

POLICING AND CRIME ACT 2009

EXPLANATORY NOTES

TERRITORIAL EXTENT AND APPLICATION

Part 3 – Alcohol Misuse

Section 28 Selling alcohol to children

209. **Section 28** amends the offence of persistently selling alcohol to children so that the offence is committed if alcohol is sold to an individual under the age of 18 on two or more occasions within three months rather than on three or more occasions within three months.

Section 29 Confiscating alcohol from young persons

210. **Section 29** amends the Confiscation of Alcohol (Young Persons) Act 1997 so that police officers can confiscate sealed containers of alcohol from young persons in public places without needing to prove that they were consuming alcohol or that they intended to consume alcohol in a public place. This amendment also allows the police to return, where appropriate, individuals that are reasonably suspected of being under 16 to their home or a place of safety.

Section 30 Offence of persistently possessing alcohol in a public place

211. **Section 30** introduces a new offence of persistently possessing alcohol in a public place. Young people under 18 can be prosecuted for this offence if they are caught with alcohol in a public place three or more times within a 12 month period. The maximum punishment for this is a level 2 fine (currently £500).

Section 31 Directions to individuals who represent a risk to disorder

212. **Section 31** amends section 27(1) of the Violent Crime Reduction Act 2006 so that police can issue Directions to Leave under this section to persons aged between 10 and 15 as well as to those aged 16 and over. It also allows the police to take the young person home or to a place of safety if they are issued with a Direction to Leave and the police reasonably suspect that they are under 16

Section 32 and Schedule 4 Mandatory licensing conditions relating to alcohol

213. **Section 32** introduces Schedule 4 which makes provision about mandatory licensing conditions relating to alcohol.
214. **Schedule 4** amends the Licensing Act 2003 to create an enabling power that allows the Secretary of State to set out (in secondary legislation) no more than nine mandatory licence conditions relating to the supply of alcohol for all new and existing premises licences and for all new and existing club premises certificates respectively (or for those premises licences or club premises certificates of a particular description);

*These notes refer to the Policing and Crime Act 2009
(c.26) which received Royal Assent on 12 November 2009*

215. All conditions must be made in accordance with the four licensing objectives set out in the Licensing Act 2003. These are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
216. [Paragraph 1](#) amends the Licensing Act 2003 so that where premises are licensed to sell alcohol, their licence is subject to the mandatory conditions specified in an order made by the Secretary of State.
217. [Paragraph 2](#) amends the Licensing Act 2003 to allow the Secretary of State, in secondary legislation, to specify up to nine mandatory licensing conditions that could apply to all current or future premises licences. Each mandatory condition takes precedence over any existing licensing conditions to the extent the mandatory conditions are identical or inconsistent and more onerous.
218. [Paragraphs 3 and 4](#) are equivalent to paragraphs 1 and 2 respectively, except that they relate to club premises certificates rather than to premises licences (the list of conditions in respect of club premises certificates could be different to that for premises licences). These certificates relate to members' clubs rather than nightclubs.
219. These powers extend to England and Wales.
220. There are further minor and consequential amendments to the Licensing Act 2003 set out in Schedule 7.

Section 33 Individual members of licensing authorities to be interested parties

221. [Section 33](#) amends sections 13 and 69 of the Licensing Act 2003 to allow members of a licensing authority to act as interested parties. This allows members of licensing authorities to make representations to object to licence applications or to call for a licensing review, powers which under the Licensing Act 2003 are only exercisable by interested parties or responsible authorities.