



## 2011 CHAPTER 18

### PART 2

#### REGISTRATION OF CLUBS

##### **Closure of registered clubs**

7. After Part 4 of the Registration of Clubs Order insert the following Part—

##### **“PART 4A**

##### **CLOSURE OF PREMISES OF REGISTERED CLUBS**

##### *Closure of premises of registered clubs in an identified district*

##### **Orders to close premises of registered clubs in district experiencing disorder**

**41A.**—(1) Where there is or is expected to be disorder in any petty sessions district, a court of summary jurisdiction acting for the district may make an order requiring the premises of registered clubs which are situated at or near the place of the disorder or expected disorder, to be closed for a period, not exceeding 24 hours, specified in the order.

(2) A court of summary jurisdiction may make an order under this Article only on the application of a police officer who is of the rank of superintendent or above.

(3) A court of summary jurisdiction may not make such an order unless it is satisfied that it is necessary to prevent disorder.

(4) Where an order is made under this Article, the registered club and every official of the club shall be guilty of an offence if the club or the official knowingly keeps any premises to which the order relates open, or allows any such premises to be kept open, during the period of the order and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A constable may use such force as may be necessary for the purpose of closing premises of a registered club ordered to be closed under this Article.

#### *Closure of identified premises of registered clubs*

#### **Closure orders for identified premises of registered clubs**

**41B.**—(1) A senior police officer may make a closure order in relation to the premises of any registered club if that officer reasonably believes that there is disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety.

(2) A closure order is an order under this Article requiring the premises of a registered club to be closed for a period not exceeding 24 hours beginning with the coming into force of the order.

(3) In determining whether to make a closure order in respect of the premises of a registered club, the senior police officer must have regard, in particular, to the conduct of the registered club and the officials of the club in relation to the disorder or nuisance.

(4) A closure order must—

- (a) specify the premises of the registered club to which it relates;
- (b) specify the period for which the premises are to be closed;
- (c) specify the grounds on which it is made; and
- (d) state the effect of Articles 41C to 41G.

(5) A closure order in respect of the premises of a registered club comes into force at the time a constable gives notice of it to the registered club or any official of the club.

(6) The registered club and every official of the club shall be guilty of an offence if, without reasonable excuse, the club or the official permits the premises of a registered club to be open in contravention of a closure order or any extension of it and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

**Extension of closure order**

**41C.**—(1) Where, before the end of the period for which the premises of a registered club are to be closed under a closure order or any extension of it (the “closure period”), the responsible senior police officer reasonably believes that—

- (a) a relevant court of summary jurisdiction will not have determined whether to exercise its powers under Article 41F(2) in respect of the closure order, and any extension of it, by the end of the closure period, and
- (b) closure is necessary in the interests of public safety because of disorder on, or in the vicinity of and related to, the premises of the registered club,

that officer may extend the closure period for a further period not exceeding 24 hours beginning with the end of the previous closure period.

(2) An extension in relation to the premises of any registered club comes into force when a constable gives notice of it to the registered club or any official of the club.

(3) But the extension does not come into force unless the notice is given before the end of the previous closure period.

**Cancellation of closure order**

**41D.**—(1) The responsible senior police officer may cancel a closure order and any extension of it at any time—

- (a) after the making of the order, but
- (b) before a relevant court of summary jurisdiction has determined whether to exercise its powers under Article 41F(2) in respect of the order and any extension of it.

(2) The responsible senior police officer must cancel a closure order and any extension of it if that officer does not reasonably believe that closure is necessary in the interests of public safety because of disorder on, or in the vicinity of and related to, the premises of the registered club.

(3) Where a closure order and any extension of it are cancelled under this Article, the responsible senior police officer must, as soon as reasonably practicable, give notice of the cancellation to the registered club or any official of the club.

**Application to court of summary jurisdiction by police**

**41E.** The responsible senior police officer must, as soon as reasonably practicable after a closure order comes into force in respect of the premises

of a registered club, apply to a relevant court of summary jurisdiction for it to consider the order and any extension of it.

### **Consideration of closure order by court of summary jurisdiction**

**41F.—**(1) A relevant court of summary jurisdiction must as soon as reasonably practicable after receiving an application under Article 41E—

- (a) hold a hearing to consider whether it is appropriate to exercise any of the court's powers under paragraph (2) in relation to the closure order or any extension of it; and
- (b) determine whether to exercise any of those powers.

(2) The relevant court of summary jurisdiction may—

- (a) revoke the closure order and any extension of it;
- (b) order the premises to remain, or to be closed, for such period not exceeding 28 days as the court may order.

(3) In determining whether the premises of the registered club will be, or will remain, closed, the relevant court of summary jurisdiction must—

- (a) consider whether closure is necessary in the interests of public safety because of disorder or likely disorder on the premises of the registered club, or in the vicinity of and related to, the premises; and
- (b) hear representations, if any, from the secretary of the club.

(4) The relevant court of summary jurisdiction must notify the district commander for the police district in which the premises are situated of any decision it makes under this Article.

(5) The registered club and every official of the club shall be guilty of an offence if, without reasonable excuse, the club or the official permits the premises of a registered club to be open in contravention of an order under paragraph (2)(b) and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

### **Appeal from decision of court of summary jurisdiction**

**41G.—**(1) Any person aggrieved by a decision of a court of summary jurisdiction under Article 41F may, within 21 days from the day the decision is made, appeal against the decision to the county court in accordance with magistrates' court rules.

(2) Where an order is made under Article 41F(2)(b), the order shall not have effect from the time a person brings an appeal under paragraph (1) against the making of the order until the appeal is abandoned or determined.

**Enforcement of closure order**

**41H.** A constable may use such force as may be necessary for the purposes of closing the premises of a registered club in compliance with a closure order.

**Exemption of police from liability for damages**

**41I.**—(1) A constable is not liable for relevant damages in respect of any act or omission of that constable in the performance or purported performance of that constable's functions in relation to a closure order or any extension of it.

(2) The Chief Constable is not liable for relevant damages in respect of any act or omission of a constable under the Chief Constable's direction or control in the performance or purported performance of a function of that constable in relation to a closure order or any extension of it.

(3) But neither paragraph (1) nor (2) applies—

- (a) if the act or omission is shown to have been in bad faith; or
- (b) so as to prevent an award of damages in respect of an act or omission on the grounds that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (incompatibility of act or omission with Convention rights).

(4) This Article does not affect any other exemption from liability for damages (whether at common law or otherwise).

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

*Interpretation***Interpretation of Part 4A**

**41J.**—(1) This Article has effect for the purposes of this Part.

(2) The premises of a registered club are open if a person enters the premises (other than an official of the registered club who enters the premises for official purposes connected with the activities of the club) and that person consumes or is supplied with food or intoxicating liquor.

(3) The following expressions have the meanings given—

"closure order" has the meaning given in Article 41B(2);

"extension", in relation to a closure order, means an extension of the order under Article 41C;

“relevant court of summary jurisdiction”, in relation to the premises of a registered club, means a court of summary jurisdiction acting for the petty sessions district in which the premises are situated;

“responsible senior police officer”, in relation to a closure order, means—

- (a) the senior police officer who made the order, or
- (b) if another senior police officer is designated for the purpose by the district commander for the police district in which the premises are situated, that other officer;

“senior police officer” means a police officer of, or above, the rank of inspector.”.

### **Penalty points**

**8.—**(1) In Article 43 of the Registration of Clubs Order (penalty points to be attributed to an offence)—

- (a) in paragraph (1), for sub-paragraphs (a) and (b) substitute “a number within the range of numbers shown in relation to the offence in column 3 of Schedule 6 (or if an order is made under paragraph (5) substituting a number for a range, the number shown in relation to that offence).”;
- (b) for paragraph (5) substitute—

“(5) The Department may, by order subject to affirmative resolution, amend column 3 of Schedule 6 (by substituting one range of numbers for another, a number for a range, or a range for a number).”.

(2) In Article 44 of the Registration of Clubs Order (endorsement of certificates of registration)—

- (a) in paragraph (1), omit sub-paragraph (b) and the word “and” immediately preceding it;
- (b) for paragraph (2) substitute—

“(2) Where a registered club or any official of a registered club is convicted of an offence under a provision of this Order specified in column 1 of Schedule 6—

- (a) subject to paragraph (2A), where the provision is one specified in Part 1 of Schedule 6, the court may order there to be endorsed on the certificate of registration the penalty points to be attributed to the offence;
- (b) subject to paragraph (2B), where the provision is one specified in Part 2 of Schedule 6, the court must order there to be endorsed on the certificate of registration the penalty points to be attributed to the offence unless for special reasons the court thinks fit not to do so;

(c) where the provision is one specified in Part 3 of Schedule 6, the court must order there to be endorsed on the certificate of registration the penalty points to be attributed to the offence.

(2A) Where a registered club or any official of a registered club who has been convicted of an offence under a provision of this Order specified in Part 1 of Schedule 6 (“the first offence”) is convicted of an offence under the same provision of this Order committed less than two years after the first offence was committed, the court must order the penalty points to be attributed to the offence to be endorsed on the certificate of registration.

(2B) Where a registered club or any official of a registered club who has been convicted of an offence under a provision of this Order specified in Part 2 of Schedule 6 (“the first offence”) is convicted of an offence under a provision of this Order specified in that Part of that Schedule committed less than two years after the first offence was committed, the court must order the penalty points to be attributed to the offence to be endorsed on the certificate of registration.”.

(c) in paragraph (3), for “paragraph (1)” substitute “this Article”.

(3) For Article 45 of the Registration of Clubs Order substitute—

**“Suspension of registration for repeated offences**

**45.—**(1) Where a registered club or any official of a registered club is convicted of an offence under a provision of this Order specified in column 1 of Schedule 6, the penalty points to be taken into account on that occasion are (subject to paragraphs (2) and (6))—

- (a) any that are to be attributed to the offence or offences in respect of which the club or, as the case may be, the official is convicted; and
- (b) any that were on a previous occasion ordered to be endorsed on the certificate of registration issued to the registered club;

and where the penalty points so taken into account number 10 or more, the court must, by order, suspend the registration of the club.

(2) If any of the offences was committed more than two years before another, the penalty in respect of that offence shall not be added to those in respect of the other.

(3) The period for which registration is suspended under paragraph (1) shall not be less than 1 week or more than 3 months.

(4) The suspension of registration under paragraph (1) shall be in addition to any other penalty which may be imposed by the court.

(5) Where a court suspends the registration of a club under paragraph (1), the registration shall not be in force during the period of suspension except

for the purposes of the provisions of this Order relating to the renewal of registration.

(6) After the suspension of registration of a club under paragraph (1), none of the penalty points taken into account on making the order under paragraph (1) may be taken into account on any other occasion.”.

(4) For Schedule 6 to the Registration of Clubs Order substitute the Schedule set out in Schedule 2.

### **Proof of age**

**9.—**(1) In Article 32 of the Registration of Clubs Order (young persons prohibited from bars) after paragraph (11) insert—

“(11A) Without prejudice to any other means of proving the exercise of all due diligence, for the purposes of paragraph (11) the person is to be treated as having exercised all due diligence to avoid the commission of an offence if—

- (a) the person was shown any of the documents specified in paragraph (11B); and
- (b) that document would have convinced a reasonable person.

(11B) The documents referred to in paragraph (11A)(a) are any document purporting to be—

- (a) a passport;
- (b) a photocard driving licence;
- (c) an electoral identity card;
- (d) a photographic identity card of a type approved by the British Retail Consortium for the purposes of its Proof of Age Scheme; or
- (e) such other document, or a document of such other description, as may be prescribed.”.

(2) In Article 34 of the Registration of Clubs Order (supply, etc., of intoxicating liquor to young persons) after paragraph (3) add—

“(4) Without prejudice to any other means of proving the exercise of all due diligence, for the purposes of paragraph (3) the person is to be treated as having exercised all due diligence to avoid the commission of an offence if—

- (a) the person was shown any of the documents specified in paragraph (5); and
- (b) that document would have convinced a reasonable person.

(5) The documents referred to in paragraph (4)(a) are any document purporting to be—



- (a) a passport;
- (b) a photocard driving licence;
- (c) an electoral identity card;
- (d) a photographic identity card of a type approved by the British Retail Consortium for the purposes of its Proof of Age Scheme; or
- (e) such other document, or a document of such other description, as may be prescribed.”.

(3) After Article 34 of the Registration of Clubs Order insert—

**“Duty to display notice relating to age**

**34A.**—(1) A registered club must at all times display the notice specified in paragraph (2)—

- (a) at each place in the premises of the club where intoxicating liquor is supplied; and
- (b) in a position where it is readily visible to any person seeking to be supplied with intoxicating liquor.

(2) The notice referred to in paragraph (1) must contain such information and be in such form and of such dimensions as are prescribed.

(3) Without prejudice to the generality of paragraph (2), the notice must contain—

- (a) such information as may be prescribed in relation to offences concerning the supply to or purchase by persons under the age of 18 of intoxicating liquor; and
- (b) a description of the documents specified in Articles 32(11B) and 34(5).

(4) Where this Article, or any provision made under this Article, is contravened—

- (a) the registered club, and
- (b) every official of the club at the time of the contravention,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

**Irresponsible drinks promotions**

**10.** After Article 31 of the Registration of Clubs Order insert—

**“Irresponsible drinks promotions**

**31A.**—(1) Regulations may prohibit or restrict a registered club from carrying on an irresponsible drinks promotion on or in connection with the premises of the club.

(2) A drinks promotion is irresponsible if it—

- (a) relates specifically to any intoxicating liquor likely to appeal largely to persons under the age of 18,
- (b) involves the supply of any intoxicating liquor free of charge or at a reduced price on the purchase of one or more drinks (whether or not intoxicating liquor),
- (c) involves the supply free of charge or at a reduced price of one or more extra measures of intoxicating liquor on the purchase of one or more measures of the liquor,
- (d) involves the supply of unlimited amounts of intoxicating liquor for a fixed charge (including any charge for entry to the premises),
- (e) encourages, or seeks to encourage, a person to obtain or consume a larger measure of intoxicating liquor than the person had otherwise intended to obtain or consume,
- (f) is based on the strength of any intoxicating liquor,
- (g) rewards or encourages, or seeks to reward or encourage, consuming intoxicating liquor quickly, or
- (h) offers intoxicating liquor as a reward or prize, unless the liquor is in a sealed container and consumed off the premises.

(3) Regulations may modify paragraph (2) so as to—

- (a) add further descriptions of drinks promotions,
- (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
- (c) extend or restrict the application of any of those descriptions of drinks promotions.

(4) If any provision of regulations under this Article is contravened—

- (a) the registered club,
- (b) every official of the club at the time of the contravention, and
- (c) any other person permitting the contravention,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(6) In this Article “drinks promotion” means, in relation to the premises of a registered club, any activity which promotes, or seeks to promote, the obtaining or consumption of any intoxicating liquor on the premises.”.

### **Pricing of intoxicating liquor**

**11.** After Article 31A of the Registration of Clubs Order (inserted by section 10) insert—

#### **“31B Pricing of intoxicating liquor**

(1) Regulations may prohibit or restrict a registered club from varying the price at which intoxicating liquor is supplied on the premises of the club during such period or hours as are specified in the regulations.

(2) If any provision of regulations under this Article is contravened—

- (a) the registered club,
- (b) every official of the club at the time of the contravention, and
- (c) any other person permitting the contravention,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”.

### **Accounts of registered clubs**

**12.—**(1) Article 40 of the Registration of Clubs Order (accounts of registered clubs, etc.) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (b) omit the word “prescribed”;
- (b) in sub-paragraph (c) after “accounts” insert “within 3 months of the end of that club’s financial year,”;
- (c) for sub-paragraphs (d) and (e) substitute—

“(d) cause, within 3 months of the end of that club’s financial year, those accounts to be audited by a person referred to in this Article as “the auditor” or examined by an independent examiner in such manner as may be prescribed, and

(e) on being required by the auditor or independent examiner, produce any record or voucher and any other information or explanation which appears to the auditor or independent examiner to relate to those accounts and which the auditor or independent examiner requires to inspect, and”;

- (d) omit sub-paragraphs (f) and (j);
- (e) in sub-paragraph (g), after “auditor’s” insert “or independent examiner’s”;
- (f) after sub-paragraph (g) insert—
  - “(ga) on the demand of the district commander of the police district in which the premises are situated, send a summary of those accounts and the auditor’s or independent examiner’s report thereon to that district commander, free of charge, as soon as they become available, and”;
- (g) in sub-paragraphs (h) and (i), after “auditor’s” insert “or independent examiner’s”.
- (3) After paragraph (1) insert—
  - “(1A) Regulations under this paragraph may make provision for the—
    - (a) system of control referred to in paragraph (1)(b) to be in such form and manner as may be directed by the Department;
    - (b) selection of a person for appointment as an independent examiner to be in such manner as may be directed by the Department.”.
- (4) After paragraph (2) insert—
  - “(2A) If regulations under paragraph (1A) are contravened—
    - (a) the registered club, and
    - (b) every official of the club at the time of the contravention;
 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.
- (5) In paragraph (3) for “paragraph (1)” substitute “or by virtue of this Article”.

#### **Authorisations for special occasions**

**13.**—(1) Article 26 of the Registration of Clubs Order (authorisations for special occasions) is amended as follows.

- (2) In paragraph (1)—
  - (a) after “before the” insert “first”;
  - (b) for “on any 1 occasion specified in the authorisation” substitute “on such occasions specified in the authorisation as the commander thinks fit”.
- (3) In paragraph (2), for “52” substitute “85”.

#### **Young persons prohibited from bars**

**14.** In Article 32 of the Registration of Clubs Order (young persons prohibited from bars) for “9” in each of the 3 places where it occurs substitute “10”.