



Criminal Justice and Police Act 2001

2001 CHAPTER 16

PART 1

PROVISIONS FOR COMBATTING CRIME AND DISORDER

CHAPTER 2

PROVISIONS FOR COMBATTING ALCOHOL-RELATED DISORDER

Closure of certain licensed premises

17 Closure of certain licensed premises due to disorder or disturbance

In Part 13 of the Licensing Act 1964 (c. 26) (miscellaneous) before section 180 there shall be inserted—

“Closure of certain licensed premises due to disorder or disturbance.

179A Closure order

- (1) A senior police officer may make a closure order in relation to relevant licensed premises if he reasonably believes that—
- (a) there is likely to be disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety;
 - (b) there is disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety; or
 - (c) a disturbance is being caused to the public by excessive noise emitted from the premises and the closure of the premises is necessary to prevent the disturbance.

Status: This is the original version (as it was originally enacted).

- (2) In this section and sections 179B to 179K of this Act—
- “closure order” means an order requiring relevant licensed premises to be closed for a period not exceeding twenty-four hours beginning with the coming into force of the order; and
- “relevant licensed premises” means licensed premises other than premises for which a justices' off-licence only or an occasional licence is in force and other than premises in respect of which a notice under section 199(c) of this Act is in force.
- (3) In determining whether to make a closure order the senior police officer shall consider, in particular, any conduct of the holder of the justices' licence for the premises or the manager of the premises in relation to the disorder or disturbance.
- (4) A closure order shall—
- (a) specify the premises which are to be closed;
 - (b) specify the period for which the premises are to be closed;
 - (c) specify the grounds for the making of the order; and
 - (d) state the effect of sections 179B to 179E of this Act.
- (5) A closure order shall come into force as soon as notice of the order is given by a constable to—
- (a) the holder of the justices' licence for the premises; or
 - (b) a manager of the premises.
- (6) A person who, without reasonable excuse, permits relevant licensed premises to be open in contravention of a closure order or any extension of it shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

179B Consideration of closure order by certain justices

- (1) The responsible senior police officer shall, as soon as reasonably practicable after the coming into force of a closure order, apply to relevant justices for them to consider under this section the order and any extension of it.
- (2) The relevant justices shall, as soon as reasonably practicable, consider whether to exercise their powers under subsection (3) of this section in relation to the order and any extension of it.
- (3) The relevant justices may—
- (a) revoke the order and any extension of it if the order or extension is still in force;
 - (b) order the relevant licensed premises to remain, or to be, closed until the matter is dealt with by an order of licensing justices at the next licensing sessions;
 - (c) make any other order as they think fit in relation to the premises.
- (4) In determining whether the premises will be, or will remain, closed the relevant justices shall, in particular, consider whether—
- (a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because

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- of disorder or likely disorder on the premises or in the vicinity of, and related to, the premises;
- (b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.
- (5) A person who, without reasonable excuse, permits relevant licensed premises to be open in contravention of an order made under subsection (3)(b) of this section shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.
- (6) A person who, without reasonable excuse, fails to comply with, or does an act in contravention of, an order made under subsection (3)(c) of this section shall be guilty of an offence and shall be liable to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.
- (7) In this section and sections 179C to 179K of this Act “relevant justices” means—
- (a) licensing justices for the licensing district in which the premises are situated; or
- (b) if no such justices are available within a reasonable time, justices of the peace acting for the petty sessions area in which the premises are situated.
- (8) In this section and sections 179C to 179K of this Act “the responsible senior police officer” means the senior police officer who made the closure order or, if another senior police officer is designated for this purpose by the chief officer of police for the police area in which the premises are situated, that other senior police officer.

179C Extensions of closure order

- (1) If, before the end of the period for which relevant 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) relevant justices will not have considered under section 179B of this Act the order and any extension of it by the end of the closure period; and
- (b) the conditions for an extension under this subsection are satisfied, he may extend the closure period for a further period, not exceeding twenty-four hours, beginning with the expiry of the previous closure period.
- (2) For the purposes of subsection (1) of this section the conditions for an extension under that subsection are that—
- (a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the premises or in the vicinity of, and related to, the premises;
- (b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.

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- (3) An extension under subsection (1) of this section shall, subject to subsection (4) of this section, come into force as soon as notice of it has been given by a constable to—
- (a) the holder of the justices' licence for the premises; or
 - (b) a manager of the premises.
- (4) No such extension shall come into force unless the notice has been given before the end of the previous closure period.

179D Cancellation of closure order

- (1) At any time—
- (a) after a closure order has been made; but
 - (b) before the order and any extension of it has been considered by relevant justices under section 179B of this Act,
- the responsible senior police officer may cancel the order and any extension of it.
- (2) The responsible senior police officer shall cancel the closure order and any extension of it if he does not reasonably believe that—
- (a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the relevant licensed premises or in the vicinity of, and related to, the premises;
 - (b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.
- (3) Where a closure order and any extension of it is cancelled under subsection (1) or (2) of this section, the responsible senior police officer shall ensure that notice of the cancellation is given to—
- (a) the holder of the justices' licence for the premises; or
 - (b) a manager of the premises.

179E Revocation of justices' licence etc. after closure order

- (1) Where a closure order has come into force in relation to relevant licensed premises, licensing justices for the licensing district in which the premises are situated shall of their own motion consider, at the next licensing sessions, whether to exercise their powers under subsection (2) of this section.
- (2) The licensing justices may—
- (a) revoke the justices' licence for the premises concerned; or
 - (b) attach to it such conditions as they think fit (whether in substitution for any conditions previously attached or otherwise);
- but no payment may be required in pursuance of a condition attached under paragraph (b) of this subsection.
- (3) The power under subsection (2) of this section to revoke a justices' licence is exercisable on any ground on which licensing justices might refuse to renew a justices' licence or a justices' licence of that description.

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- (4) Licensing justices may only exercise their powers under subsection (2) of this section if, at least seven days before the commencement of the licensing sessions concerned, notice of the proposed exercise of the powers has been given to the holder of the licence specifying in general terms—
 - (a) the grounds on which it is proposed that the licence should be revoked; or
 - (b) (as the case may be) the conditions which are proposed to be attached to the licence and the reasons for them.
- (5) Where licensing justices have decided at the next licensing sessions whether to exercise their powers under subsection (2) of this section, they may also make such order as they think fit in relation to the closure order and any extension of it or any order under section 179B of this Act.
- (6) Where licensing justices have decided to revoke a justices' licence under subsection (2) of this section, the revocation shall, subject to subsection (7) of this section, not have effect—
 - (a) until the expiry of the time given for appealing against the decision; or
 - (b) if the decision is appealed against, until the appeal is disposed of.
- (7) Where the premises to which the licence relates have been closed until the making of the decision to revoke the licence by virtue of an order under section 179B(3)(b) of this Act, the premises shall, subject to section 179G(5) of this Act, remain closed (but the licence otherwise in force)—
 - (a) until the expiry of the time given for appealing against the decision to revoke; or
 - (b) if the decision is appealed against, until the appeal is disposed of.
- (8) A person who, without reasonable excuse, permits premises to be open in contravention of subsection (7) of this section shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.
- (9) Where licensing justices have decided to attach conditions to a licence under subsection (2) of this section, the licensing justices may, on such terms as they think fit, suspend the operation of those conditions in whole or in part pending the determination of any appeal against the decision to attach them or pending the consideration of the question of bringing such an appeal.

179F Procedural requirements

- (1) Where an application under section 179B(1) of this Act is made to justices of the peace acting for the petty sessions area in which the premises concerned are situated, the responsible senior police officer shall give notice to the chief executive to the licensing justices for the licensing district in which the relevant licensed premises are situated—
 - (a) that a closure order has come into force;
 - (b) of the contents of the order and of any extension to the order; and
 - (c) of the application under section 179B(1) of this Act.

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- (2) The powers conferred on licensing justices by section 179B of this Act may be exercised by a single justice and may be exercised otherwise than at licensing sessions.
- (3) The powers conferred on justices of the peace by section 179B of this Act shall be exercisable in the place required by the Magistrates' Courts Act 1980 (c. 43) for the hearing of a complaint and may be exercised by a single justice.
- (4) Evidence given for the purpose of proceedings under section 179B or 179E of this Act shall be given on oath.
- (5) The Secretary of State may make regulations about the procedure and practice to be followed on and in connection with proceedings before licensing justices under sections 179B and 179E of this Act.

179G Rights of appeal

- (1) Any person aggrieved by a decision of relevant justices under section 179B of this Act or of licensing justices under section 179E of this Act may appeal to the Crown Court against the decision.
- (2) An appeal under subsection (1) of this section shall be commenced by notice of appeal given by the appellant to the chief executive to the licensing justices or (as the case may be) to the justices' chief executive within 21 days after the decision appealed against.
- (3) On an appeal against a decision under section 179E of this Act by licensing justices not to revoke a justices' licence, the holder of the licence shall be respondent in addition to the licensing justices.
- (4) Where the holder of a justices' licence gives notice of appeal against a decision under section 179E of this Act by licensing justices to revoke the licence, the Crown Court may, on such conditions as it thinks fit, order that the licence shall continue in force until the determination of the appeal notwithstanding that the appeal is not determined until after the date when the licence would otherwise cease to have effect.
- (5) Where—
 - (a) the holder of a justices' licence gives notice of appeal against a decision under section 179E of this Act by licensing justices to revoke the licence; and
 - (b) the premises are closed by virtue of section 179E(7) of this Act,the Crown Court may, on such conditions as it thinks fit, order that section 179E(7) of this Act shall not apply to the premises.
- (6) Sections 21 and 22(3A) of this Act (appeals) do not apply to any decision of licensing justices which is subject to a right of appeal under subsection (1) of this section or to any appeal under subsection (1) of this section.
- (7) Section 22(4), (6) and (7), section 23(3) and (4) and section 25(1) of this Act shall apply, with necessary modifications, to appeals under subsection (1) of this section against decisions of licensing justices as they apply to appeals under section 21 of this Act.

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- (8) Section 23(4) of this Act shall have effect, in its application by virtue of subsection (7) of this section, as if the reference to section 21(4) of this Act were a reference to subsection (4) of this section.

179H Enforcement

- (1) This section applies where a closure order or an order under section 179B(3)(b) of this Act has been made in relation to relevant licensed premises.
- (2) Any person who without reasonable excuse fails to leave the premises when asked to do so, for the purposes of ensuring compliance with the order concerned (or with any extension of a closure order or with section 179E(7) of this Act), by the holder of the justices' licence for the premises or any manager of the premises shall be guilty of an offence and liable to a fine not exceeding level 1 on the standard scale.
- (3) A constable shall, on the request of the holder of the justices' licence or any manager of the premises or any agent or servant of either of them, help to remove from the premises any person who is required to leave the premises by virtue of subsection (2) of this section.
- (4) A constable may use such reasonable force as may be required for the purpose of giving help under subsection (3) of this section.

179I Exemption from liability for certain damages

- (1) A constable shall not be liable for relevant damages in respect of anything done or omitted to be done by him in the performance or purported performance of his functions in relation to a closure order or any extension of it.
- (2) A chief officer of police shall not be liable for relevant damages in respect of anything done or omitted to be done by a constable under his direction or control in the performance or purported performance of the constable's functions in relation to a closure order or any extension of it.
- (3) Neither subsection (1) of this section nor subsection (2) of this section 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 made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).
- (4) This section is without prejudice to any other exemption from liability for damages (whether at common law or otherwise).
- (5) In this section “relevant damages” means damages in proceedings for judicial review or for the tort of negligence or misfeasance in public office.

179J Offences by body corporate

- (1) Where an offence under section 179A(6) or 179B(5) or (6) or 179E(8) of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate,

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he as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

179K Interpretation of sections 179A to 179K

- (1) In sections 179A to 179J of this Act and this section—
- “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996 (c. 16);
 - “closure order” has the meaning given by section 179A(2) of this Act;
 - “manager” (except in section 179J(1) of this Act) means any person who works in relevant licensed premises in a capacity which gives him authority to close the premises;
 - “the next licensing sessions” means the first licensing sessions held not less than fourteen days after the day on which the closure order concerned was considered by relevant justices under section 179B of this Act;
 - “notice” means notice in writing;
 - “police area” means a police area provided for by section 1 of the Police Act 1996 (c. 16);
 - “relevant justices” has the meaning given by section 179B(7) of this Act;
 - “relevant licensed premises” has the meaning given by section 179A(2) of this Act;
 - “the responsible senior police officer” has the meaning given by section 179B(8) of this Act; and
 - “senior police officer” means a police officer of or above the rank of inspector.
- (2) For the purposes of sections 179A to 179J of this Act, relevant licensed premises are open if any person other than the holder of the justices' licence for the premises, a manager of the premises or any member of the family of either of them—
- (a) enters onto the premises; and
 - (b) purchases, or is supplied with, any item of food or drink or any item which is usually sold on the premises.

Other”

18 Amendments consequential on section 17

- (1) In section 31(2) of the Licensing Act 1964 (c. 26) (convictions etc. to be entered in register of licences) after “enactment” there shall be inserted “, any closure order under section 179A of this Act in relation to premises, any order under section 179B(3)(b) of this Act in relation to premises”.

Status: This is the original version (as it was originally enacted).

- (2) In section 174(2) of that Act (offence of failing to leave licensed premises when requested if drunk or disorderly etc.) after “fails” there shall be inserted “without reasonable excuse”.
- (3) In section 196A(1) of that Act (extension to certain proceedings of section 97 of the Magistrates' Courts Act 1980 (c. 43))—
 - (a) at the end of paragraph (a), the word “and” shall be omitted; and
 - (b) after paragraph (b) there shall be inserted “; and
 - (c) proceedings under section 179E of this Act.”
- (4) In section 197 of that Act (service of notices) after “of this Act” there shall be inserted “or in regulations made under section 179F(5) of this Act”.
- (5) The amendment made by subsection (2) above shall not apply in relation to any request to leave made before the coming into force of that subsection.