Criminal Justice and Police Act 2001

2001 CHAPTER 16

PART 1

PROVISIONS FOR COMBATTING CRIME AND DISORDER

CHAPTER 2

PROVISIONS FOR COMBATTING ALCOHOL-RELATED DISORDER

Alcohol consumption in designated public places

12 Alcohol consumption in designated public places

(1) Subsection (2) applies if a constable reasonably believes that a person is, or has been, consuming intoxicating liquor in a designated public place or intends to consume intoxicating liquor in such a place.

(2) The constable may require the person concerned—

(a) not to consume in that place anything which is, or which the constable reasonably believes to be, intoxicating liquor;

(b) to surrender anything in his possession which is, or which the constable reasonably believes to be, intoxicating liquor or a container for such liquor [F1] . . . .

(3) A constable may dispose of anything surrendered to him under subsection (2) in such manner as he considers appropriate.

(4) A person who fails without reasonable excuse to comply with a requirement imposed on him under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) A constable who imposes a requirement on a person under subsection (2) shall inform the person concerned that failing without reasonable excuse to comply with the requirement is an offence.

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(6) [F2]. . . . . .

Textual Amendments

F1 Words in s. 12(2)(b) repealed (10.9.2003) by Licensing Act 2003 (c. 17), ss. 155(2), 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2003/2100, **art. 2**

F2 S. 12(6) repealed (1.10.2002) by Police Reform Act 2002 (c. 30), s. 107, **Sch. 8**; S.I. 2002/2306, **art. 2(g)(iii)(j)**

Modifications etc. (not altering text)

C1 S. 12 extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 para. 5**; S.I. 2002/2750, **art. 2**
S. 12 extended (with modifications) (2.12.2002) by Police Reform Act 2002 (c. 30), s. 41, 108, **Sch. 5 para. 4**; S.I. 2002/2750, **art. 2**

13 Designated public places

(1) A place is, subject to section 14, a designated public place if it is—
  (a) a public place in the area of a local authority; and
  (b) identified in an order made by that authority under subsection (2).

(2) A local authority may for the purposes of subsection (1) by order identify any public place in their area if they are satisfied that—
  (a) nuisance or annoyance to members of the public or a section of the public; or
  (b) disorder;
  has been associated with the consumption of intoxicating liquor in that place.

(3) The power conferred by subsection (2) includes power—
  (a) to identify a place either specifically or by description;
  (b) to revoke or amend orders previously made.

(4) The Secretary of State shall by regulations prescribe the procedure to be followed in connection with the making of orders under subsection (2).

(5) Regulations under subsection (4) shall, in particular, include provision requiring local authorities to publicise the making and effect of orders under subsection (2).

(6) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C2 S. 13(2): functions of local authority not to be responsibility of an executive of the authority (E.) (1.9.2001) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1** (as amended by S.I. 2001/2831, **reg. 10**) which S.I. was revoked by S.I. 2007/806, **reg. 11** and that effect continued by virtue of S.I. 2007/806, **reg. 10(2)(b)**

Commencement Information

I1 S. 13 wholly in force at 1.9.2001; s. 13 not in force at Royal Assent see s. 138; s. 13 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, **art. 2(2)(b)**; s. 13 in force at 1.9.2001 by S.I. 2001/2223, **art. 4(a)**

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14 Places which are not designated public places

(1) A place is not a designated public place or a part of such a place if it is—

(a) licensed premises or a registered club;

(b) a place within the curtilage of any licensed premises or registered club;

(c) a place where the sale of intoxicating liquor is for the time being authorised by an occasional permission or was so authorised within the last twenty minutes;

(d) a place where the sale of intoxicating liquor is not for the time being authorised by an occasional licence but was so authorised within the last twenty minutes;

(e) a place where facilities or activities relating to the sale or consumption of intoxicating liquor are for the time being permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (c. 66) (highway related uses).

(2) In subsection (1)—

"licensed premises", "occasional licence" and "registered club" have the same meaning as in the Licensing Act 1964 (c. 26); and

"occasional permission" has the same meaning as in the Licensing (Occasional Permissions) Act 1983 (c. 24).

15 Effect of sections 12 to 14 on byelaws

(1) Subsections (2) and (3) apply to any byelaw which—

(a) prohibits, by the creation of an offence, the consumption in a particular public place of intoxicating liquor (including any liquor of a similar nature which falls within the byelaw); or

(b) makes any incidental, supplementary or consequential provision (whether relating to the seizure or control of containers or otherwise).

(2) In so far as any byelaw to which this subsection applies would, apart from this subsection, have effect in relation to any designated public place, the byelaw—

(a) shall cease to have effect in relation to that place; or

(b) where it is made after the order under section 13(2), shall not have effect in relation to that place.

(3) In so far as any byelaw made by a local authority and to which this subsection applies still has effect at the end of the period of 5 years beginning with the day on which this subsection comes into force, it shall cease to have effect at the end of that period in relation to any public place.

16 Interpretation of sections 12 to 15

(1) In sections 12 to 15, unless the context otherwise requires—

"designated public place" has the meaning given by section 13(1);

"intoxicating liquor" has the same meaning as in the Licensing Act 1964; and

"public place" means any place to which 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.

(2) In sections 12 to 15 "local authority" means—

(a) in relation to England—

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(i) a unitary authority;
(ii) a district council so far as they are not a unitary authority;

(b) in relation to Wales, a county council or a county borough council.

(3) In subsection (2) "unitary authority" means—

(a) the council of a county so far as they are the council for an area for which there are no district councils;
(b) the council of any district comprised in an area for which there is no county council;
(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.

Closure of certain licensed premises

17 Closure of certain licensed premises due to disorder or disturbance

In Part 13 of the Licensing Act 1964 (c. 26) (miscellaneous) before section 180 there shall be inserted—

" Closure of certain licensed premises due to disorder or disturbance.

179A **Closure order**

(1) A senior police officer may make a closure order in relation to relevant licensed premises if he reasonably believes that—

(a) there is likely to be disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety;
(b) there is disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety; or
(c) a disturbance is being caused to the public by excessive noise emitted from the premises and the closure of the premises is necessary to prevent the disturbance.

(2) In this section and sections 179B to 179K of this Act—

"closure order" means an order requiring relevant licensed premises to be closed for a period not exceeding twenty-four hours beginning with the coming into force of the order; and

"relevant licensed premises" means licensed premises other than premises for which a justices' off-licence only or an occasional licence is in force and other than premises in respect of which a notice under section 199(c) of this Act is in force.

(3) In determining whether to make a closure order the senior police officer shall consider, in particular, any conduct of the holder of the justices' licence for the premises or the manager of the premises in relation to the disorder or disturbance.

(4) A closure order shall—

(a) specify the premises which are to be closed;
(b) specify the period for which the premises are to be closed;
(c) specify the grounds for the making of the order; and
(d) state the effect of sections 179B to 179E of this Act.

(5) A closure order shall come into force as soon as notice of the order is given by a constable to—
(a) the holder of the justices' licence for the premises; or
(b) a manager of the premises.

(6) A person who, without reasonable excuse, permits relevant licensed premises to be open in contravention of a closure order or any extension of it shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

179B **Consideration of closure order by certain justices**

(1) The responsible senior police officer shall, as soon as reasonably practicable after the coming into force of a closure order, apply to relevant justices for them to consider under this section the order and any extension of it.

(2) The relevant justices shall, as soon as reasonably practicable, consider whether to exercise their powers under subsection (3) of this section in relation to the order and any extension of it.

(3) The relevant justices may—
(a) revoke the order and any extension of it if the order or extension is still in force;
(b) order the relevant licensed premises to remain, or to be, closed until the matter is dealt with by an order of licensing justices at the next licensing sessions;
(c) make any other order as they think fit in relation to the premises.

(4) In determining whether the premises will be, or will remain, closed the relevant justices shall, in particular, consider whether—
(a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the premises or in the vicinity of, and related to, the premises;
(b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.

(5) A person who, without reasonable excuse, permits relevant licensed premises to be open in contravention of an order made under subsection (3)(b) of this section shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

(6) A person who, without reasonable excuse, fails to comply with, or does an act in contravention of, an order made under subsection (3)(c) of this section shall be guilty of an offence and shall be liable to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

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(7) In this section and sections 179C to 179K of this Act "relevant justices" means—
  (a) licensing justices for the licensing district in which the premises are situated; or
  (b) if no such justices are available within a reasonable time, justices of the peace acting for the petty sessions area in which the premises are situated.

(8) In this section and sections 179C to 179K of this Act "the responsible senior police officer" means the senior police officer who made the closure order or, if another senior police officer is designated for this purpose by the chief officer of police for the police area in which the premises are situated, that other senior police officer.

179C **Extensions of closure order**

(1) If, before the end of the period for which relevant licensed premises are to be closed under a closure order or any extension of it ("the closure period"), the responsible senior police officer reasonably believes that—
  (a) relevant justices will not have considered under section 179B of this Act the order and any extension of it by the end of the closure period; and
  (b) the conditions for an extension under this subsection are satisfied,

  he may extend the closure period for a further period, not exceeding twenty-four hours, beginning with the expiry of the previous closure period.

(2) For the purposes of subsection (1) of this section the conditions for an extension under that subsection are that—
  (a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the premises or in the vicinity of, and related to, the premises;
  (b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.

(3) An extension under subsection (1) of this section shall, subject to subsection (4) of this section, come into force as soon as notice of it has been given by a constable to—
  (a) the holder of the justices' licence for the premises; or
  (b) a manager of the premises.

(4) No such extension shall come into force unless the notice has been given before the end of the previous closure period.

179D **Cancellation of closure order**

(1) At any time—
  (a) after a closure order has been made; but
  (b) before the order and any extension of it has been considered by relevant justices under section 179B of this Act,

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the responsible senior police officer may cancel the order and any extension of it.

(2) The responsible senior police officer shall cancel the closure order and any extension of it if he does not reasonably believe that—
   (a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the relevant licensed premises or in the vicinity of, and related to, the premises;
   (b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.

(3) Where a closure order and any extension of it is cancelled under subsection (1) or (2) of this section, the responsible senior police officer shall ensure that notice of the cancellation is given to—
   (a) the holder of the justices' licence for the premises; or
   (b) a manager of the premises.

179E **Revocation of justices' licence etc. after closure order**

(1) Where a closure order has come into force in relation to relevant licensed premises, licensing justices for the licensing district in which the premises are situated shall of their own motion consider, at the next licensing sessions, whether to exercise their powers under subsection (2) of this section.

(2) The licensing justices may—
   (a) revoke the justices' licence for the premises concerned; or
   (b) attach to it such conditions as they think fit (whether in substitution for any conditions previously attached or otherwise);

   but no payment may be required in pursuance of a condition attached under paragraph (b) of this subsection.

(3) The power under subsection (2) of this section to revoke a justices' licence is exercisable on any ground on which licensing justices might refuse to renew a justices' licence or a justices' licence of that description.

(4) Licensing justices may only exercise their powers under subsection (2) of this section if, at least seven days before the commencement of the licensing sessions concerned, notice of the proposed exercise of the powers has been given to the holder of the licence specifying in general terms—
   (a) the grounds on which it is proposed that the licence should be revoked; or
   (b) (as the case may be) the conditions which are proposed to be attached to the licence and the reasons for them.

(5) Where licensing justices have decided at the next licensing sessions whether to exercise their powers under subsection (2) of this section, they may also make such order as they think fit in relation to the closure order and any extension of it or any order under section 179B of this Act.

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(6) Where licensing justices have decided to revoke a justices' licence under subsection (2) of this section, the revocation shall, subject to subsection (7) of this section, not have effect—

(a) until the expiry of the time given for appealing against the decision; or

(b) if the decision is appealed against, until the appeal is disposed of.

(7) Where the premises to which the licence relates have been closed until the making of the decision to revoke the licence by virtue of an order under section 179B(3)(b) of this Act, the premises shall, subject to section 179G(5) of this Act, remain closed (but the licence otherwise in force)—

(a) until the expiry of the time given for appealing against the decision to revoke; or

(b) if the decision is appealed against, until the appeal is disposed of.

(8) A person who, without reasonable excuse, permits premises to be open in contravention of subsection (7) of this section shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

(9) Where licensing justices have decided to attach conditions to a licence under subsection (2) of this section, the licensing justices may, on such terms as they think fit, suspend the operation of those conditions in whole or in part pending the determination of any appeal against the decision to attach them or pending the consideration of the question of bringing such an appeal.

179F **Procedural requirements**

(1) Where an application under section 179B(1) of this Act is made to justices of the peace acting for the petty sessions area in which the premises concerned are situated, the responsible senior police officer shall give notice to the chief executive to the licensing justices for the licensing district in which the relevant licensed premises are situated—

(a) that a closure order has come into force;

(b) of the contents of the order and of any extension to the order; and

(c) of the application under section 179B(1) of this Act.

(2) The powers conferred on licensing justices by section 179B of this Act may be exercised by a single justice and may be exercised otherwise than at licensing sessions.

(3) The powers conferred on justices of the peace by section 179B of this Act shall be exercisable in the place required by the Magistrates' Courts Act 1980 (c. 43) for the hearing of a complaint and may be exercised by a single justice.

(4) Evidence given for the purpose of proceedings under section 179B or 179E of this Act shall be given on oath.

(5) The Secretary of State may make regulations about the procedure and practice to be followed on and in connection with proceedings before licensing justices under sections 179B and 179E of this Act.

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179G **Rights of appeal**

(1) Any person aggrieved by a decision of relevant justices under section 179B of this Act or of licensing justices under section 179E of this Act may appeal to the Crown Court against the decision.

(2) An appeal under subsection (1) of this section shall be commenced by notice of appeal given by the appellant to the chief executive to the licensing justices or (as the case may be) to the justices' chief executive within 21 days after the decision appealed against.

(3) On an appeal against a decision under section 179E of this Act by licensing justices not to revoke a justices' licence, the holder of the licence shall be respondent in addition to the licensing justices.

(4) Where the holder of a justices' licence gives notice of appeal against a decision under section 179E of this Act by licensing justices to revoke the licence, the Crown Court may, on such conditions as it thinks fit, order that the licence shall continue in force until the determination of the appeal notwithstanding that the appeal is not determined until after the date when the licence would otherwise cease to have effect.

(5) Where—

(a) the holder of a justices' licence gives notice of appeal against a decision under section 179E of this Act by licensing justices to revoke the licence; and

(b) the premises are closed by virtue of section 179E(7) of this Act,

the Crown Court may, on such conditions as it thinks fit, order that section 179E(7) of this Act shall not apply to the premises.

(6) Sections 21 and 22(3A) of this Act (appeals) do not apply to any decision of licensing justices which is subject to a right of appeal under subsection (1) of this section or to any appeal under subsection (1) of this section.

(7) Section 22(4), (6) and (7), section 23(3) and (4) and section 25(1) of this Act shall apply, with necessary modifications, to appeals under subsection (1) of this section against decisions of licensing justices as they apply to appeals under section 21 of this Act.

(8) Section 23(4) of this Act shall have effect, in its application by virtue of subsection (7) of this section, as if the reference to section 21(4) of this Act were a reference to subsection (4) of this section.

179H **Enforcement**

(1) This section applies where a closure order or an order under section 179B(3)(b) of this Act has been made in relation to relevant licensed premises.

(2) Any person who without reasonable excuse fails to leave the premises when asked to do so, for the purposes of ensuring compliance with the order concerned (or with any extension of a closure order or with section 179E(7) of this Act), by the holder of the justices' licence for the premises or any manager of the premises shall be guilty of an offence and liable to a fine not exceeding level 1 on the standard scale.

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(3) A constable shall, on the request of the holder of the justices' licence or any manager of the premises or any agent or servant of either of them, help to remove from the premises any person who is required to leave the premises by virtue of subsection (2) of this section.

(4) A constable may use such reasonable force as may be required for the purpose of giving help under subsection (3) of this section.

179I **Exemption from liability for certain damages**

(1) A constable shall not be liable for relevant damages in respect of anything done or omitted to be done by him in the performance or purported performance of his functions in relation to a closure order or any extension of it.

(2) A chief officer of police shall not be liable for relevant damages in respect of anything done or omitted to be done by a constable under his direction or control in the performance or purported performance of the constable's functions in relation to a closure order or any extension of it.

(3) Neither subsection (1) of this section nor subsection (2) of this section applies—

(a) if the act or omission is shown to have been in bad faith; or

(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).

(4) This section is without prejudice to any other exemption from liability for damages (whether at common law or otherwise).

(5) In this section "relevant damages" means damages in proceedings for judicial review or for the tort of negligence or misfeasance in public office.

179J **Offences by body corporate**

(1) Where an offence under section 179A(6) or 179B(5) or (6) or 179E(8) of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, he as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

179K **Interpretation of sections 179A to 179K**

(1) In sections 179A to 179J of this Act and this section—

"chief officer of police" has the meaning given by section 101(1) of the Police Act 1996 (c. 16);

"closure order" has the meaning given by section 179A(2) of this Act;

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"manager" (except in section 179J(1) of this Act) means any person who works in relevant licensed premises in a capacity which gives him authority to close the premises;

"the next licensing sessions" means the first licensing sessions held not less than fourteen days after the day on which the closure order concerned was considered by relevant justices under section 179B of this Act;

"notice" means notice in writing;

"police area" means a police area provided for by section 1 of the Police Act 1996 (c. 16);

"relevant justices" has the meaning given by section 179B(7) of this Act;

"relevant licensed premises" has the meaning given by section 179A(2) of this Act;

"the responsible senior police officer" has the meaning given by section 179B(8) of this Act; and

"senior police officer" means a police officer of or above the rank of inspector.

(2) For the purposes of sections 179A to 179J of this Act, relevant licensed premises are open if any person other than the holder of the justices' licence for the premises, a manager of the premises or any member of the family of either of them—

(a) enters onto the premises; and

(b) purchases, or is supplied with, any item of food or drink or any item which is usually sold on the premises.

Other"

18 Amendments consequential on section 17

(1) In section 31(2) of the Licensing Act 1964 (c. 26) (convictions etc. to be entered in register of licences) after "enactment" there shall be inserted " , any closure order under section 179A of this Act in relation to premises, any order under section 179B(3)(b) of this Act in relation to premises ".

(2) In section 174(2) of that Act (offence of failing to leave licensed premises when requested if drunk or disorderly etc.) after "fails" there shall be inserted " without reasonable excuse ".

(3) In section 196A(1) of that Act (extension to certain proceedings of section 97 of the Magistrates' Courts Act 1980 (c. 43))—

(a) at the end of paragraph (a), the word "and" shall be omitted; and

(b) after paragraph (b) there shall be inserted "; and

(c) proceedings under section 179E of this Act."

(4) In section 197 of that Act (service of notices) after "of this Act" there shall be inserted " or in regulations made under section 179F(5) of this Act ".

(5) The amendment made by subsection (2) above shall not apply in relation to any request to leave made before the coming into force of that subsection.

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Closure of unlicensed premises

19 Closure notices

(1) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises, he may serve under subsection (3) a notice in respect of the premises.

(2) Where a local authority is satisfied that any premises in the area of the authority are being, or within the last 24 hours have been, used for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises, the authority may serve under subsection (3) a notice in respect of the premises.

(3) A notice under subsection (1) or (2) ("a closure notice") shall be served by the constable or local authority concerned on a person having control of, or responsibility for, the activities carried on at the premises.

(4) A closure notice shall also be served by the constable or local authority concerned on any person occupying another part of any building or other structure of which the premises form part if the constable or (as the case may be) the local authority concerned reasonably believes, at the time of serving notice under subsection (3), that the person's access to the other part of the building or other structure would be impeded if an order under section 21 providing for the closure of the premises were made.

(5) A closure notice may also be served by a constable or the local authority concerned on—
   (a) any other person having control of, or responsibility for, the activities carried on at the premises;
   (b) any person who has an interest in the premises.

(6) A closure notice shall—
   (a) specify the alleged use of the premises and the grounds on which the constable or (as the case may be) the local authority concerned is satisfied as mentioned in subsection (1) or (as the case may be) subsection (2);
   (b) state the effect of section 20; and
   (c) specify the steps which may be taken to ensure that the alleged use of the premises ceases or (as the case may be) does not recur.

(7) A closure notice served by a constable or local authority may be cancelled by a notice of cancellation served by a constable or (as the case may be) the local authority concerned.

(8) Any such notice of cancellation shall have effect as soon as it is served by a constable or (as the case may be) the authority concerned on at least one person on whom the closure notice was served.

(9) The constable or (as the case may be) the local authority concerned shall also serve the notice of cancellation on any other person on whom the closure notice was served.

(10) For the purposes of subsections (3) and (5) a person having control of, or responsibility for, the activities carried on at the premises includes a person who—
   (a) derives or seeks to derive profit from the carrying on of the activities;
   (b) manages the activities;

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(c) employs any person to manage the activities; or
(d) is involved in the conduct of the activities.

20 Applications for closure orders

(1) Where a closure notice has been served under section 19(3), a constable or (as the case may be) the local authority concerned may make a complaint to a justice of the peace [F3]. . . for an order under section 21 (a "closure order").

(2) A complaint under subsection (1) shall be made not less than seven days, and not more than six months, after the service of the closure notice under section 19(3).

(3) No complaint shall be made under subsection (1) if the constable or (as the case may be) the local authority is satisfied that—
(a) the use of the premises for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises has ceased; and
(b) there is no reasonable likelihood that the premises will be so used in the future.

(4) Where a complaint has been made to a justice of the peace under subsection (1), the justice may issue a summons to answer to the complaint.

(5) The summons shall be directed to—
(a) the person on whom the closure notice was served under section 19(3); and
(b) any other person on whom the closure notice was served under section 19(5)(a).

(6) Where a summons is served in accordance with subsections (4) and (5), a notice stating the date, time and place at which the complaint will be heard shall be served on all persons on whom the closure notice was served under section 19(4) and (5)(b).

(7) The procedure on a complaint for a closure order shall (except as otherwise provided) be in accordance with the Magistrates' Courts Act 1980 (c. 43).

Textual Amendments

F3 Words in s. 20(1) omitted (1.4.2005) by virtue of The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 88**

21 Closure orders

(1) On hearing a complaint made under section 20(1), the court may make such order as it considers appropriate if it is satisfied that—
(a) the closure notice was served under section 19(3); and
(b) the premises continue to be used for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises or there is a reasonable likelihood that the premises will be so used in the future.

(2) An order under this section may, in particular, require—
(a) the premises in respect of which the closure notice was served to be closed immediately to the public and to remain closed until a constable or (as the case may be) the local authority concerned makes a certificate under section 22(1);

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(b) the use of the premises for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises to be discontinued immediately;

(c) any defendant to pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

(3) An order of the kind mentioned in subsection (2)(a) may, in particular, include such conditions as the court considers appropriate relating to—

(a) the admission of persons onto the premises;

(b) the access by persons to another part of any building or other structure of which the premises form part.

(4) The complainant shall, as soon as practicable after the making of an order under this section, give notice of the order by fixing a copy of it in a conspicuous position on the premises in respect of which it was made.

(5) A sum which has been ordered to be paid into court under this section shall be paid to the **[**[F4]designated officer**]** for the court.

Textual Amendments

F4 Words in s. 21(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 401**; S.I. 2005/910, **art. 3**

22 Termination of closure orders by constable or local authority

(1) Where a closure order has been made, a constable or (as the case may be) the local authority concerned may make a certificate to the effect that the constable or (as the case may be) the authority is satisfied that the need for the order has ceased.

(2) Where such a certificate has been made, the closure order shall cease to have effect.

(3) Where a closure order containing provision of the kind mentioned in section 21(2)(c) ceases to have effect by virtue of the making of a certificate under subsection (1), any sum paid into court by a defendant under the order shall be released by the court.

(4) Subject to this, a closure order may include such provision as the court considers appropriate for dealing with any consequences which would arise if the order were to cease to have effect by virtue of the making of a certificate under subsection (1).

(5) The constable or (as the case may be) the local authority concerned shall, as soon as practicable after the making of a certificate under subsection (1)—

(a) serve a copy of it on the person against whom the closure order has been made and the **[**[F5]designated officer**]** for the court which made the order; and

(b) fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

(6) The constable or (as the case may be) the local authority concerned shall also serve a copy of the certificate on any person who requests such a copy.

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Textual Amendments

F5 Words in s. 22(5)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 402**; S.I. 2005/910, **art. 3**

23 Discharge of closure orders by the court

(1) Where a closure order has been made—

(a) any person on whom the closure notice concerned was served under section 19; or

(b) any person who has an interest in the premises in respect of which the closure order was made but on whom no closure notice was served,

may make a complaint to a justice of the peace [F6]. . . for an order that the closure order be discharged.

(2) The court may not make an order under subsection (1) unless it is satisfied that the need for the closure order has ceased.

(3) Where a complaint has been made to a justice of the peace under subsection (1), the justice may issue a summons directed to such constable as he considers appropriate or (as the case may be) the local authority concerned requiring that person to appear before the magistrates' court to answer to the complaint.

(4) Where a summons is served in accordance with subsection (3), a notice stating the date, time and place at which the complaint will be heard shall be served on all persons on whom the closure notice concerned was served under section 19 (other than the complainant).

(5) The procedure on a complaint for an order under this section shall (except as otherwise provided) be in accordance with the Magistrates' Courts Act 1980 (c. 43).

Textual Amendments

F6 Words in s. 23(1) omitted (1.4.2005) by virtue of The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 88**

24 Appeals

(1) An appeal against a closure order, an order under section 23(1) or a decision not to make an order under section 23(1) may be brought to the Crown Court at any time before the end of the period of 21 days beginning with the day on which the order or (as the case may be) the decision was made.

(2) An appeal under this section against a closure order may be brought by—

(a) any person on whom the closure notice concerned was served under section 19; or

(b) any person who has an interest in the premises in respect of which the closure order was made but on whom no closure notice was so served.

(3) On an appeal under this section the Crown Court may make such order as it considers appropriate.

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25 Enforcement of closure orders

(1) Where a closure order has been made, a constable or an authorised person may (if necessary using reasonable force)—

(a) at any reasonable time enter the premises concerned; and

(b) having so entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

(2) A constable or an authorised person seeking to enter any premises in exercise of his powers under subsection (1) shall, if required by or on behalf of the owner or occupier or person in charge of the premises, produce evidence of his identity, and of his authority, before entering the premises.

(3) Any person who intentionally obstructs a constable or an authorised person in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction—

(a) where the offence was committed in respect of a constable, to imprisonment for a term not exceeding one month or to a fine not exceeding level 5 on the standard scale or to both;

(b) where the offence was committed in respect of an authorised person, to a fine not exceeding level 5 on the standard scale.

(4) A person who, without reasonable excuse, permits premises to be open in contravention of a closure order shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both.

(5) A person who, without reasonable excuse, otherwise fails to comply with, or does an act in contravention of, a closure order shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

(6) In this section "an authorised person" means a person authorised for the purposes of this section by a local authority in respect of premises situated in the area of the authority.

26 Offences by body corporate

(1) Where an offence under section 25 committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, he as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

27 Service of notices

(1) Any document required or authorised by virtue of sections 19 to 26 to be served on any person may be served—

(a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;

(b) if the person is a body corporate other than a limited liability partnership, by serving it in accordance with paragraph (a) on the secretary of the body;

(c) if the person is a limited liability partnership, by serving it in accordance with paragraph (a) on a member of the partnership; or

(d) if the person is a partnership, by serving it in accordance with paragraph (a) on a partner or a person having the control or management of the partnership business.

(2) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—

(a) in the case of service on a body corporate (other than a limited liability partnership) or its secretary, it shall be the address of the registered or principal office of the body;

(b) in the case of service on a limited liability partnership or a member of the partnership, it shall be the address of the registered or principal office of the partnership;

(c) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership.

(3) For the purposes of subsection (2) the principal office of a company constituted under the law of a country or territory outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(4) Subsection (5) applies if a person to be served under sections 19 to 26 with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined under subsection (2)) as the one at which he or someone on his behalf will accept documents of the same description as that document.

(5) In relation to that document, that address shall be treated as his proper address for the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) in its application to this section, instead of that determined under subsection (2).

(6) Where the address of the person on whom a document is to be served under sections 19 to 26 cannot be ascertained after reasonable inquiry, the document shall be taken to be duly served if a copy of it is fixed in a conspicuous position on the premises which are alleged to have been used for the unlicensed sale of intoxicating liquor.

(7) Where the name of the person on whom a document is to be served under sections 19 to 26 cannot be ascertained after reasonable inquiry, the document shall be taken to be duly served if it is served in accordance with this section using an appropriate description for the person concerned.

(8) This section does not apply to any document if rules of court make provision about its service.

28 Sections 19 to 27: interpretation

(1) In sections 19 to 27 and this section—

"closure notice" means a notice under section 19(1) or (2);

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"closure order" means an order under section 21;

"intoxicating liquor" has the same meaning as in the Licensing Act 1964 (c. 26);

"notice" means notice in writing;

"premises" includes any land or other place (whether enclosed or otherwise);

"sale" includes exposure for sale; and

"unlicensed sale" means any sale which is in contravention of section 160 of the Act of 1964 (selling liquor without licence).

(2) In sections 19 to 27 "local authority" means—

(a) in relation to England—

(i) a county council;

(ii) a district council;

(iii) a London borough council;

(iv) the Common Council of the City of London in its capacity as a local authority;

(v) the Council of the Isles of Scilly;

(b) in relation to Wales, a county council or a county borough council.

(3) References in sections 19 to 27 to a person who has an interest in the premises are references to any person who is the owner, leaseholder or occupier of the premises.

Other provisions for combatting alcohol-related disorder

29 Confiscation of alcohol containers from young persons

In section 1(1) of the Confiscation of Alcohol (Young Persons) Act 1997 (c. 33) (things to be surrendered to a constable) after "intoxicating liquor", where it appears for the third time, there shall be inserted " or a container for such liquor (other than a sealed container) ".

30 Sale of intoxicating liquor to a person under eighteen

(1) In subsection (2) of section 169A of the Licensing Act 1964 (c. 26) (defence against charge of sale of intoxicating liquor to a person under eighteen) for the words from "to prove" to the end of the subsection there shall be substituted "to prove—

(a) that he believed that the person was not under eighteen; and

(b) either that he had taken all reasonable steps to establish the person's age or that nobody could reasonably have suspected from his appearance that the person was under eighteen.

(2A) For the purposes of subsection (2) of this section a person shall be treated as having taken all reasonable steps to establish another person's age if he asks the other person for evidence of his age unless it is shown that the evidence was such that no reasonable person would have been convinced by it."

(2) The amendment made by this section does not apply to any sale of intoxicating liquor made before the coming into force of this section.

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31 Enforcement of certain offences relating to under-age drinking

(1) In section 169C of the Licensing Act 1964 (purchase of intoxicating liquor by a person under eighteen) after subsection (1) there shall be inserted—

"(1A) Subsection (1) of this section does not apply where the person under eighteen buys or attempts to buy the intoxicating liquor at the request of—

(a) a constable, or

(b) an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985 (c. 72),

who is acting in the course of his duty."

(2) In section 169G of that Act (sending a person under eighteen to obtain intoxicating liquor) after subsection (3) there shall be inserted—

"(4) Subsection (1) of this section does not apply where the person under eighteen is sent by—

(a) a constable, or

(b) an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985 (c. 72),

who is acting in the course of his duty."

(3) After section 169H of that Act there shall be inserted—

"**169I Enforcement role for weights and measures authorities in relation to certain offences**

(1) It is the duty of every local weights and measures authority in England and Wales to enforce within their area the provisions of sections 169A and 169B of this Act.

(2) A local weights and measures authority shall have power to make, or to authorise any person to make on their behalf, such purchases of goods as may appear expedient for the purpose of determining whether or not the provisions of section 169A or 169B of this Act are being complied with.

(3) In this section "local weights and measures authority" has the meaning given by section 69 of the Weights and Measures Act 1985 (local weights and measures authorities)."

32 Drunkenness or disorder on licensed premises

(1) In section 172(4) of the Licensing Act 1964 (c. 26) (licence holder not to permit drunkenness etc.: offences) for "level 2" there shall be substituted " level 3 ".

(2) After section 172 of that Act there shall be inserted—

"**172A Other persons in authority not to permit drunkenness etc.**

(1) A relevant person shall not permit drunkenness or any violent, quarrelsome or riotous conduct to take place in licensed premises.

(2) If a relevant person is charged under subsection (1) of this section with permitting drunkenness, and it is proved that any person was drunk in

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the licensed premises, the burden of proving that the relevant person and any persons employed by him took all reasonable steps for preventing drunkenness in the premises shall lie upon him.

(3) A relevant person shall not, in licensed premises, sell intoxicating liquor to a drunken person.

(4) If any person contravenes this section he shall be liable to a fine not exceeding level 3 on the standard scale.

(5) This section is without prejudice to the liability under section 172 of this Act of the holder of a justices' licence for acts or omissions of persons other than himself.

(6) In this section "relevant person" means any person (other than the holder of the justices' licence for the licensed premises concerned) who—

(a) in a case falling within subsection (1) of this section, works in the licensed premises in a capacity, whether paid or unpaid, which gives him authority to prevent the drunkenness or (as the case may be) conduct concerned;

(b) in a case falling within subsection (3) of this section, works in the licensed premises in a capacity, whether paid or unpaid, which gives him authority to sell the intoxicating liquor concerned."

(3) In section 174(1) of that Act (power to exclude drunkards, etc. from licensed premises) —

(a) after "justices' licence" there shall be inserted " or a relevant person "; and

(b) for "or", where it appears for the fourth time, there shall be substituted " and the holder of a justices' licence may refuse to admit to, or may expel from, the licensed premises any person ".

(4) In section 174(2) of that Act (offence of failing to leave licensed premises when requested if drunk or disorderly etc.) after "servant or" there shall be inserted " (as the case may be) the relevant person or any agent or servant of his or by ".

(5) In section 174(3) of that Act (requesting assistance from constable to exclude drunkards etc.) after "servant" there shall be inserted " or (as the case may be) a relevant person or any agent or servant of his ".

(6) After section 174(3) of that Act there shall be inserted—

"(4) In this section "relevant person" means any person who works in licensed premises in a capacity, whether paid or unpaid, which gives him authority to prevent such drunkenness or such conduct as is mentioned in section 172A(1) of this Act."

(7) The amendment made by subsection (1) above shall not apply to offences committed before the coming into force of that subsection.

Status:
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