



2011 CHAPTER 18

PART 1
LICENSING

Closure of licensed premises

1.—(1) After Part 4 of the Licensing Order insert the following Part—

“PART 4A
CLOSURE OF LICENSED PREMISES

Closure of licensed premises in an identified district

Orders to close licensed premises in district experiencing disorder

69A.—(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 licensed premises 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 holder of a licence or the licence holder's servant or agent shall be guilty of an offence if that person knowingly keeps any licensed 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 ordered to be closed under this Article.

Closure of identified licensed premises

Closure orders for identified licensed premises

69B.—(1) A senior police officer may make a closure order in relation to any licensed premises 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 licensed premises 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 any premises, the senior police officer must have regard, in particular, to the conduct of the holder of the licence and the licence holder's servant or agent in relation to the disorder or nuisance.

(4) A closure order must—

- (a) specify the premises 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 69C to 69G.

(5) A closure order in respect of any licensed premises comes into force at the time a constable gives notice of it to the holder of the licence or the licence holder's servant or agent.

(6) The holder of a licence or the licence holder's servant or agent shall be guilty of an offence if, without reasonable excuse, that person permits licensed premises 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

69C.—(1) Where, before the end of the period for which licensed premises 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 69F(2) in respect of the closure order and any extension of it or the premises concerned, 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,

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 any licensed premises comes into force when a constable gives notice of it to the holder of the licence or the licence holder’s servant or agent.

(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

69D.—(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 69F(2) in respect of the order and any extension of it or the premises concerned.

(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.

(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 holder of the licence or the licence holder’s servant or agent.

Application to court of summary jurisdiction by police

69E. The responsible senior police officer must, as soon as reasonably practicable after a closure order comes into force in respect of any licensed premises, 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

69F.—(1) A relevant court of summary jurisdiction must as soon as reasonably practicable after receiving an application under Article 69E—

- (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 or the premises concerned; 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;
- (c) where an order under Article 44 has been made in respect of the premises—
 - (i) revoke the order;
 - (ii) modify the order, or in relation to the order, the hours mentioned in Article 44(2); or
 - (iii) make the continuance of the order subject to such terms and conditions as the court thinks fit;
- (d) where an occasional licence has been granted in respect of the premises—
 - (i) by order revoke that licence;
 - (ii) by order revoke any other occasional licences granted in respect of those premises;
 - (iii) order that the premises specified in the occasional licence shall not be premises for which an occasional licence may be granted.

(3) In determining whether the premises 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, or in the vicinity of and related to, the premises; and
- (b) hear representations, if any, from the holder of the licence.

(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 holder of a licence or the licence holder's servant or agent shall be guilty of an offence if, without reasonable excuse, that person permits licensed premises 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

69G.—(1) Any person aggrieved by a decision of a court of summary jurisdiction under Article 69F 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) When an order is made under Article 69F(2)(b) to (d), 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

69H. A constable may use such force as may be necessary for the purposes of closing premises in compliance with a closure order.

Exemption of police from liability for damages

69I.—(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

69J.—(1) This Article has effect for the purposes of this Part.

(2) Licensed premises are open if a person who is not within paragraph (3) enters the premises and that person consumes, buys or is otherwise supplied with food or intoxicating liquor.

(3) A person is within this paragraph if the person is—

- (a) the holder of the licence or the licence holder’s servant or agent;
- (b) a person who usually lives at the premises; or
- (c) a member of the family of a person within sub-paragraph (a) or (b).

(4) The following expressions have the meanings given—

“closure order” has the meaning given in Article 69B(2);

“extension”, in relation to a closure order, means an extension of the order under Article 69C;

“relevant court of summary jurisdiction”, in relation to any licensed premises, 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.”.

(2) In Article 2(2) of the Licensing Order—

- (a) in the definition of “licence”, after “65” insert “, 69A to 69J”;
- (b) in the definition of “licensed premises”, after “58 to 65” insert “, 69A to 69J”.

(3) Omit Article 49 of the Licensing Order (power to vary hours in certain circumstances).