

*These notes refer to the Licensing (Young Persons) Act 2000
(c.30) which received Royal Assent on 23 November 2000*

LICENSING (YOUNG PERSONS) ACT 2000

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Licensing (Young Persons) Act 2000 which received Royal Assent on 23 November 2000. They have been prepared by the Home Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Act amends the law in England and Wales relating to the sale and consumption of intoxicating liquor in cases involving young people under the age of 18. The amendments cover:
 - who can commit the offences of selling alcohol to someone under 18;
 - knowingly allowing alcohol to be sold to someone under 18;
 - purchase by or on behalf of a person under 18;
 - knowingly allowing someone under 18 to consume alcohol in a bar; and
 - knowingly delivering or allowing the delivery of alcohol to someone under 18.

BACKGROUND

Selling to a person under 18

4. Section 169(1) of the Licensing Act 1964 (“the 1964 Act”) makes it an offence for a licensee or his “servant” (ie. his employee) to sell alcohol to a person under 18 in licensed premises; for a licensee knowingly to allow another person to sell alcohol to a person under 18; and for a licensee or his “servant” knowingly to allow a person under 18 to consume alcohol in a bar in licensed premises. Current business practice often means that those selling alcohol are neither the licensee nor his employee – for example, they may be employed directly by a company which runs a chain of off-licences or pubs. Prior to the Act, where this was the case and the employee made a sale to a person under 18, the employee could not commit an offence and therefore could not be prosecuted.

Proxy purchase

5. Prior to the Act, the law did not prohibit an adult buying alcohol on behalf of a child in off-licensed premises. This has been referred to as “proxy purchase”. The Act creates a new offence of buying or attempting to buy alcohol on behalf of a child in any licensed premises. A similar offence has existed in Scotland since 1976. A defence is available if the adult had no reason to suspect that the child was under 18. A parent who bought

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alcohol and subsequently gave it to his child would not commit an offence. The offence covers those who act as the agents of children in contracting sales. A parent contracts the sale in his or her own right, and is not acting as the child's agent or go-between to effect the child's own purchase.

THE ACT

6. The Act substitutes new provisions for section 169 of the 1964 Act. The new provisions:
 - redefine who may commit the offences of:
 - selling or knowingly allowing the sale of alcohol to a person under 18;
 - knowingly allowing the consumption of alcohol by a person under 18 in a bar; and
 - knowingly delivering or allowing the delivery to a person under 18 of alcohol sold in licensed premises for off-premise consumption.
 - create a new offence of purchasing alcohol on behalf of a person under 18.

COMMENTARY ON SECTIONS

7. [Section 1](#) of the Act substitutes seven new sections for section 169 of the 1964 Act.
8. New section 169A makes it an offence for any person in licensed premises to sell alcohol to someone under 18. Previously, under section 169(1), only the licensee or his "servant" could commit this offence. There are defences available depending upon whether a person is charged by reason of his own act, or the act or default of another.
9. New section 169B makes it an offence for a person in licensed premises, if he works in the licensed premises in a capacity, whether paid or unpaid, which gives him authority to prevent the sale, knowingly to allow another person to sell alcohol to a person under 18. Previously, under section 169(1), only the licensee could commit this offence. As the offence can only be committed "knowingly", the new section provides no defence to the offence.
10. New section 169C retains the offence under 169(2) for a person under 18 to buy, or attempt to buy, alcohol in licensed premises. The section also maintains the offence previously contained in section 169(3) of purchasing alcohol for consumption in a bar in licensed premises by a person under 18. A new sub-section also creates a new offence of buying or attempting to buy alcohol on behalf of a person under 18. No offence is committed in this case if the person proves that he had no reason to suspect that the person was under 18. This offence has been referred to in debates in Parliament as the offence of "proxy purchase." No offence would be committed by a parent who buys alcohol and subsequently gives it to one of his/her children. The new offence catches only those who act as an agent for a child in contracting the purchase.
11. New section 169D maintains the exception provided by section 169(4), where the person under 18 is at least 16 and the sale or purchase is of certain kinds of alcohol for consumption at a meal in certain parts of licensed premises.
12. New section 169E retains the offence under section 169(2) for a person under 18 to consume alcohol in a bar in licensed premises. It also makes it an offence for a person in licensed premises, if he works in the licensed premises in a capacity, whether paid or unpaid, which gives him authority to prevent the consumption, knowingly to allow a person under 18 to consume alcohol in a bar. Previously, under section 169(1), only the licensee or his "servant" could commit the latter offence. The new section provides no defence to the offence.
13. New section 169F makes it an offence for a person who works in licensed premises, whether paid or unpaid, knowingly to deliver alcohol to a person under 18 where the

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alcohol is sold in the licensed premises for off-premise consumption. It is also an offence for a person, who works in the licensed premises in a capacity, whether paid or unpaid, which gives him authority to prevent the delivery, knowingly to allow such a delivery by any person. Previously, under section 169(5), only the licensee or his “servant” could commit the “delivery” offence and only the licensee could commit the “allowing delivery” offence. Section 169(7) previously provided an exception where the person under 18 is a member of the licensee’s family or his servant or apprentice and is employed as a messenger to deliver alcohol; this exception is extended by the Act to cover anyone under 18 working in the licensed premises in a capacity, whether paid or unpaid, which includes the delivery of alcohol.

14. New section 169G maintains the offence of knowingly sending a person under 18 to obtain alcohol sold or to be sold in licensed premises for off-premise consumption (section 169(6)). The exception for messenger boys contained in section 169(7) has also been extended as in new section 169F.
15. New section 169H applies the penalties for an offence under section 169 to the new offences under sections 169A to 169G. The maximum fine is level 3 on the standard scale (currently £1,000). The power to forfeit licences formerly contained in section 169(8) has been adapted to apply to the offences under the new sections. Convictions for offences under section 169, as well as convictions for offences under the new sections, will count for the purposes of triggering the power to forfeit.
16. [Section 2](#) makes consequential amendments, adapting references to the existing offences, defences and penalty provisions so as to reflect the new ones.

COMMENCEMENT

17. The Act came into force on 23 January 2001, which was two months from the day it was passed.

Hansard References

The following table sets out the dates and Hansard references for each stage of this Act’s passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	15 December 1999	Vol 341 Col 281
Second Reading	11 February 2000	Vol 344 Col 509-575
Committee	22 March 2000	Standing Committee C
Report and Third Reading	12 May 2000 9 June 2000	Vol 349 Col 1119-1182 Vol 351 Col 539-580
House of Lords		
Introduction	12 June 2000	Vol 613 Col 1373
Second Reading	14 July 2000	Vol 615 Col 509-517
Committee	29 September 2000	Vol 616 Col 1055
Report	Discharged	Discharged
Third Reading	14 November 2000	Vol 619 Col 133

Royal Assent – 23 November 2000	House of Lords Hansard Vol 619 Col 937
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	House of Commons Hansard Vol 357 Col 481
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