

VIOLENT CRIME REDUCTION ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Alcohol-related violence and disorder

Chapter 3: Other provisions

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

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

- 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 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.