



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 11

#### MISCELLANEOUS

##### *Persistent sales of tobacco to persons under 18*

#### **143 Persistent sales of tobacco to persons under 18**

- (1) The Children and Young Persons Act 1933 (c. 12) is amended as follows.
- (2) After section 12 insert—

##### *“Persistent sales of tobacco to persons under 18*

#### **12A Restricted premises orders**

- (1) This section applies where a person (“the offender”) is convicted of a tobacco offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted premises order to be made in respect of the premises in relation to which that offence was committed (“the relevant premises”).
- (3) A restricted premises order is an order prohibiting the sale on the premises to which it relates of any tobacco or cigarette papers to any person.
- (4) The prohibition applies to sales whether made—
  - (a) by the offender or any other person, or
  - (b) by means of any machine kept on the premises or any other means.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The order has effect for the period specified in the order, but that period may not exceed one year.
- (6) The applicant must, after making reasonable enquiries, give notice of the application to every person appearing to the applicant to be a person affected by it.
- (7) The court may make the order if (and only if) it is satisfied that—
- (a) on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco offences in relation to the relevant premises, and
  - (b) the applicant has complied with subsection (6).
- (8) Persons affected by the application may make representations to the court as to why the order should not be made.
- (9) If—
- (a) a person affected by an application for a restricted premises order was not given notice under subsection (6), and
  - (b) consequently the person had no opportunity to make representations to the court as to why the order should not be made,
- the person may by complaint apply to the court for an order varying or discharging it.
- (10) On an application under subsection (9) the court may, after hearing—
- (a) that person, and
  - (b) the applicant for the restricted premises order,
- make such order varying or discharging the restricted premises order as it considers appropriate.
- (11) For the purposes of this section the persons affected by an application for a restricted premises order in respect of any premises are—
- (a) the occupier of the premises, and
  - (b) any other person who has an interest in the premises.

### **12B Restricted sale orders**

- (1) This section applies where a person (“the offender”) is convicted of a tobacco offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates’ court apply for a restricted sale order to be made in respect of the offender.
- (3) A restricted sale order is an order prohibiting the person to whom it relates—
- (a) from selling any tobacco or cigarette papers to any person,
  - (b) from having any management functions in respect of any premises in so far as those functions relate to the sale on the premises of tobacco or cigarette papers to any person,

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*Status: This is the original version (as it was originally enacted).*

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- (c) from keeping any cigarette machine on any premises for the purpose of selling tobacco or permitting any cigarette machine to be kept on any premises by any other person for that purpose, and
  - (d) from having any management functions in respect of any premises in so far as those functions relate to any cigarette machine kept on the premises for the purpose of selling tobacco.
- (4) The order has effect for the period specified in the order, but that period may not exceed one year.
- (5) The court may make the order if (and only if) it is satisfied that, on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco offences.
- (6) In this section any reference to a cigarette machine is a reference to an automatic machine for the sale of tobacco.

### **12C Enforcement**

- (1) If—
  - (a) a person sells on any premises any tobacco or cigarette papers in contravention of a restricted premises order, and
  - (b) the person knew, or ought reasonably to have known, that the sale was in contravention of the order,the person commits an offence.
- (2) If a person fails to comply with a restricted sale order, the person commits an offence.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) A person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding £20,000.
- (5) A restricted premises order is a local land charge and in respect of that charge the applicant for the order is the originating authority for the purposes of the Local Land Charges Act 1975.

### **12D Interpretation**

- (1) In sections 12A and 12B a “tobacco offence” means—
  - (a) an offence committed under section 7(1) on any premises (which are accordingly “the premises in relation to which the offence is committed”), or
  - (b) an offence committed under section 7(2) in respect of an order relating to any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”).
- (2) In sections 12A to 12C the expressions “tobacco” and “cigarette” have the same meaning as in section 7.

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(3) In sections 12A and 12B “notice” means notice in writing.”

(3) In section 102(1) (appeals to the Crown Court), after paragraph (e) insert—  
“(f) in the case of a restricted premises order under section 12A or a restricted sale order under section 12B, by any person aggrieved.”