



# Children and Young Persons Act 1933

1933 CHAPTER 12 23 and 24 Geo 5

## PART I

### PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND PHYSICAL DANGER

#### *Offences*

#### **1 Cruelty to persons under sixteen.**

- (1) If any person who has attained the age of sixteen years and [<sup>F1</sup>has responsibility for] any child or young person under that age, wilfully assaults, ill-treats [<sup>F2</sup>(whether physically or otherwise)], neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated [<sup>F3</sup>(whether physically or otherwise)], neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health [<sup>F4</sup>(whether the suffering or injury is of a physical or a psychological nature)], that person shall be guilty of [<sup>F5</sup>an offence], and shall be liable—
- (a) on conviction on indictment, to a fine . . . <sup>F6</sup> or alternatively, . . . <sup>F7</sup>, or in addition thereto, to imprisonment for any term not exceeding [<sup>F8</sup>14] years;
  - (b) on summary conviction, to a fine not exceeding [<sup>F9</sup>£400] pounds, or alternatively, . . . <sup>F7</sup>, or in addition thereto, to imprisonment for any term not exceeding six months.
- (2) For the purposes of this section—
- (a) a parent or other person legally liable to maintain a child or young person [<sup>F10</sup>, or the legal guardian of a child or young person,] shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under [<sup>F11</sup>the enactments applicable in that behalf];
  - (b) where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) while the infant

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was in bed with some other person who has attained the age of sixteen years, that other person shall, if he was, when he went to bed [<sup>F12</sup>or at any later time before the suffocation], under the influence of drink [<sup>F13</sup>or a prohibited drug], be deemed to have neglected the infant in a manner likely to cause injury to its health.

[<sup>F14</sup>(2A) The reference in subsection (2)(b) to the infant being “in bed” with another (“the adult”) includes a reference to the infant lying next to the adult in or on any kind of furniture or surface being used by the adult for the purpose of sleeping (and the reference to the time when the adult “went to bed” is to be read accordingly).

(2B) A drug is a prohibited drug for the purposes of subsection (2)(b) in relation to a person if the person's possession of the drug immediately before taking it constituted an offence under section 5(2) of the Misuse of Drugs Act 1971.]

(3) A person may be convicted of an offence under this section—

(a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;

(b) notwithstanding the death of the child or young person in question.

(4) ..... <sup>F15</sup>

(5) ..... <sup>F16</sup>

(7) <sup>F17</sup> .....

#### Textual Amendments

- F1** Words in s. 1(1) substituted (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5)(6), **Sch. 13 para. 2** (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), **art. 3(2)**.
- F2** Words in s. 1(1) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 66(2)(a)**, 88(1) (with s. 86(10)); [S.I. 2015/820](#), reg. 2(k)
- F3** Words in s. 1(1) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 66(2)(b)**, 88(1) (with s. 86(10)); [S.I. 2015/820](#), reg. 2(k)
- F4** Words in s. 1(1) substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 66(3)**, 88(1) (with s. 86(10)); [S.I. 2015/820](#), reg. 2(k)
- F5** Words in s. 1(1) substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 66(4)**, 88(1) (with s. 86(10)); [S.I. 2015/820](#), reg. 2(k)
- F6** Words repealed by [Children Act 1975 \(c. 72\)](#), **Sch. 4 Pt. III**
- F7** Words repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, **Sch. 5**
- F8** Word in s. 1(1)(a) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 122(1)**, 208(5)(j) (with s. 122(2))
- F9** Words substituted by [Children Act 1975 \(c. 72\)](#), **Sch. 3 para. 1**
- F10** Words in s. 1(2)(a) inserted (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4)(6), **Sch. 12 para. 2** (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), **art. 3(2)**.
- F11** Words substituted by [S.I. 1951/174 \(1951 I, p. 1369\)](#), Sch.
- F12** Words in s. 1(2)(b) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 66(5)(a)**, 88(1) (with s. 86(10)); [S.I. 2015/820](#), reg. 2(k)
- F13** Words in s. 1(2)(b) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 66(5)(b)**, 88(1) (with s. 86(10)); [S.I. 2015/820](#), reg. 2(k)
- F14** S. 1(2A)(2B) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 66(6)**, 88(1) (with s. 86(10)); [S.I. 2015/820](#), reg. 2(k)
- F15** S. 1(4) repealed by [Criminal Law Act 1967 \(c. 58\)](#), s. 12, **Sch. 3 Pt. III**

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- F16** S. 1(5)(6) repealed by [Criminal Justice Act 1988](#) (c. 33, SIF 39:1), s. 170(2), **Sch. 16**  
**F17** S. 1(7) repealed (15.1.2005) by [Children Act 2004](#) (c. 31), ss. 58(5), 64, 67(7)(f), **Sch. 5 Pt. 5**

2 ..... **F18**

#### Textual Amendments

- F18** Ss. 2, 3(2) repealed by [Sexual Offences Act 1956](#) (c. 69), s. 52, Sch. 4

### 3 Allowing persons under sixteen to be in brothels.

- (1) If any person having [<sup>F19</sup>responsibility for] a child or young person who has attained the age of four years and is under the age of sixteen years, allows that child or young person to reside in or to frequent a brothel, he shall be [<sup>F20</sup>liable on summary conviction to a fine not exceeding [<sup>F21</sup>level 2 on the standard scale]], or alternatively . . . <sup>F22</sup> or in addition thereto, to imprisonment for any term not exceeding six months.
- (2) ..... **F23**

#### Textual Amendments

- F19** Words in s. 3(1) substituted (14. 10. 1991) by [Children Act 1989](#) (c. 41, SIF 20), s. 108(5)(6), **Sch. 13 para. 3(a)** (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, **art. 3(2)**.  
**F20** Words substituted by [Criminal Law Act 1977](#) (c. 45), **Sch. 1 para. 4**  
**F21** Words substituted by virtue of [Criminal Justice Act 1982](#) (c. 48, SIF 39:1), **s. 46**  
**F22** Words repealed by [Children and Young Persons Act 1963](#) (c. 37), s. 64, **Sch. 5**  
**F23** S. 3(2) repealed by [Sexual Offences Act 1956](#) (c. 69), s. 52, Sch. 4

### 4 Causing or allowing persons under sixteen to be used for begging.

- (1) If any person causes or procures any child or young person under the age of sixteen years or, having [<sup>F24</sup>responsibility for] such a child or young person, allows him to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise) he shall, on summary conviction, be liable to a fine not exceeding [<sup>F25</sup>level 2 on the standard scale], or alternatively, . . . <sup>F26</sup> or in addition thereto, to imprisonment for any term not exceeding three months.
- (2) If a person having [<sup>F24</sup>responsibility for] a child or young person is charged with an offence under this section, and it is proved that the child or young person was in any street, premises, or place for any such purpose as aforesaid, and that the person charged allowed the child or young person to be in the street, premises, or place, he shall be presumed to have allowed him to be in the street, premises, or place for that purpose unless the contrary is proved.
- (3) If any person while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

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#### Textual Amendments

- F24** Words in s. 4(1)(2) substituted (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5)(6), [Sch. 13 para. 3\(b\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#).
- F25** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)
- F26** Words repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, [Sch. 5](#)

### 5 Giving intoxicating liquor to children under five.

If any person gives, or causes to be given, to any child under the age of five years any [<sup>F27</sup> alcohol (within the meaning given by section 191 of the Licensing Act 2003, but disregarding subsection (1)(f) to (i) of that section)], except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness, or other urgent cause, he shall, on summary conviction, be liable to a fine not exceeding [<sup>F28</sup> level 1 on the standard scale].

#### Textual Amendments

- F27** Words in s. 5 substituted (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), ss. 198, 201, [Sch. 6 para. 13](#) (with ss. 2(3), 15(2), 195); S.I. 2005/3056, [art. 2\(2\)](#)
- F28** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)

### 6 ..... <sup>F29</sup>

#### Textual Amendments

- F29** S. 6 repealed by [Licensing Act 1953 \(c. 46\)](#), [Sch. 10](#)

### 7 Sale of tobacco, &c. to persons under [<sup>F30</sup> eighteen].

- (1) Any person who sells to a person [<sup>F31</sup> . . . ] under the age of [<sup>F32</sup> eighteen] years any tobacco or cigarette papers, whether for his own use or not, shall be liable, [<sup>F33</sup> on summary conviction to a fine not exceeding level 4 on the standard scale.]
- <sup>F34</sup> [(1A) It shall be a defence for a person charged with an offence under subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.]
- (2) If on complaint to a [<sup>F35</sup> magistrates' court] it is proved to the satisfaction of the court that any automatic machine for the sale of tobacco kept on any premises [<sup>F36</sup> has been used by any person] under the age of [<sup>F32</sup> eighteen] years, the court [<sup>F37</sup> shall] order the owner of the machine, or the person on whose premises the machine is kept, to take such precautions to prevent the machine being so used as may be specified in the order or, if necessary, to remove the machine, within such time as may be specified in the order, and if any person against whom such an order has been made fails to comply therewith, he shall be liable, on summary conviction, [<sup>F38</sup> to a fine not exceeding level 4 on the standard scale.]

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- (3) It shall be the duty of a constable and of a park-keeper being in uniform to seize any tobacco or cigarette papers in the possession of any person apparently under the age of sixteen years whom he finds smoking in any street or public place, and any tobacco or cigarette papers so seized shall be disposed of, if seized by a constable, in such manner as the <sup>F39</sup>[local policing body] may direct, and if seized by a park-keeper, in such manner as the authority or person by whom he was appointed may direct.
- (4) Nothing in this section shall make it an offence to sell tobacco or cigarette papers to, or shall authorise the seizure of tobacco or cigarette papers in the possession of, any person who is at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business, or is a boy messenger in uniform in the employment of a messenger company and employed as such at the time.
- (5) For the purposes of this section the expression “tobacco” includes cigarettes <sup>F40</sup>[any product containing tobacco and intended for oral or nasal use] and smoking mixtures intended as a substitute for tobacco, and the expression “cigarettes” includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.

#### Textual Amendments

- F30** Word in s. 7 sidenote substituted (1.10.2007) by [The Children and Young Persons \(Sale of Tobacco etc.\) Order 2007 \(S.I. 2007/767\)](#), [art. 2\(a\)](#) (with effect as mentioned in [art. 1](#))
- F31** Word in s. 7(1) omitted (1.3.1992) by virtue of [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 1\(2\)\(a\)](#), (with s. 8(3)); S.I. 1992/332, [art. 2](#)
- F32** Word in s. 7(1)(2) substituted (1.10.2007) by [The Children and Young Persons \(Sale of Tobacco etc.\) Order 2007 \(S.I. 2007/767\)](#), [art. 2\(a\)](#) (with effect as mentioned in [art. 1](#))
- F33** Words in s. 7(1) substituted (1.3.1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 1\(2\)\(b\)](#), (with s. 8(3)); S.I. 1992/332, [art. 2](#)
- F34** S. 7(1A) inserted (1.3.1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 1\(3\)](#), (with s. 8(3)); S.I. 1992/332, [art. 2](#)
- F35** Words in s. 7(2) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 72](#); S.I. 2005/910, [art. 3\(bb\)](#)
- F36** Words in s. 7(2) substituted (1.3.1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 1\(4\)\(a\)](#), (with s. 8(3)(4)); S.I. 1992/332, [art. 2](#)
- F37** Word substituted by [Protection of Children \(Tobacco\) Act 1986 \(c. 34, SIF 20\)](#), [s. 1\(1\)\(b\)\(2\)](#)
- F38** Words in s. 7(2) substituted (1.3.1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 1\(4\)\(b\)](#), (with s. 8(3)(4)); S.I. 1992/332, [art. 2](#)
- F39** Words in s. 7(3) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 67](#); S.I. 2011/3019, [art. 3](#), [Sch. 1](#)
- F40** Words inserted by [Protection of Children \(Tobacco\) Act 1986 \(c. 34, SIF 20\)](#), [s. 1\(1\)\(c\)](#)

#### Modifications etc. (not altering text)

- C1** In s. 7: definition of “tobacco” applied (20.2.1993) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 4\(8\)](#); S.I. 1992/3227, [art. 2\(2\)](#).
- C2** S. 7: power to amend conferred (19.7.2006 for specified purposes and otherwise 1.7.2007) by [Health Act 2006 \(c. 28\)](#), ss. 13, 83; S.I. 2007/1375, [art. 2\(a\)](#)
- C3** S. 7: power to amend conferred by 2006 c. 28, s. 13(1)-(1B) (as substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [42\(2\)\(a\)](#))
- C4** [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 35 (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

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C5 S. 7(2) saved (1.3.1992) by Children and Young Persons (Protection from Tobacco) Act 1991 (c. 23, SIF 20), s. 8(5); S.I. 1992/332, art. 2

8 ..... F41

**Textual Amendments**  
F41 S. 8 repealed by Consumer Credit Act 1974 (c. 39), s. 192(1)(4), Sch. 5

9 ..... F42

**Textual Amendments**  
F42 S. 9 repealed by Scrap Metal Dealers Act 1964 (c. 69), Sch. Pt. I

F43 10 .....

**Textual Amendments**  
F43 S. 10 repealed (1.10.1993) by 1993 c.35, ss. 303(4), 307(1)(3), Sch. 19, para. 1, Sch. 21 Pt.I; S.I. 1993/1975, art. 9, Sch. 1Appendix.

11 †Exposing children under seven to risk of burning.

If any person who has attained the age of sixteen years, having [F44responsibility for] any child under the age of [F45twelve] years, allows the child to be in any room containing an open fire grate [F46or any heating appliance liable to cause injury to a person by contact therewith] not sufficiently protected to guard against the risk of his being burnt or scalded without taking reasonable precautions against that risk, and by reason thereof the child is killed or suffers serious injury, he shall on summary conviction be liable to a fine not exceeding [F47level 1 on the standard scale]:

Provided that neither this section, not any proceedings taken thereunder, shall affect any liability of any such person to be proceeded against by indictment for any indictable offence.

**Textual Amendments**  
F44 Words in s. 11 substituted (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 3(c) (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2).  
F45 Word substituted by Children and Young Persons (Amendment) Act 1952 (c. 50), Sch. para. 1(a)  
F46 Words inserted by Children and Young Persons (Amendment) Act 1952 (c. 50), Sch. para. 1(b)  
F47 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

**Modifications etc. (not altering text)**  
C6 Unreliable marginal note.

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- C7 Words in s. 11 substituted by 1952 c. 50, continued to have effect (5.11.1993) by 1993 c. 50, s. 1(2), Sch. 2 Pt. II para. 23.

## 12 Failing to provide for safety of children at entertainments.

- (1) Where there is provided in any building an entertainment for children, or an entertainment at which the majority of the persons attending are children, then, if the number of children attending the entertainment exceeds one hundred, it shall be the duty of the person providing the entertainment to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate, and to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and to take all other reasonable precautions for the safety of the children.
- (2) Where the occupier of a building permits, for hire or reward, the building to be used for the purpose of an entertainment, he shall take all reasonable steps to secure the observance of the provisions of this section.
- (3) If any person on whom any obligation is imposed by this section fails to fulfil that obligation, he shall be liable, on summary conviction, to a fine not exceeding, in the case of a first offence fifty pounds, and in the case of a second or subsequent offence one hundred pounds <sup>F48</sup> . . . .
- (4) A constable may enter any building in which he has reason to believe that such an entertainment as aforesaid is being, or is about to be, provided, with a view to seeing whether the provisions of this section are carried into effect, and an officer authorised for the purpose by an authority by whom licences are granted under any of the enactments referred to in the last foregoing subsection shall have the like power of entering any building so licensed by that authority.
- (5) The institution of proceedings under this section shall—
  - [<sup>F49</sup>(a) in the case of a building in respect of which a premises licence authorising the provision of regulated entertainment has effect, be the duty of the relevant licensing authority;]
  - (b) in any other case, be the duty of the [<sup>F50</sup>chief officer of police].
- [<sup>F51</sup>(5A) For the purposes of this section—
  - (a) “premises licence” and “the provision of regulated entertainment” have the meaning given by the Licensing Act 2003, and
  - (b) “the relevant licensing authority”, in relation to a building in respect of which a premises licence has effect, means the relevant licensing authority in relation to that building under section 12 of that Act.]
- (6) This section shall not apply to any entertainment given in a private dwelling-house.

### Textual Amendments

- F48** Words in s. 12(3) repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 199, Sch. 6 para. 14(a), Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)
- F49** S. 12(5)(a) substituted (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 199, Sch. 6 para. 14(b) (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)



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- F50** Words in s. 12(5)(b) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 68](#); S.I. 2011/3019, art. 3, Sch. 1
- F51** S. 12(5A) inserted (24.11.2005) by [Licensing Act 2003 \(c. 17\), ss. 198, 199, Sch. 6 para. 14\(c\)](#) (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)

**Modifications etc. (not altering text)**

- C8** S. 12: functions of local authority not to be the responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\), Sch. 1 B1 35](#)
- C9** [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 35](#) (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

*[<sup>F52</sup>Persistent sales of tobacco [<sup>F53</sup>or nicotine products] to persons under 18*

**Textual Amendments**

- F52** Ss. 12A-12D and preceding cross-heading inserted (1.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 143\(2\), 153](#); S.I. 2009/860, art. 2(c)
- F53** Words in s. 12A cross-heading inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\), ss. 93\(2\), 139\(6\)](#); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

## 12A Restricted premises orders

- (1) This section applies where a person (“the offender”) is convicted of a tobacco [<sup>F54</sup>or nicotine] offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted premises order to be made in respect of the premises in relation to which that offence was committed (“the relevant premises”).
- (3) A restricted premises order is an order prohibiting the sale on the premises to which it relates of any tobacco [<sup>F55</sup>, cigarette papers or nicotine product] to any person.
- (4) The prohibition applies to sales whether made—
  - (a) by the offender or any other person, or
  - (b) by means of any machine kept on the premises or any other means.
- (5) The order has effect for the period specified in the order, but that period may not exceed one year.
- (6) The applicant must, after making reasonable enquiries, give notice of the application to every person appearing to the applicant to be a person affected by it.
- (7) The court may make the order if (and only if) it is satisfied that—
  - (a) on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco [<sup>F56</sup>or nicotine] offences in relation to the relevant premises, and
  - (b) the applicant has complied with subsection (6).
- (8) Persons affected by the application may make representations to the court as to why the order should not be made.



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- (9) If—
- (a) a person affected by an application for a restricted premises order was not given notice under subsection (6), and
  - (b) consequently the person had no opportunity to make representations to the court as to why the order should not be made,
- the person may by complaint apply to the court for an order varying or discharging it.
- (10) On an application under subsection (9) the court may, after hearing—
- (a) that person, and
  - (b) the applicant for the restricted premises order,
- make such order varying or discharging the restricted premises order as it considers appropriate.
- (11) For the purposes of this section the persons affected by an application for a restricted premises order in respect of any premises are—
- (a) the occupier of the premises, and
  - (b) any other person who has an interest in the premises.

#### Textual Amendments

- F54** Words in s. 12A(1) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 93\(3\)\(a\)](#), 139(6); [S.I. 2014/2609](#), art. 2; [S.I. 2015/375](#), art. 3
- F55** Words in s. 12A(3) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 93\(3\)\(b\)](#), 139(6); [S.I. 2014/2609](#), art. 2; [S.I. 2015/375](#), art. 3
- F56** Words in s. 12A(7)(a) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 93\(3\)\(c\)](#), 139(6); [S.I. 2014/2609](#), art. 2; [S.I. 2015/375](#), art. 3

## 12B Restricted sale orders

- (1) This section applies where a person (“the offender”) is convicted of a tobacco [<sup>F57</sup>or nicotine] offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted sale order to be made in respect of the offender.
- (3) A restricted sale order is an order prohibiting the person to whom it relates—
- (a) from selling any tobacco [<sup>F58</sup>, cigarette papers or nicotine product] to any person,
  - (b) from having any management functions in respect of any premises in so far as those functions relate to the sale on the premises of tobacco [<sup>F59</sup>, cigarette papers or nicotine products] to any person,
  - (c) from keeping any <sup>F60</sup>... machine on any premises for the purpose of selling tobacco [<sup>F61</sup>or nicotine products] or permitting any <sup>F60</sup>... machine to be kept on any premises by any other person for that purpose, and

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- (d) from having any management functions in respect of any premises in so far as those functions relate to any <sup>F62</sup>... machine kept on the premises for the purpose of selling tobacco [<sup>F63</sup>or nicotine products].
- (4) The order has effect for the period specified in the order, but that period may not exceed one year.
- (5) The court may make the order if (and only if) it is satisfied that, on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco [<sup>F64</sup>or nicotine] offences.
- (6) In this section any reference to a <sup>F65</sup>... machine is a reference to an automatic machine for the sale of tobacco [<sup>F66</sup>or nicotine products].

#### Textual Amendments

- F57** Words in s. 12B(1) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(a)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F58** Words in s. 12B(3)(a) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(i)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F59** Words in s. 12B(3)(b) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(ii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F60** Word in s. 12B(3)(c) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F61** Words in s. 12B(3)(c) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iv)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F62** Word in s. 12B(3)(d) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F63** Words in s. 12B(3)(d) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iv)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F64** Words in s. 12B(5) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(c)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F65** Word in s. 12B(6) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(d)(i)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F66** Words in s. 12B(6) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(d)(ii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

## 12C Enforcement

- (1) If—
  - (a) a person sells on any premises any tobacco<sup>F67</sup>, cigarette papers or nicotine product] in contravention of a restricted premises order, and

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- (b) the person knew, or ought reasonably to have known, that the sale was in contravention of the order,  
the person commits an offence.
- (2) If a person fails to comply with a restricted sale order, the person commits an offence.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) A person guilty of an offence under this section is liable, on summary conviction, to [<sup>F68</sup>a fine].
- (5) A restricted premises order is a local land charge and in respect of that charge the applicant for the order is the originating authority for the purposes of the Local Land Charges Act 1975.

#### Textual Amendments

- F67** Words in s. 12C(1)(a) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(5)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F68** Words in s. 12C(4) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 1** (with reg. 5(1))

## 12D Interpretation

- (1) In sections 12A and 12B a [<sup>F69</sup>“tobacco or nicotine offence”] means—
  - (a) an offence committed under section 7(1) on any premises (which are accordingly “the premises in relation to which the offence is committed”),  
<sup>F70</sup>...
  - (b) an offence committed under section 7(2) in respect of an order relating to any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”)[<sup>F71</sup>, <sup>F72</sup>...
  - (c) an offence committed under section 3A of the Children and Young Persons (Protection from Tobacco) Act 1991 in respect of any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”).[<sup>F73</sup>, or
  - (d) an offence committed under section 92 of the Children and Families Act 2014 on any premises (which are accordingly “the premises in relation to which the offence is committed”).]
- (2) In sections 12A to 12C the expressions “tobacco” and “cigarette” have the same meaning as in section 7.  
  
[ In sections 12A to 12C “nicotine product” means a nicotine product within the  
<sup>F74</sup>(2A) meaning of section 92 of the Children and Families Act 2014 the sale of which to persons aged under 18 is for the time being prohibited by regulations under subsection (1) of that section.]
- (3) In sections 12A and 12B “notice” means notice in writing.]

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**Textual Amendments**

**F69** Words in s. 12D(1) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 93\(6\)\(a\)](#), 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

**F70** Word in s. 12D(1)(a) repealed (12.11.2009 for specified purposes, 1.10.2011 in so far as not already in force for E., 1.2.2012 in so far as not already in force for W.) by [Health Act 2009 \(c. 21\)](#), [ss. 22\(2\)\(a\)](#), [40\(1\)\(6\)\(b\)](#), [Sch. 6](#); S.I. 2010/1068, art. 2(1)(a)(b) (as amended (9.5.2011) by S.I. 2011/1255, art. 2(a)(b)); S.I. 2011/2362, art. 2

**F71** S. 12D(1)(c) and word inserted (12.11.2009 for specified purposes, 1.10.2011 in so far as not already in force for E., 1.2.2012 in so far as not already in force for W.) by [Health Act 2009 \(c. 21\)](#), [ss. 22\(2\)\(b\)](#), [40\(1\)\(6\)\(b\)](#); S.I. 2010/1068, art. 2(1)(a) (as amended (9.5.2011) by S.I. 2011/1255, art. 2(a)(b)); S.I. 2011/2362, art. 2

**F72** Word in s. 12D(1)(b) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), [ss. 93\(6\)\(b\)](#), 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

**F73** S. 12D(1)(d) and preceding word inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 93\(6\)\(b\)](#), 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

**F74** S. 12D(2A) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 93\(6\)\(c\)](#), 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

Special Provisions as to Prosecutions for Offences specified in First Schedule

- 13
- (1) . . . . .

(2) . . . . .
- F75

F75

**Textual Amendments**

**F75** S. 13(1)(2) repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 7 Pt. I](#)

14 Mode of charging offences and limitation of time.

- (1) Where a person is charged with committing any of the offences mentioned in the First Schedule to this Act in respect of two or more children or young persons, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not, if he is summarily convicted, be liable to a separate penalty in respect of each child or young person except upon separate informations.

(2) The same information or summons <sup>F76</sup> . . . may charge him with the offences of assault, ill-treatment, neglect, abandonment, or exposure, together or separately, and may charge him with committing all or any of those offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together, but when those offences are charged together the person charged shall not, if he is summarily convicted, be liable to a separate penalty for each.

(3) . . . . .
- F77

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- (4) When any offence mentioned in the First Schedule to this Act charged against any person is a continuous offence, it shall not be necessary to specify in the information, summons, or indictment, the date of the acts constituting the offence.

**Textual Amendments**

**F76** Words in s. 14(2) repealed (E.W.) (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(6)(7), [Sch.15](#) ( with Sch. 14 para. 27(4)); [S.I. 1991/828, art. 3\(2\)](#).

**F77** S. 14(3) repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, [Sch. 5](#)

15 ..... F78

**Textual Amendments**

**F78** S. 15 repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 47, 95\)](#), s. 119, [Sch. 7 Pt. V](#)

Supplemental

16 ..... F79

**Textual Amendments**

**F79** S. 16 repealed by [Administration of Justice \(Miscellaneous Provisions\) Act 1933 \(c. 36\)](#), [Sch. 3](#)

[ F80 17 Interpretation of Part I.

- (1) For the purposes of this Part of this Act, the following shall be presumed to have responsibility for a child or young person—
- (a) any person who—
- (i) has parental responsibility for him (within the meaning of the Children Act 1989); or
- (ii) is otherwise legally liable to maintain him; and
- (b) any person who has care of him.
- (2) A person who is presumed to be responsible for a child or young person by virtue of subsection (1)(a) shall not be taken to have ceased to be responsible for him by reason only that he does not have care of him.]

**Textual Amendments**

**F80** S. 17 substituted (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5)(6), [Sch. 13 para.5](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828, art. 3\(2\)](#).

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12D(1A)-(1F) inserted by [2017 anaw 2 s. 51](#)
- s. 39(2A) inserted by [2010 c. 26 Sch. 3 para. 3](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 49(12)-(14) inserted by [1999 c. 23 Sch. 2 para. 3\(9\)](#)