power to modify so much of this section as defines “appropriate persons”.

#### **Commencement Information**

**119** S. 14 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(f)

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

**I20** S. 14 in force at 1.4.2010 for specified purposes by S.I. 2010/469, arts. 3(f), 4, Schs.

## CHAPTER 2

### ALCOHOL DISORDER ZONES

#### **15 Power to impose charges on licence holders etc. in zones**

- (1) The Secretary of State may, by regulations, make provision for the imposition by a local authority of charges to be paid to the authority for each month by—
  - (a) persons who for the whole or a part of that month held premises licences authorising the use of premises in alcohol disorder zones in the authority's area for the sale of alcohol by retail; and
  - (b) clubs which for the whole or a part of that month were authorised by virtue of club premises certificates to use premises in such zones for the supply of alcohol to members or guests.
- (2) The Secretary of State may by regulations make provision requiring a local authority that impose charges by reference to an alcohol disorder zone to use sums received by them in respect of those charges for the purposes specified in or determined under the regulations.
- (3) The rates of charges fixed under this section must be such as the Secretary of State considers appropriate for securing that the funds that he considers appropriate are available (after the costs of the scheme have been met from the charges) to be used for any purposes specified or determined under subsection (2).
- (4) Regulations under this section fixing the rates of charges may fix different rates for different descriptions of local authority, different descriptions of alcohol disorder zones and different descriptions of premises and may do so either—
  - (a) by setting out the different rates in the regulations; or
  - (b) by specifying the methods of computing the different rates in the regulations.
- (5) Regulations under this section fixing such rates—
  - (a) may authorise or require a local authority to grant discounts from the charges; and
  - (b) must provide for exemptions from the charges for the purpose mentioned subsection (6).
- (6) The only exemptions from charges for which regulations under this section may provide are exemptions for the purpose of securing that charges are not imposed in relation to premises where—
  - (a) the principal use to which the premises are put does not consist in or include the sale or supply of alcohol; and
  - (b) the availability of alcohol on those premises is not the main reason, or one of the main reasons, why individuals enter or remain on those premises (whether generally or at particular times of the day or on particular days of the week, or both).
- (7) Regulations providing for a discount or exemption from charges may make a discount or exemption subject to compliance with conditions which—
  - (a) are set out in the regulations; or

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*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

- (b) are specified by the local authority in accordance with provision made under the regulations;  
and those conditions may include conditions requiring approvals to be given in respect of premises by such persons, and in accordance with such scheme, as may be provided for in the regulations.
- (8) The Secretary of State may by regulations make provision about—
  - (a) the payment, collection and enforcement of charges imposed in accordance with regulations under this section;
  - (b) the determination of questions about liability for such charges, about the rate of charge applicable in relation to a particular set of premises or about compliance with the conditions of any exemption or discount; and
  - (c) appeals against decisions determining such questions.
- (9) Such regulations may include provision—
  - (a) for interest to be charged at such rate and in such manner as may be specified in or determined under the regulations on charges that are overdue; and
  - (b) for the suspension of premises licences and club premises certificates for non payment of a charge.
- (10) In subsection (3) the reference, in relation to any charges, to the costs of the scheme is a reference to the costs of the arrangements made for or in connection with the imposition, collection and recovery of those charges.

**Commencement Information**

**I21** S. 15 in force at 5.6.2008 by S.I. 2008/1407, art. 2

**16 Designation of alcohol disorder zones**

- (1) A local authority may by order designate a locality in their area as an alcohol disorder zone if they are satisfied—
  - (a) that there has been nuisance or annoyance to members of the public, or a section of the public, or disorder, in or near that locality;
  - (b) that the nuisance, annoyance or disorder is associated with the consumption of alcohol in that locality or with the consumption of alcohol supplied at premises in that locality;
  - (c) that there is likely to be a repetition of nuisance, annoyance or disorder that is so associated; and
  - (d) that subsection (8) allows the making of the order.
- (2) Before designating a locality as an alcohol disorder zone, a local authority must publish a notice—
  - (a) setting out their proposal to designate the locality; and
  - (b) inviting persons interested to make representations about the proposal, and about what might be included in the action plan under subsection (4).
- (3) That notice must require the representations to be made before the end of the period of 28 days beginning with the day after publication of the notice.



*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

- (4) As soon as reasonably practicable after the end of the period for making representations about a proposal by a local authority to designate a locality, the local authority and the local chief officer of police must—
- (a) prepare a document (“the action plan”) setting out the steps the taking of which would, in their opinion, make the designation of the locality unnecessary;
  - (b) publish the action plan in such manner as they consider appropriate for bringing it to the attention of persons likely to be interested in it; and
  - (c) send a copy of the plan to every person who holds—
    - (i) a premises licence authorising the use of premises in the locality for the sale of alcohol by retail; or
    - (ii) a club premises certificate by virtue of which authorisation is given to the use of premises in the locality for the supply of alcohol to members or guests.
- (5) The steps set out in the action plan may include the establishment and maintenance of a scheme for the making of payments to the local authority.
- (6) The action plan must also contain proposals by—
- (a) the local authority in whose area the locality to which the proposed designation relates is situated, and
  - (b) the local chief officer of police,
- about what action they will take in relation to that locality if the plan is implemented.
- (7) The power of the Secretary of State to make regulations under subsection (2) of section 15 shall be exercisable in relation to sums received by a local authority in accordance with a scheme established under an action plan as it is exercisable in relation to sums received by a local authority in respect of charges imposed by virtue of regulations under that section.
- (8) A local authority may only make an order designating a locality as an alcohol disorder zone if—
- (a) the period of 8 weeks beginning with the day after the publication of the action plan has expired without such steps for implementing the action plan having been taken as, in that authority's opinion, make the designation of the locality unnecessary; or
  - (b) the local authority are satisfied (whether before or after the end of that period) that the plan will not be implemented, that the steps required by the plan are no longer being taken or that effect is no longer being given to arrangements made in accordance with the plan.

**Commencement Information**

**I22** S. 16 in force at 5.6.2008 by S.I. 2008/1407, art. 2

**17 Procedure for designation of zones**

- (1) An order designating an alcohol disorder zone must identify the locality being designated either by name or, if appropriate, by describing its boundaries.
- (2) A local authority who have designated a locality as an alcohol disorder zone may by order revoke the designation.



*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

- (3) If a local authority consider that the locality designated by an alcohol disorder zone should be varied, they may—
  - (a) make a proposal for the purposes of section 16 for a replacement order designating a locality that includes the whole or part of the locality already designated; and
  - (b) in any designation order made to give effect to that proposal, revoke the previous designation with effect from the coming into force of the replacement order.
- (4) The local authority who have designated a locality as an alcohol disorder zone and the local chief officer of police must—
  - (a) as soon as reasonably practicable after the end of three months from the coming into force of the designation, and
  - (b) as soon as reasonably practicable after the end of each subsequent period of three months,together carry out a review of the need for the designation.
- (5) On each such review the local authority and local chief officer of police must consider whether it would be appropriate for any of the powers in subsections (2) and (3) to be exercised.
- (6) The Secretary of State may make regulations which, for the purpose of supplementing the provisions of section 16 and this section, prescribe additional procedures to be followed in relation to the making or revocation of orders for the designation of a locality as an alcohol disorder zone.
- (7) Those regulations must include, in particular, provision requiring local authorities to publicise the making and effect of orders designating localities as alcohol disorder zones.

#### **Commencement Information**

**I23** S. 17 in force at 5.6.2008 by S.I. 2008/1407, art. 2

## **18 Functions of local chief officer of police**

- (1) It is the duty of a local authority to consider whether to make a proposal for the designation of a locality as an alcohol disorder zone if the local chief officer of police applies to them to do so.
- (2) If on such an application the local authority decide not to make a proposal, they must—
  - (a) give notice of their decision (setting out their reasons) to the local chief officer of police; and
  - (b) send a copy of that notice to the Secretary of State and to the police authority for the police area in which the locality to which the proposal relates is situated.
- (3) A local authority which—
  - (a) are proposing to designate a locality as an alcohol disorder zone, and
  - (b) are not doing so on an application from the local chief officer of police,must consult that chief officer before publishing notice of their proposal.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

- (4) The consent of the local chief officer of police is required for the making of—
  - (a) an order designating a locality as an alcohol disorder zone; or
  - (b) the making of an order under section 17(2).
- (5) Where the local chief officer of police does not give a consent required by subsection (4)(a), he must give notice of his decision (setting out his reasons) to the Secretary of State and to the police authority for his police area.

**Commencement Information**

**I24** S. 18 in force at 5.6.2008 by S.I. 2008/1407, art. 2

**19 Guidance about the designation of zones**

- (1) The Secretary of State—
  - (a) must issue such guidance as he considers appropriate about the manner in which local authorities, police authorities and chief officers of police are to exercise and perform their powers and duties by virtue of this Chapter; and
  - (b) may from time to time revise that guidance.
- (2) The guidance must include guidance about what alternative steps should be considered before a proposal is made for the designation of a locality as an alcohol disorder zone.
- (3) Before issuing or revising any guidance under this section, the Secretary of State must consult—
  - (a) persons he considers represent the interests of local authorities;
  - (b) persons he considers represent the interests of chief officers of police;
  - (c) persons he considers represent the interests of police authorities;
  - (d) persons he considers represent the interests of holders of premises licences;
  - (e) persons he considers represent the interests of holders of club premises certificates; and
  - (f) such other persons as he thinks fit.
- (4) It shall be the duty of every local authority, police authority and chief officer of police, in exercising their powers and duties by virtue of this Chapter, to have regard to the guidance for the time being in force under this section.

**Commencement Information**

**I25** S. 19 in force at 5.6.2008 by S.I. 2008/1407, art. 2

**20 Supplemental provisions for Chapter 2**

- (1) In this Chapter—
 

“alcohol disorder zone” means a locality designated as such a zone under section 16;

“local authority” means—

  - (a) a district council;
  - (b) a county council for an area for which there are no district councils;

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*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

- (c) a London borough council;
  - (d) the Common Council of the City of London in its capacity as a local authority;
  - (e) the Council of the Isles of Scilly;
  - (f) a county council or a county borough council in Wales;
- “local chief officer of police”, in relation to the designation of a locality as an alcohol disorder zone, means the chief of police of the police force for the police area in which that locality is situated;
- “locality” includes a part of a locality.
- (2) Expressions used in this Chapter and in the Licensing Act 2003 (c. 17) or in a Part of that Act have the same meanings in this Chapter as in that Act or Part.
  - (3) References in this Chapter to premises' being in a locality (however described) include references to their being partly in that locality.
  - (4) The powers of the Secretary of State to make regulations under this Chapter shall be exercisable by statutory instrument.
  - (5) Those powers all include power—
    - (a) to make different provision for different cases;
    - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
    - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
  - (6) The Secretary of State must not make regulations containing (with or without other provision) any provision that he is authorised to make by this Chapter unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
  - (7) Subsection (5)(b) is subject to the restriction on exemptions contained in section 15(6).

**Commencement Information**

**I26** S. 20 in force at 5.6.2008 by S.I. 2008/1407, art. 2

**CHAPTER 3**

OTHER PROVISIONS

*Licence reviews*

**21 Power of police to require review of premises licence**

After section 53 of the Licensing Act 2003 (c. 17), insert—

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*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

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*“Summary reviews in serious cases of crime or disorder*

**53A Summary reviews on application of senior police officer**

- (1) The chief officer of police of a police force for a police area may apply under this section to the relevant licensing authority for a review of the premises licence for any premises wholly or partly in that area if—
- (a) the premises are licensed premises in relation to the sale of alcohol by retail; and
  - (b) a senior member of that force has given a certificate that it is his opinion that the premises are associated with serious crime or serious disorder or both;
- and that certificate must accompany the application.
- (2) On receipt of such an application, the relevant licensing authority must—
- (a) within 48 hours of the time of its receipt, consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
  - (b) within 28 days after the day of its receipt, review that licence in accordance with section 53C and reach a determination on that review.
- (3) The Secretary of State must by regulations—
- (a) require a relevant licensing authority to whom an application for a review under this section has been made to give notice of the review to the holder of the premises licence and to every responsible authority;
  - (b) prescribe the period after the making of the application within which the notice under paragraph (a) must be given;
  - (c) require a relevant licensing authority to advertise the review, inviting representations about it to be made to the authority by the responsible authorities and interested parties;
  - (d) prescribe the period after the making of the application within which the advertisement must be published;
  - (e) prescribe the period after the publication of the advertisement during which representations may be made by the holder of the premises licence, any responsible authority or any interested party; and
  - (f) require a notice or advertisement under paragraph (a) or (c) to specify the period prescribed under paragraph (e).
- (4) In this section—
- “senior member”, in relation to a police force, means a police officer who is a member of that force and of or above the rank of superintendent; and
- “serious crime” has the same meaning as in the Regulation of Investigatory Powers Act 2000 (c. 23) (see section 81(2) and (3) of that Act).
- (5) In computing the period of 48 hours mentioned in subsection (2)(a) time that is not on a working day is to be disregarded.

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*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

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### **53B Interim steps pending review**

- (1) This section applies to the consideration by a relevant licensing authority on an application under section 53A whether it is necessary to take interim steps pending the determination of the review applied for.
- (2) The consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority.
- (3) The interim steps the relevant licensing authority must consider taking are—
  - (a) the modification of the conditions of the premises licence;
  - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
  - (c) the removal of the designated premises supervisor from the licence;
  - (d) the suspension of the licence.
- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (5) Where on its consideration of whether to take interim steps the relevant licensing authority does take one or more such steps—
  - (a) its decision takes effect immediately or as soon after that as that authority directs; but
  - (b) it must give immediate notice of its decision and of its reasons for making it to—
    - (i) the holder of the premises licence; and
    - (ii) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (6) If the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the relevant licensing authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
- (7) The relevant licensing authority must give advance notice of the hearing to—
  - (a) the holder of the premises licence;
  - (b) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (8) At the hearing, the relevant licensing authority must—
  - (a) consider whether the interim steps are necessary for the promotion of the licensing objectives; and
  - (b) determine whether to withdraw or modify the steps taken.
- (9) In considering those matters the relevant licensing authority must have regard to—
  - (a) the certificate that accompanied the application;
  - (b) any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and

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*Status: Point in time view as at 01/04/2010.*

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- (c) any representations made by the holder of the premises licence.
- (10) In computing the period of 48 hours mentioned in subsection (6) time that is not on a working day is to be disregarded.

### **53C Review of premises licence following review notice**

- (1) This section applies to a review of a premises licence which a relevant licensing authority has to conduct on an application under section 53A.
- (2) The relevant licensing authority must—
  - (a) hold a hearing to consider the application for the review and any relevant representations;
  - (b) take such steps mentioned in subsection (3) (if any) as it considers necessary for the promotion of the licensing objectives; and
  - (c) secure that, from the coming into effect of the decision made on the determination of the review, any interim steps having effect pending that determination cease to have effect (except so far as they are comprised in steps taken in accordance with paragraph (b)).
- (3) Those steps are—
  - (a) the modification of the conditions of the premises licence,
  - (b) the exclusion of a licensable activity from the scope of the licence,
  - (c) the removal of the designated premises supervisor from the licence,
  - (d) the suspension of the licence for a period not exceeding three months, or
  - (e) the revocation of the licence.
- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (5) Subsection (2)(b) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (6) Where the authority takes a step within subsection (3)(a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months).
- (7) 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 (8).
- (8) 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 53A(3)(e),
  - (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.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

- (9) 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.
- (10) Where a relevant 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 premises licence,
  - (b) any person who made relevant representations, and
  - (c) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (11) A decision under this section does not have effect until—
  - (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.”

**Commencement Information**

**I27** S. 21 in force at 1.10.2007 by S.I. 2007/2180, art. 3(a)

**22 Provisions supplemental to s. 21**

- (1) In section 10(4) of the Licensing Act 2003 (c. 17) (matters not capable of delegation to officers of a relevant licensing authority)—
  - (a) in paragraph (a), after sub-paragraph (vi) insert—

“(via) section 53A(2)(a) or 53B (determination of interim steps pending summary review),”;
  - (b) after paragraph (b), insert—

“(ba) any function under section 53C (review following review notice), in a case where relevant representations (within the meaning of section 53C(7)) have been made,”.
- (2) In Schedule 5 to that Act (appeals), after paragraph 8 insert—

**“Summary review of premises licence**

- 8A
- (1) This paragraph applies where a review of a premises licence is decided under section 53A(2)(b) (review of premises licence following review notice).
  - (2) An appeal may be made against that decision by—
    - (a) the chief officer of police for the police area (or each police area) in which the premises are situated,
    - (b) the holder of the premises licence, or
    - (c) any other person who made relevant representations in relation to the application for the review.
  - (3) In sub-paragraph (2) “relevant representations” has the meaning given in section 53C(7).”

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

**Commencement Information**

**I28** S. 22 in force at 1.10.2007 by S.I. 2007/2180, art. 3(a)

*Persistently selling alcohol to children*

**23 Offence of persistently selling alcohol to children**

(1) After section 147 of the Licensing Act 2003 (c. 17) insert—

**“147A Persistently selling alcohol to children**

- (1) A person is guilty of an offence if—
- (a) on 3 or more different occasions within a period of 3 consecutive months alcohol is unlawfully sold on the same premises to an individual aged under 18;
  - (b) at the time of each sale the premises were either licensed premises or premises authorised to be used for a permitted temporary activity by virtue of Part 5; and
  - (c) that person was a responsible person in relation to the premises at each such time.
- (2) For the purposes of this section alcohol sold to an individual aged under 18 is unlawfully sold to him if—
- (a) the person making the sale believed the individual to be aged under 18; or
  - (b) that person did not have reasonable grounds for believing the individual to be aged 18 or over.
- (3) For the purposes of subsection (2) a person has reasonable grounds for believing an individual to be aged 18 or over only if—
- (a) he asked the individual for evidence of his age and that individual produced evidence that would have convinced a reasonable person; or
  - (b) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.
- (4) A person is, in relation to premises and a time, a responsible person for the purposes of subsection (1) if, at that time, he is—
- (a) the person or one of the persons holding a premises licence in respect of the premises; or
  - (b) the person or one of the persons who is the premises user in respect of a temporary event notice by reference to which the premises are authorised to be used for a permitted temporary activity by virtue of Part 5.
- (5) The individual to whom the sales mentioned in subsection (1) are made may, but need not be, the same in each case.
- (6) The same sale may not be counted in respect of different offences for the purpose—



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*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

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- (a) of enabling the same person to be convicted of more than one offence under this section; or
  - (b) of enabling the same person to be convicted of both an offence under this section and an offence under section 146 or 147.
- (7) In determining whether an offence under this section has been committed, the following shall be admissible as evidence that there has been an unlawful sale of alcohol to an individual aged under 18 on any premises on any occasion—
- (a) the conviction of a person for an offence under section 146 in respect of a sale to that individual on those premises on that occasion;
  - (b) the giving to a person of a caution (within the meaning of Part 5 of the Police Act 1997) in respect of such an offence; or
  - (c) the payment by a person of a fixed penalty under Part 1 of the Criminal Justice and Police Act 2001 in respect of such a sale.
- (8) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding £10,000.
- (9) The Secretary of State may by order amend subsection (8) to increase the maximum fine for the time being specified in that subsection.

#### **147B Order suspending a licence in respect of offence under section 147A**

- (1) Where the holder of a premises licence is convicted of an offence under section 147A in respect of sales on the premises to which the licence relates, the court may order that so much of the licence as authorises the sale by retail of alcohol on those premises is suspended for a period not exceeding three months.
  - (2) Where more than one person is liable for an offence under section 147A relating to the same sales, no more than one order under subsection (1) may be made in relation to the premises in question in respect of convictions by reference to those sales.
  - (3) Subject to subsections (4) and (5), an order under subsection (1) comes into force at the time specified by the court that makes it.
  - (4) Where a magistrates' court makes an order under subsection (1), it may suspend its coming into force pending an appeal.
  - (5) Section 130 (powers of appellate court to suspend section 129 order) applies (with the omission of subsection (9)) where an order under subsection (1) is made on conviction of an offence under section 147A as it applies where an order under section 129 is made on conviction of a relevant offence in Part 6.”
- (2) In section 186(2) of that Act (persons who may institute prosecutions under that Act)
- (a) in paragraph (a) (licensing authority), at the beginning insert “ except in the case of an offence under section 147A, ”; and
  - (b) in paragraph (c) (local weights and measures authority), for “or 147” substitute “ , 147 or 147A ”.
- (3) In section 197 of that Act (regulations and orders)—
- (a) in subsection (3), after paragraph (c) insert—

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1. (See end of Document for details)*

- “(ca) an order under section 147A(9) (increase of maximum fine for offence of persistently selling alcohol to children) to which subsection (4A) applies;”;
- (b) in subsection (4), after “(c),” insert “ (ca), ”;
- (c) after subsection (4) insert—

“(4A) This subsection applies to an order under section 147A(9) if it appears to the Secretary of State that the power to make the order is being exercised for purposes that are not confined to the increase of the maximum fine to take account of changes in the value of money.”

- (4) A sale of alcohol is not to count for the purposes of the offence under section 147A of the Licensing Act 2003 (c. 17) if it took place before the commencement of this section.

#### **Commencement Information**

**I29** S. 23 in force at 6.4.2007 by S.I. 2007/858, art. 2(a)

## **24 Closure notices for persistently selling alcohol to children**

- (1) After section 169 of the Licensing Act 2003 insert—

*“Closure notices*

### **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—
  - (a) be in the form prescribed by regulations made by the Secretary of State;
  - (b) specify the premises to which it applies;

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- (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).”
- (2) In subsection (1) of section 170 of that Act (exemptions from liability)—
- (a) for “A constable is not” substitute “Neither a constable nor a trading standards officer is ”; and
  - (b) at the end insert “ or of his functions in relation to a closure notice ”.
- (3) For subsection (2) of that section substitute—
- “(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.”
- (4) After subsection (4) of that section insert—

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- “(4A) 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 section 171(5) of that Act (expressions defined for the purposes of Part 8),
- (a) after the definition of “appropriate person” insert—
- ““closure notice” has the meaning given in section 169A;”
- (b) after the definition of “extension” insert—
- ““local weights and measures authority” has the meaning given by section 69 of the Weights and Measures Act 1985;”
- (c) after the definition of “senior police officer” insert—
- ““trading standards officer”, in relation to any premises to which a premises licence relates, means a person authorised by a local weights and measures authority to act in the area where those premises are situated in relation to proposed prohibitions contained in closure notices;”.
- (6) In Part 1 of Schedule 4 to the Police Reform Act 2002 (c. 30) (powers of community support officers), after paragraph 5 insert—

**“Power to serve closure notice for licensed premises persistently selling to children**

- 5A Where a designation applies this paragraph to any person, that person shall have—
- (a) within the relevant police area, and
- (b) if it appears to him as mentioned in subsection (7) of section 169A of the Licensing Act 2003 (closure notices served on licensed premises persistently serving children),
- the capacity of a constable under that subsection to be the person by whose delivery of a closure notice that notice is served.”

**Commencement Information**

**I30** S. 24 in force at 6.4.2007 by S.I. 2007/858, art. 2(a)

*Door supervision at licensed premises*

**25 Mandatory premises licence condition: door supervision**

- (1) Section 21 of the Licensing Act 2003 (c. 17) (mandatory condition: door supervision) is amended as follows.
- (2) In subsection (1) for “be licensed by the Security Industry Authority” substitute “—
- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

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(b) be entitled to carry out that activity by virtue of section 4 of that Act.”

(3) In subsection (3) in paragraph (a), at the end insert “ and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act) ”.

*Alcohol related disorder in public places*

## 26 Designated public places

(1) Section 14 of the Criminal Justice and Police Act 2001 (c. 16) (places which are not designated public places) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (a) substitute—

“(a) premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol;

(aa) premises in respect of which a club premises certificate has effect which certifies that the premises may be used by the club for the sale or supply of alcohol;”

(b) in paragraph (b), after “(a)” insert “ or (aa) ”;

(c) in paragraph (c), for “20” substitute “ 30 ”.

(3) After subsection (1) insert—

“(1A) Subsection (1B) applies to premises falling within subsection (1)(a) if—

(a) the premises licence is held by a local authority in whose area the premises or part of the premises is situated; or

(b) the premises licence is held by another person but the premises are occupied by such an authority or are managed by or on behalf of such an authority.

(1B) Subsection (1) prevents premises to which this subsection applies from being, or being part of, a designated public place only—

(a) at times when it is being used for the sale or supply of alcohol; and

(b) at times falling within 30 minutes after the end of a period during which it has been so used.

(1C) In this section “premises licence” and “club premises certificate” have the same meaning as in the Licensing Act 2003.”

### Commencement Information

**I31** S. 26 in force at 6.4.2007 by S.I. 2007/858, art. 2(b)

## 27 Directions to individuals who represent a risk of disorder

(1) If the test in subsection (2) is satisfied in the case of an individual [<sup>F1</sup> aged 10 or over ] who is in a public place, a constable in uniform may give a direction to that individual—

(a) requiring him to leave the locality of that place; and

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- (b) prohibiting the individual from returning to that locality for such period (not exceeding 48 hours) from the giving of the direction as the constable may specify.
- (2) That test is—
- (a) that the presence of the individual in that locality is likely, in all the circumstances, to cause or to contribute to the occurrence of alcohol-related crime or disorder in that locality, or to cause or to contribute to a repetition or continuance there of such crime or disorder; and
  - (b) that the giving of a direction under this section to that individual is necessary for the purpose of removing or reducing the likelihood of there being such crime or disorder in that locality during the period for which the direction has effect or of there being a repetition or continuance in that locality during that period of such crime or disorder.
- (3) A direction under this section—
- (a) must be given in writing;
  - (b) may require the individual to whom it is given to leave the locality in question either immediately or by such time as the constable giving the direction may specify;
  - (c) must clearly identify the locality to which it relates;
  - (d) must specify the period for which the individual is prohibited from returning to that locality;
  - (e) may impose requirements as to the manner in which that individual leaves the locality, including his route; and
  - (f) may be withdrawn or varied (but not extended so as to apply for a period of more than 48 hours) by a constable.
- (4) A constable may not give a direction under this section that prevents the individual to whom it is given—
- (a) from having access to a place where he resides;
  - (b) from attending at any place which he is required to attend for the purposes of any employment of his or of any contract of services to which he is a party;
  - (c) from attending at any place which he is expected to attend during the period to which the direction applies for the purposes of education or training or for the purpose of receiving medical treatment; or
  - (d) from attending at any place which he is required to attend by any obligation imposed on him by or under an enactment or by the order of a court or tribunal.
- [<sup>F2</sup>(4A) A constable who gives a direction under this section may, if the constable reasonably suspects that the individual to whom it is given is aged under 16, remove the person to a place where the person resides or a place of safety.]
- (5) A constable who gives a direction under this section must make a record of—
- (a) the terms of the direction and the locality to which it relates;
  - (b) the individual to whom it is given;
  - (c) the time at which it is given;
  - (d) the period during which that individual is required not to return to the locality.
- (6) A person who fails to comply with a direction under this section is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

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*Status: Point in time view as at 01/04/2010.*

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(7) In section 64A of the Police and Criminal Evidence Act 1984 (c. 60) (power to photograph suspects), in subsection (1B), after paragraph (c) insert—

“(ca) given a direction by a constable under section 27 of the Violent Crime Reduction Act 2006;”.

(8) In this section “public place” means—

(a) a highway; or

(b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

and for this purpose “place” includes a place on a means of transport.

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#### **Textual Amendments**

**F1** Words in s. 27(1) substituted (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\), ss. 31\(2\), 116\(1\)](#); [S.I. 2010/125, art. 2\(h\)](#)

**F2** [S. 27\(4A\)](#) inserted (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\), ss. 31\(3\), 116\(1\)](#); [S.I. 2010/125, art. 2\(h\)](#)

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#### **Commencement Information**

**I32** S. 27 in force at 22.8.2007 by [S.I. 2007/2180, art. 2](#)



**Status:**

Point in time view as at 01/04/2010.

**Changes to legislation:**

There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Part 1.