

EXPLANATORY MEMORANDUM TO
THE LICENSING ACT 2003 (PERSISTENT SELLING OF ALCOHOL TO
CHILDREN) (PRESCRIBED FORM OF CLOSURE NOTICE) REGULATIONS 2007

2007 No. 1183

1. Preliminary

1.1 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations prescribe the form of a closure notice given under section 169A of the Licensing Act 2003 (“the 2003 Act”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 A closure notice offers an alternative to prosecution under section 147A of the 2003 Act for persistently selling alcohol to children. That offence may be committed by the holder of a premises licence (a form of authorisation for alcohol sales under the 2003 Act) if on 3 or more occasions within 3 consecutive months alcohol is sold unlawfully to an individual aged under 18 on the premises to which the licence relates.

4.2 If he considers on the evidence that there is a realistic prospect of conviction of the licence holder for such an offence, a police officer (of the rank of superintendent or above), or an inspector of weights and measures may give a closure notice under s169A proposing that the premises concerned be ‘closed’ (that is, alcohol sales be prohibited) for a period of up to 48 hours beginning not less than 14 days after the date the closure notice is served.

4.3 If the closure notice is accepted by the licence holder (or if there is more than one, all of them), the prohibition on alcohol sales proposed in it takes effect, and no proceedings may subsequently be brought against the holder or holders for the alleged s147A offence or any related offence (see section 169B(3) and (5) of the 2003 Act). If the closure notice is not accepted by all relevant licence holders they may be liable for prosecution for the s147A offence in the usual way.

4.4 Sections 147A and 169A and 169B were inserted into the 2003 Act by the Violent Crime Reduction Act 2006 (c. 38).

5. Extent and application

5.1 This instrument extends to, and applies in respect of premises situated in, England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 From 6th April 2007 it will be an offence to sell alcohol unlawfully on three or more occasions, within a three month period, from the same premises to a person aged under 18 years.

7.2 The offence may be committed by the holder(s) of the relevant premises licence independently of any actual knowledge on their part of the unlawful sales.

7.3 The purpose of the offence is to combat underage sales of alcohol by ensuring that licence holders can be held accountable for failing to implement proper systems for the supervision of alcohol sales from licensed premises.

7.4 In the Violent Crime Reduction Act 2006 (as it amends Parts 7 and 8 of the 2003 Act) Parliament has determined that the occurrence of three unlawful sales to children within a three month period is sufficient to establish that the licence holder in question has failed in their responsibility to prevent such sales.

7.5 There is no statutory mechanism for the notification of licence holders in respect of individual unlawful sales. In order to avoid committing the offence of persistent selling, licence holders will need to ensure that they are aware of any individual unlawful sales by having proper supervisory and reporting systems in place to alert them to such sales.

7.6 In the event that three unlawful sales occur within the requisite period, a notice in the form prescribed by these Regulations may be given to the licence holder. The notice advises the licence holder that the authorities consider that the offence of persistent selling has been committed, and offers the licence holder the choice of being tried for that offence in the usual way, or electing to accept a period of “closure” specified in the notice, during which alcohol sales may not lawfully be made from the premises. If the closure is accepted as an alternative to trial (by all the licence holders, if there is more than one), the licence holder(s) cannot subsequently be tried for the persistent selling offence based on the same sales.

7.7 The prescribed form sets out the information required to be given to the licence holder as referred to in section 169A(3) of the 2003 Act.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

- 9.1 Stuart Roberts at the Department for Culture, Media and Sport Tel: 0207 211 6099 or e-mail: stuart.roberts@culture.gsi.gov.uk can answer any queries regarding the instrument.