

VIOLENT CRIME REDUCTION ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Alcohol-related violence and disorder

Chapter 1: Drinking banning orders

Section 1: Drinking banning orders

72. This section provides for a new civil order, a drinking banning order (DBO), which is designed to protect persons and their property from criminal or disorderly conduct by an individual while he is under the influence of alcohol.
73. *Subsection (1)* explains that a DBO would prohibit the individual subject to the order from doing the things described in the order. *Subsection (2)* explains that a DBO may impose any prohibition on the individual that would protect others from his criminal or disorderly conduct while under the influence of alcohol. *Subsection (3)* provides that the prohibitions in the order must include whatever the court thinks necessary with regard to the subject's entering premises that sell alcohol, and club premises that can supply alcohol to members or guests.
74. *Subsection (4)* contains safeguards to ensure that the court may not impose a prohibition on the subject that prevents him from having access to a place where he lives, works or studies, or receives medical treatment, or any place he is required to attend as a result of a court order or an enactment.
75. *Subsection (5)* sets out that expressions used in *subsection (3)* have the same meaning as in the Licensing Act 2003.

Section 2: Duration of drinking banning orders

76. This section provides for the duration of a DBO and enables this to be reduced if an individual satisfactorily completes an approved course specified in the order to address their alcohol misuse behaviour.
77. *Subsection (1)* provides that the term of a DBO, known as "the specified period", is to be between a minimum 2 months and a maximum two years. *Subsection (2)* enables different prohibitions within a DBO to take effect for different periods but in each case the "prohibition period" must be within the overall maximum and minimum specified period.
78. *Subsection (3)* provides that the terms of a DBO or the prohibitions in an order **may** cease to apply before the end of the specified period or the prohibition period if an individual successfully completes an approved course that is specified in the order.
79. *Subsection (4)* explains that under subsection (3) a time must be fixed by the court when an order, or prohibition contained in the order, would cease to have effect upon satisfactory completion by the individual of a course. It will be for the court to decide

what the appropriate length of the reduction of the order, or prohibitions therein, might be on satisfactory completion of a course.

80. But *Subsection (5)* provides that the reduction cannot be any more than half of the specified period or the prohibition period.
81. *Subsection (6)* provides that the court may only propose to an individual that they attend a specified approved course if the court is satisfied that a place is available for the individual and that the subject has voluntarily agreed to the inclusion of the provision in the order.
82. *Subsection (7)* provides that before the court makes provision about attending a course in the order the individual has to be informed in ordinary language (in writing or by other means) about the effect that including the provision in the order would have, what in general terms, attendance on the course will involve if the individual voluntarily agrees to undertake the course, any fees that would need to be paid by the individual for undertaking the course, and when the fees would need to be paid by the individual.
83. *Subsection (8)* requires that if the court decides it is not going to include provision in an order for an individual to attend an approved course then it must give its reasons for not doing so in open court.
84. *Subsection (9)* allows the Secretary of State to make regulations to modify the minimum duration of an order or prohibition where a course has been completed satisfactorily.

Section 3: Orders on an application to magistrates' court

85. *Subsection (1)* enables relevant authorities, defined in section 14 as the chief officer of a police force for a police area, the Chief Constable of the British Transport Police Force and a local authority, to apply to the magistrates' court for the imposition of a DBO on an individual aged at least 16. *Subsections (2) and (5)* provide that a DBO can be made against an individual if he has engaged in criminal or disorderly conduct while under the influence of alcohol and such an order is necessary to protect other persons from further conduct by him of that kind. The criminal or disorderly conduct must have taken place after this section has been brought into force.
86. *Subsections (3) and (4)* provide that the application for a DBO has to be made by complaint and can only be made after the applicant has consulted the "appropriate persons" specified in section 14(1).
87. *Subsection (6)* provides that nothing in the section affects the operation of section 127 of the Magistrates' Courts Act 1980. Consequently, some conduct within the six-month period preceding the application is necessary to obtain an order.

Section 4: Orders in county court proceedings

88. *Subsection (1)* enables relevant authorities (defined in section 14) to apply to the county courts in certain circumstances for a DBO against an individual. *Subsection (2)* allows a relevant authority to apply for an order in the county courts if that authority is already party to the proceedings and believes that it would be reasonable to apply for a DBO against an individual who is also already party to the proceedings. If the relevant authority is not party to such proceedings, *subsection (3)* allows it to apply to the court to be joined to such proceedings in order to apply for a DBO. A relevant authority which is already party to proceedings can also make an application for an individual to be joined to the proceedings where it believes that the individual has engaged in criminal or disorderly conduct whilst under the influence of alcohol, and where that conduct is material in relation to the proceedings in question. The relevant authority may then apply for a DBO if that individual is so joined.
89. *Subsection (6)* provides that before making such an application, the relevant authority must consult the appropriate persons as defined in section 14.

90. *Subsection (7)* provides that if it is proved that the conditions set out in section 3(2) have been met – that the individual has engaged in criminal or disorderly conduct while under the influence of alcohol and that a DBO is necessary to protect relevant persons from further such conduct by the individual – and that his criminal or disorderly conduct while under the influence of alcohol is material in relation to the proceedings, the court may make a DBO against him.

Section 5: Variation or discharge of orders under section 3 or 4

91. *Subsection (1)* provides for the variation and discharge of DBOs made in the magistrates' court on complaint and in county court proceedings. *Subsection (2)* provides that an application to the court for variation or discharge of a DBO may be made by the person subject to the order or the relevant authority on whose application the order was made. *Subsection (3)* provides that an order made by a magistrates' court under section 3 can be varied or discharged by a relevant local court as defined in section 14.
92. *Subsections (4) and (5)* provide that an application to vary or discharge a DBO has to be made by complaint and that the order may not be varied so as to extend the specified period for which it has effect to more than two years. *Subsection (6)* provides that the order may not be discharged before the end of the period which is half the duration of the specified period, unless consent is given by the relevant authority.

Section 6: Orders on conviction in criminal proceedings

93. *Subsections (1), (2) and (3)* provide that the court may make a DBO against an offender following criminal proceedings, where that offender is aged at least 16, was under the influence of alcohol when committing the offence and the court decides that the conditions set out in section 3(2) are satisfied. The court must at least consider whether those conditions are so satisfied. *Subsection (4)* requires that if the court decides that the conditions are satisfied but it decides not to make a DBO, it must give the reasons for not doing so in open court. *Subsection (5)* requires the court to state in open court if it decides that the conditions in section 3(2) are not satisfied, and give its reasons.

Section 7: Supplementary provision about orders on conviction

94. *Subsection (1)* provides that on deciding whether to make a DBO following a conviction in criminal proceedings the court may consider evidence led by the prosecution and evidence led by the defence. *Subsection (2)* provides that it is immaterial whether the evidence would have been admissible in the proceedings in which the offender was convicted.
95. *Subsection (3)* provides that a DBO made following a conviction must not be made except in addition to a sentence or in addition to an order discharging the offender conditionally.
96. *Subsection (4)* provides that the court may adjourn any proceedings in relation to a DBO made following a conviction after sentencing the offender. *Subsection (5)* provides that 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. *Subsection (6)* provides that 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.
97. *Subsection (7)* provides that a DBO made following conviction in criminal proceedings takes effect on the day on which it is made or, if the person is in legal custody at that time, on the day on which the offender is released from that custody.
98. *Subsection (8)* notes that *subsection (9)* applies in respect of a DBO made on conviction in criminal proceedings against a young person. *Subsection (9)* provides that in proceedings brought against a young person (16 to 18 year old) a court will not be

bound by section 49 of the Children and Young Persons Act 1933 and so will not have automatically to impose reporting restrictions. However, it states that the court will retain discretion to apply reporting restrictions under section 39 of that Act.

99. *Subsection (10)* amends the Prosecution of Offences Act 1985 to include in the functions of the Director of Public Prosecutions the ability to apply for a DBO.

Section 8: Variation or discharge of orders under section 6

100. *Subsection (1)* provides for the variation or discharge of a DBO made following a conviction. The subject of the DBO, the Director of Public Prosecutions or a relevant authority may apply for variation or discharge.
101. *Subsection (2)* provides that if the subject makes an application for variation or discharge he must send notice of his application to the Director of Public Prosecutions. *Subsection (3)* obliges the Director of Public Prosecutions or relevant authority to send notice of an application to vary or discharge to the subject of the DBO. *Subsection (4)* provides that a DBO made on conviction in criminal proceedings in the magistrates' court can be varied or discharged by a relevant local court as defined in Section 14.
102. *Subsection (5)* prevents a DBO made under section 6 from being varied to extend the specified period to over 2 years. *Subsection (6)* provides that the order may not be discharged before the end of the period which is half the duration of the specified period of the DBO, or without the consent of the Director of Public Prosecutions, if earlier.
103. *Subsection (7)* amends the Prosecution of Offences Act 1985 to include in the functions of the Director of Public Prosecutions the ability to apply for variation or discharge of DBOs made under section 6 and to appear on such applications by a subject of a DBO.

Section 9: Interim orders

104. This section enables the court to make an interim order when an application is made for a DBO under section 3 or 4 or where the court is considering making a DBO on criminal conviction under section 6. *Subsection (2)* provides that the court can make an interim order if it thinks it is just to do so.
105. Where an application has been made for a DBO under section 3 or 4, *subsections (3) and (4)* enable an application for an interim order to be made without notice being given to the potential subject, and heard in the absence of that individual when the permission of the court (in the case of proceedings before the county court) or permission of the proper officer as defined in section 14 (in the case of proceedings before a magistrates' court) has been given.
106. *Subsection (5)* specifies that permission for the making of an application for an interim order without notice and for hearing the application in the individual's absence may only be given where the court or proper officer is satisfied it is necessary for the application to be made without the individual concerned receiving notice and that it is not necessary for it to be heard in his presence.
107. *Subsection (6)(a)* enables an interim order to contain any provision that could be in a full DBO. *Subsection (6)(b)* limits its duration, unless renewed, to the time specified in the order, which may not exceed 4 weeks.
108. *Subsection (7)(a)* provides that an interim order may be renewed once or more but not for longer than 4 weeks from the time it would otherwise have expired. *Subsection (7)(b)* provides it must in any event cease to have effect on the court's decision on whether or not to make a DBO.
109. *Subsections (8) and (9)* provide for applications for variation or discharge of an interim order that are made on application to the magistrates' court, in county court proceedings and on conviction in criminal proceedings. However, the provisions that prevent a full

DBO from being extended beyond 2 years do not apply as interim orders are subject to a shorter renewable 4 week limit.

Section 10: Appeals

110. *Subsection (1)* provides the route through which appeals against the making of a DBO in the magistrates' courts can be made to the Crown Court.
111. *Subsection (2)* provides that on an appeal the Crown Court may make such orders as may be necessary and may also make such incidental or consequential orders as appear to it to be just. *Subsection (3)* provides that an order of the Crown Court made on an appeal shall be treated for the purposes of the provisions relating to variation and discharge of orders (sections 5 and 8) as an order of the magistrates' court from which the appeal was brought.

Section 11: Breach of drinking banning orders

112. *Subsection (1)* provides that a breach of a DBO without reasonable excuse is an offence. *Subsection (2)* provides that someone found guilty on summary conviction is liable to a fine not exceeding level 4 (currently £2,500). *Subsection (3)* provides that a conditional discharge cannot be made in relation to the breach of a DBO.
113. *Subsection (4)* enables a local authority to bring proceedings for breach of a DBO, and *subsection (5)* gives the Secretary of State the power to provide by order (subject to the negative resolution procedure) that further specified persons may bring proceedings for breach of a DBO.
114. *Subsection (6)* provides that in proceedings for breach of a DBO, a copy of the DBO or interim order, certified as such by the proper officer, is admissible as evidence of its having been made and of its contents to the same extent as oral evidence of those things is admissible in those proceedings.
115. *Subsection (7)* provides that when proceedings for a breach of a DBO are brought in a youth court, a person authorised by a relevant authority is entitled to be present. *Subsection (8)* provides that in relation to proceedings brought against a young person for a breach of a DBO, a court will not be bound by automatic reporting restrictions as set out in section 49 of the Children and Young Persons Act 1933. However, the court will retain discretion to apply restrictions under section 45 of the Youth Justice and Criminal Evidence Act 1999.
116. *Subsection (9)* provides that if the court does exercise its power to give a direction imposing prohibitions on reporting information on identification of witnesses, complainants or defendants under the age of 18, then it must give its reasons for doing so.

Section 12: Approved courses

117. This section sets out the basis for operating and running approved courses to address an individual's alcohol misuse behaviour.
118. *Subsection (1)* provides that applications can be made to the Secretary of State to run such a course and a decision would then be taken as to whether the course should be approved or not. Under *subsection (2)* when considering and deciding on the suitability of a proposed course the Secretary of State must consider the nature of the course as well as whether the person providing it is an appropriate person to do so and would run and administer the courses efficiently and effectively. In reaching that decision the Secretary of State may seek the views of other persons that have been appointed to consider such applications.
119. *Subsection (3)* allows for a course to be approved subject to specific conditions. *Subsection 4* states that where a course is approved it may remain so for a period

specified by the Secretary of State which must not exceed 7 years. *Subsection (4)(b)* allows for approval of a course to be withdrawn by the Secretary of State at any time.

120. *Subsection (5)* allows the Secretary of State to make regulations on the approval of courses that may include provision about making applications for course approval; payment of fees of the amounts prescribed in respect of applications for approval, the giving of approval or both; the maximum fees that an individual may pay for course and when fees have to be paid; the monitoring of courses and of persons providing the courses; details about the withdrawal of approvals; and making information available about courses and about those persons providing courses on payment of a fee or otherwise.
121. *Subsection (6)* allows the Secretary of State to issue guidance about the conduct of approved courses and requires him to have regard to this guidance in exercising his duties under subsections (1) to (5). *Subsection (7)* provides for the courts to also have regard to such guidance when considering what, for the purposes of section 13 (Certificates of completion of approved courses) constitutes reasonable instructions or reasonable requirements by a person providing an approved course.

Section 13: Certificates of completion of approved courses

122. This section makes provision about the certificates to be issued on completion of approved courses by individuals subject to a DBO.
123. *Subsection (1)* provides that an individual will only be regarded as having satisfactorily completed an approved course where he has been given a certificate to that effect by the course provider and the certificate has been received by the proper officer of the court that made the DBO.
124. *Subsection (2)* allows the Secretary of State to prescribe in regulations the form of the certificate and what it should contain. *Subsection (3)* provides that a course provider must give a certificate unless the individual who is subject to a DBO and is undertaking an approved course fails to pay the fees for the course, fails to attend the course in line with the reasonable instructions of the course provider or fails to comply with any other reasonable requirement of the course provider.
125. *Subsection (4)* provides that if the course provider decides not to issue a certificate then they must give the individual written notice of that decision and the reasons for not doing so. *Subsection (5)* provides that the course provider must provide a certificate of successful completion of an approved course by the individual, or a notice stating it is not going to provide a certificate, before the end of 14 days beginning with the day on which any request to do so is made by the individual. *Subsection (6)* provides that where an individual is given a notice refusing a certificate or has not received either a certificate or a notice within 14 days of their request then they can apply to the court which made the DBO, or if that court is not the Crown Court or a relevant local court, to a relevant local court for a declaration that the course provider has failed to meet its obligation under *subsection (3)*. Under *subsection (7)* if this is found to be the case the individual will be treated as having satisfactorily completed the approved course at the time the declaration is given for the purposes of reducing the length of the DBO.
126. *Subsection (8)* allows the Secretary of State to make regulations about the form of the notices (*under subsection (4)*) that are given to individuals who fail to satisfactorily undertake a course, the manner in which such a notice is given and when such a notice is given and considered to be effective.

Section 14: Interpretation of Chapter 1

127. This section sets out definitions for the purposes of sections 1 to 13. By virtue of the definition of “local authority” in *subsection (1)*, both district councils and county councils in two-tier local government areas can apply for a DBO.

*These notes refer to the Violent Crime Reduction Act 2006
(c.38) which received Royal Assent on 8 November 2006*

128. *Subsection (2)* explains that protecting persons from criminal or disorderly conduct includes references to protecting their property from unlawful loss or damage. A DBO could therefore be made where such an order is necessary to protect property.
129. *Subsection (3)* provides a power to add a “relevant authority” by order at a later date for the purposes of applying for a DBO.
130. *Subsections (4) to (7)* make provision about the powers in Chapter 1 to make orders or regulations.

Chapter 2: Alcohol disorder zones

Section 15: Power to impose charges on licence holders etc. in zones

131. This section gives local authorities a new power to impose charges on the holders of premises licences which authorise the use of premises for the sale by way of retail of alcohol and the holders of club premises certificates which permit the club to supply alcohol to members or guests. *Subsection (1)* enables the Secretary of State to make regulations setting out the detail of these charges which will be payable monthly.
132. *Subsection (2)* provides that the regulations may require the local authority to use the revenue from these charges for the purposes specified in the regulations. The charges are likely to cover the costs of initiatives to tackle the problem of alcohol-related crime and disorder over and above the normal level of public services. The costs will cover additional enforcement activity by the police and local authority affecting all premises liable to pay the charge within the zone.
133. *Subsection (3)* requires the Secretary of State to set the charging rate at a level which he considers appropriate to cover the purposes specified in the regulations under *subsection (2)*, and the administration costs of running the scheme.
134. *Subsection (4)* enables the Secretary of State to set different charging rates in the regulations. There may be different rates for different types of local authority area (e.g. a large urban centre as compared to a rural area with one small market town), different types of alcohol disorder zones (e.g. the number of premises within the boundaries of the zone) and different premise types (e.g. those which close before a certain time at night). The rates may be set out in the regulations, or the regulations may simply prescribe the mechanisms for working out the different rates.
135. *Subsection (5)* enables the regulations to authorise or require a local authority to grant discounts from the charges. This provision will provide for the granting of discounts once the industry code of practice is launched, is well established and premises have signed up to implement it. Regulations must provide for certain premises to be exempt from the charges. These exemptions are specified in *subsection (6)*, and are limited to premises where the following two conditions are both satisfied:
 - a. the premises are not principally used for the sale or supply of alcohol; and
 - b. the availability of alcohol is not the main reason or one of the main reasons why people visit the premises (either generally or at particular times of the day or week).
136. The purpose of *subsection (6)* is to ensure that licensed premises such as restaurants, hotels, cinemas and gyms, whose primary purpose and/or basis of patronage is not the sale or supply of alcohol do not have to pay the charge.
137. *Subsection (7)* ensures that discounts or exemptions can be limited to premises complying with conditions which are set out in the regulations or specified by the local authority in accordance with the regulations.
138. *Subsection (8)* enables the regulations to make provision about payment, collection and enforcement of the charges, determination of liability to pay the charges and appeals.

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139. *Subsection (9)* enables the regulations to include a provision for interest to be charged on charges where payment is overdue, and for the suspension of the premises licence or club premises certificate if the charge is not paid.
140. *Subsection (10)* explains that the reference to the administration costs in *subsection (3)* is a reference to the cost of arrangements for imposing, collecting and recovering the charges.

Section 16: Designation of alcohol disorder zones

141. *Subsection (1)* gives local authorities the power to designate a locality within their area as an alcohol disorder zone if the conditions specified in paragraphs (a) to (d) are satisfied.
142. *Subsections (2) and (3)* state that a local authority intending to designate an area as an alcohol disorder zone must publish a notice setting out their proposals and invite representations within 28 days about the proposal and about what might be included in an action plan to tackle the problem.
143. Following receipt of representations, *subsection (4)* requires the local authority and the local chief officer of police to publish an action plan which sets out the steps that would make the designation unnecessary. The action plan must also be sent to those who would be liable to pay the charge if the area was to be designated. The content of the plan will vary between different areas but must include details of proposed action by the local authority and the police. As an example, the proposed alcohol disorder zone may be in an area where there is a need to raise operating standards in pubs and clubs within the zone. In this case, the action plan might contain, for example, a requirement for pubs and clubs to display information about their proof of age policy. In a different scenario, the proposed alcohol disorder zone might be in an area where the pubs and clubs are quite well run, but there is a public space problem – for example, there is a lack of late-night transport, and the taxi rank is poorly lit and the scene of a lot of trouble. Here the action plan might require premises to fund extra transport provision, and provide door staff for an extra hour after closing time to monitor the taxi rank.
144. *Subsection (5)* envisages that the action plan may include setting up a scheme for payments to be made by premises in the area to the local authority. *Subsection (6)* states that the action plan must also include proposals by the local authority and the local chief officer of police for what actions they will take if the plan is implemented. *Subsection (7)* provides that the authority to make regulations under section 15(2) setting out the purposes for which the compulsory charge may be used also applies to sums received under the action plan.
145. *Subsection (8)* allows the local authority to designate the alcohol disorder zone if, and only if:
- a. 8 weeks have passed, beginning with the day after the action plan has been published, and the local authority does not consider that the trade have made substantial progress towards implementing the plan; or
 - b. the local authority is satisfied that the plan will not be implemented, that the actions are no longer being taken or that the arrangements made under the plan are no longer in place. This may be before or after the end of the 8 week period.

Section 17: Procedure for designation of zones

146. *Section 17* provides further details of the procedure for the designation of zones. The procedure may be supplemented by regulations made by statutory instrument. *Subsections (4) and (5)* provide for the review of zones every three months. A designation of a locality as an alcohol disorder zone can be revoked by the local authority at any time.

Section 18: Functions of local chief officer of police

147. *Subsection (1)* imposes a duty on the local authority to consider proposing the designation of an alcohol disorder zone if the local chief officer of police suggests that they do so.
148. If in such a case the local authority decides against proposing the designation of a zone, *subsection (2)* requires them to give notice of their decision, setting out the reasons, to the local chief officer of police, to the Secretary of State and to the local police authority.
149. *Subsection (3)* requires a local authority proposing to designate a locality as an alcohol disorder zone without an application from the chief officer of police to consult the chief officer before publishing notice of their proposal.
150. *Subsection (4)* requires local authorities to obtain the consent of the chief officer of police before designating an alcohol disorder zone or revoking it.
151. If the chief officer of police does not give this consent, then *subsection (5)* requires him to give notice of his decision and the reasons for it to the Secretary of State and to the local police authority.

Section 19: Guidance about the designation of zones

152. **Section 19** requires the Secretary of State to issue guidance about the exercise of powers in relation to alcohol disorder zones. The guidance must set out alternative steps which should be considered before an area is designated as an alcohol disorder zone. Before issuing or revising guidance the Secretary of State must consult those persons set out in *subsection (3)*.

Section 20: Supplemental provisions for Chapter 2

153. **Section 20** sets out definitions for the terms used in sections 12 to 16 and makes provisions about the powers to make orders and regulations under these sections.

Chapter 3: Other provisions

Section 21: Power of police to require review of premises licence

154. **Section 21** inserts new sections 53A, 53B and 53C in to the Licensing Act 2003. The aim of this provision is to supplement the existing provisions in that Act which provide for conditions to be attached to licences.
155. Section 53A(1) enables a chief officer to apply for an expedited review of a premises licence where a senior police officer (of or above the rank of superintendent) certifies, to the relevant licensing authority, that he considers a licensed premises to be associated with serious crime and/or disorder.
156. Section 53A(2) requires the licensing authority, (i) within 48 hours of receipt of the certificate to consider whether it is necessary to take any of the interim steps set out at section 53B(3) pending a determination of a review of the premises licence; and (ii) within 28 days after receipt of the application, to review the premises licence and reach a determination.
157. Section 53A(3) provides that the Secretary of State must by regulations prescribe the procedure by which the licensing authority should conduct the review.
158. Section 53A(4) defines a senior police officer as being of or above the rank of superintendent. It also defines serious crime by reference to section 81 of the Regulation of Investigatory Powers Act 2000: broadly those crimes for which a sentence of imprisonment of at least three years could be imposed and offences involving violence.

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(c.38) which received Royal Assent on 8 November 2006*

159. Section 53A(5) provides that weekends and public holidays are not counted when calculating the 48 hours mentioned above.
160. Section 53B deals with the taking of interim steps by the relevant licensing authority pending determination of the review.
161. Section 53B(2) enables the relevant licensing authority to take any of the interim steps set out at subsection (3) without the licence holder having an opportunity to make representations. Section 53B(3) lists the interim steps that the relevant licensing authority must consider taking which are (a) modification of the conditions of the premises licence; (b) 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. Section 53B(4) provides that the conditions of a premises licence are modified when any of them are altered or omitted or any new condition is added. A licensing authority can take one or more of the interim steps pending the review of the premises licence.
162. Section 53B(5) provides that any decision by the licensing authority to take an interim step(s) will take effect either immediately or at a later time specified by the authority. Notice of the decision must be given to the holder of the premises licence and the police.
163. Section 53B(6) provides that if the licence holder makes representations, that are not withdrawn, the licensing authority must within 48 hours of receiving them (not counting weekends and other public holidays) hold a hearing to consider them. Advance notice of the hearing must be given to the holder of the premises licence and the police.
164. Section 53B(8) requires the licensing authority to consider at the hearing whether the interim steps are necessary and to decide whether they should be withdrawn or modified. Section 53B(9) requires the licensing authority to have regard at any hearing to the senior police officer's certificate, any representations made by the police and any relevant representations made by the holder of the premises licence.
165. Section 53C deals with the procedure for conducting the determination of an application for a review made under section 53A.
166. By virtue of this section, the licensing authority must hold a hearing to consider and determine any application for review and any relevant representations made in respect of it. In order for representations to be 'relevant' they must have been made by the holder of the premises licence, an interested party or a responsible authority (see the definitions in section 13 of the Licensing Act 2003) and they must relate to the licensing objectives. If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious. If it does, the authority is to explain its decision to the person who made the representations. The section provides that as a result of this review the authority must, if it considers it necessary for the promotion of the licensing objectives, either modify the conditions of the licence, exclude a licensable activity which the premises licence covers, remove the designated supervisor, suspend the licence for a period not exceeding 3 months or revoke the licence. If the licensing authority does not consider any of the steps to be necessary for the promotion of the licensing objectives, it will leave the licence untouched.
167. Section 53C(10) requires the licensing authority to notify the outcome of a review and its reasons for so deciding to the licence holder, the police and any person who has made relevant representations. Section 53C(11) provides that the determination of an application for review will not take effect until any appeal has been disposed of, or if there is no appeal at the end of the period within which an appeal may be brought.

Section 22: provisions supplemental to s. 21

168. [Section 22](#) makes a number of consequential amendments to the Licensing Act 2003.

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169. *Subsection (2)* prevents functions relating to the taking of interim steps pending a review under section 53C, or the determination itself, being sub-delegated to officers of a licensing authority.
170. *Subsection (3)* provides that appeals against a determination made following an application for a review under section 53A can be made by the same persons and in the same manner as in reviews under section 51 of the Licensing Act 2003.

Section 23: Offence of persistently selling of alcohol to children

171. *Subsection (1)* amends the Licensing Act 2003 by inserting new sections 147A and 147B.
172. Section 147A(1) creates a new offence which is committed if on three or more different occasions in a period of three consecutive months alcohol is unlawfully sold on the same premises to a person aged under 18. The subsection also provides that the offence is only committed if at the time of each sale, the premises were licensed by a premises licence issued under the Licensing Act 2003 or the premises were being used for a permitted temporary activity under the authority of a temporary event notice given under that Act. The subsection provides that the new offence is committed by the “responsible person”, who is the licence holder or premises user or (if there is more than one), every person who is one of the licence holders or premises users at the time of each unlawful sale.
173. Section 147A(2) provides that for the purposes of the offence alcohol has been sold unlawfully to a person under 18 if the person making the sale believed the individual to be under 18 or did not have reasonable grounds for believing him to be 18 or over. Section 147(3) provides that a person has reasonable grounds for so believing only if he asked the individual for evidence of his age and the evidence produced would have convinced a reasonable person; or no person could reasonably have suspected that the person was less than 18 years of age.
174. Section 147A(5) provides that the minor to whom the sales have been made may be the same individual on each of the three or more occasions, but need not be.
175. Section 147A(6) provides that the same sale may not be counted in respect of different offences for the purpose of enabling the same person to be convicted on more than one occasion of the offence in subsection (1). The same sale may also not be counted in respect of different offences for the purpose of enabling the same person to be convicted of the offence in subsection (1) and offences under sections 146 (sale of alcohol to children) or 147 (allowing the sale of alcohol to children) of the Licensing Act 2003.
176. Section 147A(7) provides that in determining whether an offence under subsection (1) has been committed the following shall be admissible evidence:
- convictions for offences under section 146 of the Licensing Act 2003 (sale of alcohol to children);
 - cautions given in respect of such offences under Part 5 of the Police Act 1997; or
 - the payment of a fixed penalty under Part 1 of the Criminal Justice and Police Act 2001 in respect of an unlawful sale to a person under 18.
177. Section 147A(8) provides that a person guilty of the offence in subsection 147A(1) shall be liable on summary conviction to a fine not exceeding £10,000.
178. Section 147A(9) provides that the Secretary of State may by order amend subsection (8) in order to increase the maximum fine.
179. Section 147B(1) provides that on the conviction of a premises licence holder for an offence under section 147A, the court may make an order suspending the premises licence for up to 3 months insofar as it authorises sales of alcohol. This means that other licensable activities carried on at the premises, such as the provision of live

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music, would be unaffected. It also means that although any sales of alcohol by retail within the period of the suspension would be unlawful, sales of other goods would be unaffected. For example, it could be made unlawful for a supermarket to sell alcohol by retail for the period of the suspension but it could continue to sell other products such as vegetables.

180. Section 147B(2) provides that where more than one person is liable for an offence under section 147A, no more than one order suspending the premises licence may be made in relation to the premises in question in respect of convictions by reference to those sales.
181. Section 147B(3) provides that subject to subsections (4) and (5), an order so made by a court would come into force at the time specified by the court making the order. Subsection (4) provides that where a magistrates' court has made such an order it may suspend the order pending an appeal. Subsection (5) provides that where an appeal has been made to the Crown Court or to the Court of Appeal (including an application for leave to appeal to the Court of Appeal) against his sentence or conviction, the Courts may suspend the order made. In addition, where an offender appeals or applies for leave to appeal to the House of Lords or the High Court, the Court of Appeal may suspend the order.
182. *Subsection (2)* amends the Licensing Act 2003 by providing that the licensing authority may not institute prosecutions for the offence in new section 147A, and that the weights and measures authority may institute prosecutions for the offence. This is because the licensing authority should not have predetermined any related matters should it be required to consider an application for a review of premises licences on grounds relating to the commission of such offences.
183. *Subsection (3)* amends section 197 of the Licensing Act 2003 by providing that any order made by the Secretary of State under section 147A(9) of that Act to increase the maximum fine on conviction for the offence under section 147 of that Act would be subject to affirmative resolution procedures, except where any increase relates solely to changes in the value of money.
184. *Subsection (4)* provides that for the purposes of an offence under section 147A of the Licensing Act, no account must be taken of a sale of alcohol that took place before the commencement of section 23 of the Violent Crime Reduction Act 2006.

Section 24: Closure notices for persistently selling alcohol to children

185. *Subsection (1)* amends the Licensing Act 2003 by inserting new sections 169A and 169B.
186. New section 169A(1) provides that a relevant officer may give a closure notice applying to any premises if there is evidence that a person ("the offender") has committed an offence under section 147A in relation to those premises; 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 conviction; and that the offender is still, at the time the notice is given, the holder, or one of the holders, of the premises licence in respect of those premises. New section 169A(11) defines a "relevant officer" as a police officer of the rank of superintendent or above; or an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985.
187. New section 169A(2) defines a "closure notice" for the purposes of section 169A. It is a notice that proposes a prohibition on sales of alcohol at the premises in question for a period not exceeding 48 hours; and offers the opportunity to discharge all criminal liability in respect of the alleged offence under section 147A by the acceptance of the prohibition proposed in the notice.
188. New section 169A(3) provides that a closure notice must:
 - be in a form prescribed by the Secretary of State in regulations;

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- specify the premises to which it applies;
 - give particulars of the alleged offence;
 - specify the length of the period during which sales of alcohol would be prohibited;
 - specify when that period would begin;
 - explain the effect of the proposed prohibition and the consequences under the Licensing Act 2003 (including maximum penalties) of a sale on the premises during the period for which it is in force;
 - explain the right of every person who was one of the holders of the premises licence at the time of the alleged offence to be tried for that offence; and
 - explain how that right may be exercised and how the proposed prohibition may be accepted.
189. New section 169A(4) provides that the period of the prohibition on sales of alcohol must not exceed 48 hours. It also provides that the time specified as the time from which the period of the prohibition would begin must not be less than 14 days after the date on which the closure notice was served.
190. New section 169A(5) provides that the notice must explain how the right to be tried for the alleged offence under section 147A may be exercised and how the proposed prohibition may be accepted. The closure notice must:
- provide a means of identifying a police officer or trading standards officer to whom notice exercising the option accepting the prohibition may be given;
 - set out particulars of where and how that notice may be given;
 - require the notice to be given within 14 days after the date on which the closure notice was served; and
 - explain the right to be tried for the alleged offence will be taken to have been exercised unless every person who was a holder of the premises licence at the time the notice was given accepts the proposed prohibition.
191. New section 169A(6) disapplies section 184 of the Licensing Act 2003 (giving of notices) to the arrangements for giving closure notices; and provides that a closure notice must be served on the premises to which it applies.
192. New section 169A(7) provides that a closure notice may be served only at a time when it appears to a constable or trading standards officer that licensable activities are being carried on there, for example, when the premises are open for sales of alcohol. It also provides that a closure notice may only be given 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.
193. New section 169A(8) provides that a copy of every closure notice given must be sent to the holder of the premises licence for the relevant premises at whatever address for that person is given on the premises licence itself.
194. New section 169A(9) provides that a closure notice must not be given more than 3 months after the time of the last of the three unlawful sales described in section 147A(1).
195. New section 169A(10) provides that no more than one closure notice may be given in respect of offences relating to the same sales; and that a closure notice may not be given in respect of an offence in respect of which a prosecution has already been brought.
196. New section 169B, to be inserted into the Licensing Act 2003, applies where a closure notice is given under section 169A in respect of an alleged offence under section 147A.

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New section 169B(2) provides that no proceedings may be brought for an alleged offence at any time before the time when the prohibition proposed by the closure notice would take effect.

197. New section 169B(3) provides that if before that time every holder of the premises licence has agreed to accept the proposed prohibition in the manner specified in the notice then:
- the prohibition takes effect at the time specified in the closure notice at the premises in question; and
 - no proceedings may be subsequently brought for the alleged offence against the holders of the premises licence or any related offence. New section 169B(5) provides that any related offence would include any offences under sections 146 and 147 of the Licensing Act 2003 to which the alleged offence under section 147A relates.
198. New section 169B(4) provides that where the prohibition takes effect, the premises licence is suspended for the period specified in the closure notice insofar as it authorises the sale by retail of alcohol. This means that any sales of alcohol which took place during the period when the premises licence was temporarily suspended would be unauthorised under the terms of the Licensing Act 2003. Under section 136 of the Licensing Act 2003 a person commits an offence if he carries on or attempts to carry on any licensable activity on or from any premises otherwise than under or in accordance with an authorisation; or he knowingly allows a licensable activity to be so carried on. A person guilty of such an offence is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.
199. New section 169B(6) provides that the operation of section 169B is not affected by any contravention of new section 169A(8), which is the requirement to send a copy of every closure notice to the holder of the premises licence for the premises in question.
200. *Sub-sections (2) and (3)* of section 24 amend section 170 of the Licensing Act 2003 by extending the exemption for the police from liabilities for damages to their functions in respect of closure notices and by providing a similar exemption for trading standards officers. *Subsection (4)* also amends section 170 of the 2003 Act to extend the exemption to the actions of community support officers in serving closure notices.
201. *Subsection (5)* amends section 171(5) of the Licensing Act 2003 (interpretation of Part 8) by providing definitions of “trading standards officer” and “weights and measures authority” and “closure notice”. “Closure notice” is defined by reference to section 169A. A trading standards officer is defined as a person authorised by a local weights and measures authority to act in the area where the premises in question are situated in relation to proposed prohibitions contained in closure notices. “Weights and measures authority” is given the same meaning as is given to it by section 69 of the Weights and Measures Act 1985.
202. *Subsection (6)* amends Part 1 of Schedule 4 to the Police Reform Act 2002 (powers of community support officers). It provides that a community support officer shall have the capacity of a constable to serve a closure notice.

Section 25: Mandatory premises licence conditions: door supervision

203. Section 21 of the Licensing Act 2003 imposes mandatory conditions on premises licenses in certain circumstances.
204. As unamended section 21 provides that where the premises licence is to include a condition that one or more individuals must be present at the premises at particular times to carry out a “security activity” the premises licence must include a condition that the individuals carrying out that activity must be authorised to do so by a licence from the Security Industry Authority (SIA) under the Private Security Industry Act

2001. “Security activity” in this context means an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (manned guarding activities).

205. The amendment to section 21 will ensure that the requirement for SIA authorisation in the mandatory condition will only apply in cases where the individuals in question are required to have a licence under the 2001 Act. So if, for example, individuals are exempted under section 4 of the 2001 Act the mandatory condition will not apply so as to require them to be SIA-licensed. This will ensure that the scope of the requirement for SIA licensing for door supervision under mandatory conditions in the Licensing Act 2003 is not greater than the scope of the requirement under the original SIA legislation (the 2001 Act).

Section 26: Designated public places

206. This section amends section 14 of the Criminal Justice and Police Act 2001 regarding places which cannot be designated public places. Designated public places are places where a restriction on public drinking can be applied by means of a designated public place order, or DPPO.
207. *Subsection (2)(a) and (b)* amends section 14(1) to ensure that premises that have a premises licence or club premises certificate as defined under the Licensing Act 2003 for the sale or supply of alcohol cannot be designated by a DPPO. This continues the existing position that licensed premises should not be subject to DPPOs, as they are already subject to the requirements of the licensing regime in the 2003 Act.
208. *Subsection (3)* inserts new subsections (1A), (1B) and (1C) into section 14 which deal with the special case of premises for which local authorities are responsible. The amendments will ensure that where a local authority holds a premises licence, or premises for which there is a premises licence are occupied or managed by or on behalf of the Authority. A DPPO will only be excluded from applying to those premises at times when alcohol is actually being sold or supplied and for another 30 minutes thereafter. *Subsection (2)(c)* replaces the previous 20 minutes’ grace or wind-down period for all licensed premises with the slightly longer period of 30 minutes. Henceforth, the wind-down period will be the same for all premises, regardless of whether they are occupied or managed by a local authority: an existing DPPO will become operative once this period has elapsed.

Section 27: Directions to individuals who represent a risk of disorder

209. This section provides the police with a power to issue a direction to an individual to leave a locality to minimise the risk of alcohol related crime or disorder arising and/or taking place.
210. *Subsection (1)* provides a constable in uniform with a new power to issue a direction to leave a locality to an individual aged at least 16 who is in a public place. The direction will prohibit their return to the locality for up to 48 hours. *Subsection (2)* sets out the test which must be satisfied for a direction to be given. A direction can only be given if the presence of an individual in the relevant locality is likely, in all the circumstances, to cause or contribute to the occurrence of alcohol-related crime or disorder in that locality, or to a repetition or continuance there of such crime or disorder. The constable also has to be satisfied that such a direction 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.
211. *Subsection (3)* specifies matters relating to the form and content of a direction. A direction must be given in writing and may take effect either immediately or at a later time specified by the constable, for example if an immediate departure from the locality is for some reason not practicable. The direction must clearly identify the locality to which it relates and the period for which the individual is prohibited from returning. A

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constable can impose requirements as to how the individual leaves the locality and the route that must be taken. A direction can be varied or withdrawn by any constable but the period for which the direction applies may not be extended beyond 48 hours.

212. *Subsection (4)* contains safeguards to ensure that a direction may not be given where it prevents an individual from having access to a place where he resides; where he needs to attend for employment purposes; education; medical treatment; or as a result of an enactment or court order.
213. *Subsection (5)* requires a constable giving a direction to make a record of the key components of the direction.
214. *Subsection (6)* provides that an individual who fails to comply with a direction will be guilty of an offence and would be liable on summary conviction to a fine not exceeding level 4 on the standard scale (currently £2,500).
215. *Subsection (7)* amends section 64A of the Police and Criminal Evidence Act 1984 to allow the police to photograph the subject of a direction, with or without his consent, elsewhere than at a police station.
216. *Subsection (8)* sets out the definition of a public place for the purposes of the direction to leave the locality.