



Public Health (Minimum Price for Alcohol) (Wales) Act 2018

2018 anaw 5

Enforcement

10 Enforcement action by local authorities

- (1) A local authority may—
 - (a) bring prosecutions in respect of offences in its area under this Act;
 - (b) investigate complaints in respect of alleged offences in its area under this Act;
 - (c) take any other steps with a view to reducing the incidence in its area of offences under this Act.
- (2) A local authority must—
 - (a) consider, at least once in every period of twelve months, the extent to which it is appropriate for the authority to carry out in its area a programme of enforcement action in relation to this Act, and
 - (b) to the extent that it considers it appropriate to do so, carry out such a programme.
- (3) In complying with subsection (2), an authority must in particular have regard to the following objectives—
 - (a) improving public health;
 - (b) protecting children from harm.
- (4) For the purposes of subsection (2), a programme of enforcement action in relation to this Act is a programme involving the taking of all or any of the steps referred to in subsection (1).

11 Authorised officers

References in this Act to an authorised officer of a local authority are to any person authorised by the authority for the purposes of this Act.

12 Power to make test purchases

An authorised officer of a local authority may make such purchases and arrangements, and secure the provision of such services, as the officer considers necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Act.

13 Powers of entry

- (1) An authorised officer of a local authority may enter premises in Wales at any reasonable time if the officer—
 - (a) has reasonable grounds for believing that an offence under section 2 has been committed in the area of the local authority, and
 - (b) considers it necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed.
- (2) But this does not apply in relation to premises used wholly or mainly as a dwelling.
- (3) An authorised officer may not enter premises by force under this section.
- (4) An authorised officer must, if asked to do so, before entering premises under this section show evidence of the authorisation referred to in section 11.

14 Warrant to enter a dwelling

- (1) A justice of the peace may exercise the power in subsection (2) in relation to premises in Wales used wholly or mainly as a dwelling if satisfied on sworn information in writing—
 - (a) that there are reasonable grounds for believing that an offence under section 2 has been committed in the area of a local authority, and
 - (b) that it is necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed.
- (2) The justice may issue a warrant authorising an authorised officer of the local authority to enter the premises, if need be by force.
- (3) The warrant continues in force until the end of the period of 28 days beginning with the date it was issued.

15 Warrant to enter other premises

- (1) A justice of the peace may exercise the power in subsection (2) in relation to premises in Wales other than premises used wholly or mainly as a dwelling if satisfied on sworn information in writing—
 - (a) that there are reasonable grounds for believing that an offence under section 2 has been committed in the area of a local authority,
 - (b) that it is necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed, and
 - (c) that a requirement set out in subsection (3) or (4) is met.
- (2) The justice may issue a warrant authorising an authorised officer to enter the premises, if need be by force.
- (3) The requirement is that—
 - (a) a request to enter the premises has been, or is likely to be, refused, and

- (b) notice of intention to apply for a warrant under this section has been given to the occupier or a person who reasonably appears to the local authority to be concerned in the management of the premises.
- (4) The requirement is that requesting to enter the premises, or the giving of notice of intention to apply for a warrant under this section, is likely to defeat the purpose of the entry.
- (5) The warrant continues in force until the end of the period of 28 days beginning with the date on which it was issued.

16 Supplementary provision about powers of entry

- (1) An authorised officer of a local authority entering premises under section 13, or by virtue of a warrant issued under section 14 or 15, may take such other persons and such equipment as the officer considers appropriate.
- (2) If the occupier of premises an authorised officer is authorised to enter by a warrant under section 14 or 15 is present at the time the authorised officer seeks to execute the warrant, the officer must—
 - (a) inform the occupier of the officer's name;
 - (b) produce documentary evidence to the occupier of the officer's authorisation;
 - (c) supply a copy of the warrant to the occupier.
- (3) If premises that an authorised officer is authorised to enter by a warrant under section 14 or 15 are unoccupied, or if the occupier is temporarily absent, then on leaving the premises the officer must leave them as effectively secured against unauthorised entry as when the officer found them.

17 Powers of inspection, etc.

- (1) An authorised officer of a local authority entering premises under section 13, or by virtue of a warrant issued under section 14 or 15, may do any of the following if the officer considers it necessary for the purpose of ascertaining whether an offence under section 2 has been committed—
 - (a) carry out inspections and examinations on the premises;
 - (b) require the production of anything on the premises, inspect it, and take and retain samples of or extracts from it;
 - (c) take possession of anything on the premises, and retain it for as long as the officer considers necessary for that purpose;
 - (d) require any person to give information, or afford facilities and assistance with respect to matters within the person's control.
- (2) If the authorised officer considers it necessary for the purpose of ascertaining whether an offence under section 2 has been committed, the officer may arrange for anything produced under subsection (1)(b), or of which the officer has taken possession under subsection (1)(c), to be analysed.
- (3) If by virtue of subsection (1)(c) an authorised officer takes possession of anything, the officer must leave on the premises from which it was taken a statement—
 - (a) giving particulars of what has been taken and stating that the officer has taken possession of it, and

- (b) identifying the person to whom a request for the return of the property may be made.
- (4) The powers conferred by this section include the power—
 - (a) to copy documents found on the premises;
 - (b) to impose requirements as to how documents are provided (which may include requirements to provide legible copies of documents found on the premises that are stored electronically).
- (5) For this purpose, “documents” includes information recorded in any form; and references to documents found on the premises include—
 - (a) documents stored on computers or other electronic devices on the premises, and
 - (b) documents stored elsewhere that can be accessed by computers or other electronic devices on the premises.
- (6) A person is not required by this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.

18 Obstruction etc. of officers

- (1) A person who intentionally obstructs an authorised officer of a local authority exercising functions under sections 13 to 17 commits an offence.
- (2) Any person who without reasonable cause fails—
 - (a) to provide an authorised officer with facilities that the authorised officer reasonably requires for the purpose of a requirement under section 17(1), or
 - (b) to comply with a requirement under section 17(1)(b) or (d),
 commits an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section is subject to section 17(6).

19 Retained property: appeals

- (1) A person (“P”) with an interest in anything taken away under section 17(1)(c) (“retained property”) may apply by way of complaint to any magistrates’ court for an order requiring the retained property to be released, either to P or to another person.
- (2) If, on an application under this section, the court is satisfied that the continued retention of the retained property is not necessary for the purpose of ascertaining whether an offence under section 2 has been committed, it may make an order requiring the release of the retained property.
- (3) An order under this section may contain whatever provision the court thinks appropriate for delaying its coming into force pending the making and determination of an appeal (including an application under section 111 of the [Magistrates’ Courts Act 1980 \(c. 43\)](#)).

- (4) If the court adjourns the hearing of an application under this section, it may make an order in respect of the retained property that lasts until the final hearing of the application or until any further order is made, if it considers it appropriate to do so.
- (5) Nothing in this section affects any other power of the court to make an order in respect of the retained property, including any power to make an order under section 1 of the [Police \(Property\) Act 1897 \(c. 30\)](#) (power to make order with respect to property in possession of police).

20 Appropriated property: compensation

- (1) A person (“P”) with an interest in anything of which an authorised officer of a local authority has taken possession under section 17(1)(c) (“appropriated property”) may apply by way of complaint to any magistrates’ court for compensation.
- (2) Subsection (3) applies if, on an application under this section, the court is satisfied that—
 - (a) P has suffered loss or damage in consequence of the authorised officer’s taking possession of the appropriated property, or retaining it, in circumstances where doing so was not necessary for the purpose of ascertaining whether an offence under section 2 had been committed, and
 - (b) the loss or damage is not attributable to the neglect or default of P.
- (3) The court may order the local authority to pay compensation to P.