

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 10: Special immigration status

Section 143: Persistent sales of tobacco to persons under 18

821. **Section 143** inserts a new section 12A into the Children and Young Persons Act 1933.
822. Section 12A enables a magistrates' court to impose restricted premises orders preventing the sale, either in person or by automatic machine, of tobacco products or cigarette papers on certain premises for up to one year.
823. Under new section 12A(7) a magistrates' court may make a restricted premises order only if, in addition to the offence on the premises for which the offender has been convicted, the offender has also committed at least two other tobacco offences on the premises within a two year period (whether or not convicted of those other offences). A restricted premises order can only be made if the person applying for the order has given notice to everyone appearing to be affected by it.
824. Under new section 12A(9) and (10), restricted premises orders may be varied or discharged if a person affected by an application was not given notice and that person has not had a later opportunity to make representations to the court.
825. **Section 143** also inserts a new section 12B into the Children and Young Persons Act 1933. New section 12B enables a magistrates' court to impose restricted sale orders. By virtue of new section 12B(3) a restricted sale order is an order which prohibits a person from making any sale of tobacco or cigarette papers (whether in person or by automatic machine) to any person. It also prohibits the person from having management functions in relation to such sales.
826. Under new section 12B(5) a magistrates' court may make a restricted sale order only if, in addition to the offence for which the offender has been convicted, the offender has also committed at least two other tobacco offences within a two year period (whether or not convicted of those other offences).
827. In addition section 143 inserts a new section 12C into the Children and Young Persons Act 1933. New section 12C contains an enforcement sanction and a defence. Under new section 12C(3), it is a defence for a person charged with breaching a restricted sale order to show that he took all reasonable precautions to avoid committing the breach. Under new section 12C(4), a person found guilty of breaching restricted premises orders or restricted sale orders is liable to a fine of up to £20,000. New section 12C(5) provides that restricted premises orders are local land charges and will therefore be registered against the property.