



# Licensing Act 2003

## 2003 CHAPTER 17

VALID FROM 16/12/2005

### PART 8

#### CLOSURE OF PREMISES

##### *Closure of premises in an identified area*

#### **160 Orders to close premises in area experiencing disorder**

- (1) Where there is or is expected to be disorder in any [<sup>F1</sup>local justice area], a magistrates' court [<sup>F2</sup>acting in the area] may make an order requiring all premises—
  - (a) which are situated at or near the place of the disorder or expected disorder, and
  - (b) in respect of which a premises licence or a temporary event notice has effect, to be closed for a period, not exceeding 24 hours, specified in the order.
- (2) A magistrates' court may make an order under this section only on the application of a police officer who is of the rank of superintendent or above.
- (3) A magistrates' court 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 section, a person to whom subsection (5) applies commits an offence if he 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.
- (5) This subsection applies—
  - (a) to any manager of the premises,
  - (b) in the case of licensed premises, to—
    - (i) the holder of a premises licence in respect of the premises, and
    - (ii) the designated premises supervisor (if any) under such a licence, and

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- (c) in the case of premises in respect of which a temporary event notice has effect, to the premises user in relation to that notice.
- (6) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) A constable may use such force as may be necessary for the purpose of closing premises ordered to be closed under this section.

#### Textual Amendments

- F1** Words in s. 160(1) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, **Sch. para. 90**
- F2** Words in s. 160(1) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, **Sch. para. 90**

### *Closure of identified premises*

#### **161 Closure orders for identified premises**

- (1) A senior police officer may make a closure order in relation to any relevant premises if he reasonably believes that—
  - (a) there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety, or
  - (b) a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent that nuisance.
- (2) A closure order is an order under this section requiring relevant 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 each appropriate person 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 sections 162 to 168.
- (5) A closure order in respect of any relevant premises comes into force at the time a constable gives notice of it to an appropriate person who is connected with any of the activities to which the disorder or nuisance relates.
- (6) A person commits an offence if, without reasonable excuse, he permits relevant premises to be open in contravention of a closure order or any extension of it.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000, or to both.
- (8) In this section—

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“relevant premises” means premises in respect of which one or more of the following have effect—

- (a) a premises licence,
- (b) a temporary event notice; and

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

## **162 Extension of closure order**

(1) Where, before the end of the period for which relevant 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 magistrates' court will not have determined whether to exercise its powers under section 165(2) in respect of the closure order, and any extension of it, by the end of the closure period, and
- (b) the conditions for an extension are satisfied,

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

(2) The conditions for an extension are that—

- (a) in the case of an order made by virtue of section 161(1)(a), 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,
- (b) in the case of an order made by virtue of section 161(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises.

(3) An extension in relation to any relevant premises comes into force when a constable gives notice of it to an appropriate person connected with any of the activities to which the disorder or nuisance relates or is expected to relate.

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

## **163 Cancellation of closure order**

(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 magistrates' court has determined whether to exercise its powers under section 165(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 he does not reasonably believe that—

- (a) in the case of an order made by virtue of section 161(1)(a), 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,
- (b) in the case of an order made by virtue of section 161(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises.

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- (3) Where a closure order and any extension of it are cancelled under this section, the responsible senior police officer must give notice of the cancellation to an appropriate person connected with any of the activities related to the disorder (or anticipated disorder) or nuisance in respect of which the closure order was made.

#### **164 Application to magistrates' court by police**

- (1) The responsible senior police officer must, as soon as reasonably practicable after a closure order comes into force in respect of any relevant premises, apply to a relevant magistrates court for it to consider the order and any extension of it.
- (2) Where an application is made under this section in respect of licensed premises, the responsible senior officer must also notify the relevant licensing authority—
- (a) that a closure order has come into force,
  - (b) of the contents of the order and of any extension of it, and
  - (c) of the application under subsection (1).

#### **165 Consideration of closure order by magistrates' court**

- (1) A relevant magistrates' court must as soon as reasonably practicable after receiving an application under section 164(1)—
- (a) hold a hearing to consider whether it is appropriate to exercise any of the court's powers under subsection (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 magistrates' court may—
- (a) revoke the closure order and any extension of it;
  - (b) order the premises to remain, or to be, closed until such time as the relevant licensing authority has made a determination in respect of the order for the purposes of section 167;
  - (c) order the premises to remain or to be closed until that time subject to such exceptions as may be specified in the order;
  - (d) order the premises to remain or to be closed until that time unless such conditions as may be specified in the order are satisfied.
- (3) In determining whether the premises will be, or will remain, closed the relevant magistrates' court must, in particular, consider whether—
- (a) in the case of an order made by virtue of section 161(1)(a), 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 161(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises.
- (4) In the case of licensed premises, the relevant magistrates' court must notify the relevant licensing authority of any determination it makes under subsection (1)(b).
- (5) Subsection (2) does not apply if, before the relevant magistrates' court discharges its functions under that subsection, the premises cease to be relevant premises.

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- (6) Any order made under subsection (2) ceases to have effect if the premises cease to be relevant premises.
- (7) A person commits an offence if, without reasonable excuse, he permits relevant premises to be open in contravention of an order under subsection (2)(b), (c) or (d).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000, or to both.
- (9) The powers conferred on a magistrates' court by this section are to be exercised 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.
- (10) Evidence given for the purposes of proceedings under this section must be given on oath.

#### **166 Appeal from decision of magistrates' court**

- (1) Any person aggrieved by a decision of a magistrates' court under section 165 may appeal to the Crown Court against the decision.
- (2) An appeal under subsection (1) must be commenced by notice of appeal given by the appellant to the <sup>[F3]</sup>designated officer for the magistrates' court within the period of 21 days beginning with the day the decision appealed against was made.

#### **Textual Amendments**

- F3** Words in s. 166(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 91](#)

#### **167 Review of premises licence following closure order**

- (1) This section applies where—
  - (a) a closure order has come into force in relation to premises in respect of which a premises licence has effect, and
  - (b) the relevant licensing authority has received a notice under section 165(4) (notice of magistrates' court's determination), in relation to the order and any extension of it.
- (2) The relevant licensing authority must review the premises licence.
- (3) The authority must reach a determination on the review no later than 28 days after the day on which it receives the notice mentioned in subsection (1)(b).
- (4) The Secretary of State must by regulations—
  - (a) require the relevant licensing authority to give, to the holder of the premises licence and each responsible authority, notice of—
    - (i) the review,
    - (ii) the closure order and any extension of it, and
    - (iii) any order made in relation to it under section 165(2);

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- (b) require the authority to advertise the review and invite representations about it to be made to the authority by responsible authorities and interested parties;
  - (c) prescribe the period during which representations may be made by the holder of the premises licence, any responsible authority or any interested party;
  - (d) require any notice under paragraph (a) or advertisement under paragraph (b) to specify that period.
- (5) The relevant licensing authority must—
- (a) hold a hearing to consider—
    - (i) the closure order and any extension of it,
    - (ii) any order under section 165(2), and
    - (iii) any relevant representations, and
  - (b) take such of the steps mentioned in subsection (6) (if any) as it considers necessary for the promotion of the licensing objectives.
- (6) Those steps are—
- (a) to modify the conditions of the premises licence,
  - (b) to exclude a licensable activity from the scope of the licence,
  - (c) to remove the designated premises supervisor from the licence,
  - (d) to suspend the licence for a period not exceeding three months, or
  - (e) to revoke the licence;
- and for this purpose the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (7) Subsection (5)(b) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (8) Where the authority takes a step within subsection (6)(a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months).
- (9) In this section “relevant representations” means representations which—
- (a) are relevant to one or more of the licensing objectives, and
  - (b) meet the requirements of subsection (10).
- (10) The requirements are—
- (a) that the representations are made by the holder of the premises licence, a responsible authority or an interested party within the period prescribed under subsection (4)(c),
  - (b) that they have not been withdrawn, and
  - (c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (11) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- (12) Where a licensing authority determines a review under this section it must notify the determination and its reasons for making it to—
- (a) the holder of the licence,
  - (b) any person who made relevant representations, and

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(c) the chief officer of police for the police area (or each police area) in which the premises are situated.

(13) Section 168 makes provision about when the determination takes effect.

(14) In this section “interested party” and “responsible authority” have the same meaning as in Part 3.

#### Commencement Information

**II** S. 167(4) in force at 16.12.2003 by S.I. 2003/3222, art. 2, Sch. and s. 167 otherwise in force at 24.11.2005 by S.I. 2005/3056, art. 2(2)

### 168 Provision about decisions under section 167

(1) Subject to this section, a decision under section 167 does not have effect until the relevant time.

(2) In this section “the relevant time”, in relation to any decision, means—

- (a) the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, the time the appeal is disposed of.

(3) Subsections (4) and (5) apply where—

- (a) the relevant licensing authority decides on a review under section 167 to take one or more of the steps mentioned in subsection (6)(a) to (d) of that section, and
- (b) the premises to which the licence relates have been closed, by virtue of an order under section 165(2)(b), (c) or (d), until that decision was made.

(4) The decision by the relevant licensing authority to take any of the steps mentioned in section 167(6)(a) to (d) takes effect when it is notified to the holder of the licence under section 167(12).

This is subject to subsection (5) and paragraph 18(3) of Schedule 5 (power of magistrates' court to suspend decision pending appeal).

(5) The relevant licensing authority may, on such terms as it thinks fit, suspend the operation of that decision (in whole or in part) until the relevant time.

(6) Subsection (7) applies where—

- (a) the relevant licensing authority decides on a review under section 167 to revoke the premises licence, and
- (b) the premises to which the licence relates have been closed, by virtue of an order under section 165(2)(b), (c) or (d), until that decision was made.

(7) The premises must remain closed (but the licence otherwise in force) until the relevant time.

This is subject to paragraph 18(4) of Schedule 5 (power of magistrates' court to modify closure order pending appeal).

(8) A person commits an offence if, without reasonable excuse, he allows premises to be open in contravention of subsection (7).



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- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000, or to both.

#### **169 Enforcement of closure order**

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

#### **170 Exemption of police from liability for damages**

- (1) A constable is not liable for relevant damages in respect of any act or omission of his 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 is not liable for relevant damages in respect of any act or omission of a constable under his direction or control in the performance or purported performance of a function of the constable's in relation to a closure order or any extension of it.
- (3) But neither subsection (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 (c. 42) (incompatibility of act or omission with Convention rights).
- (4) This section does not affect any other exemption from liability for damages (whether at common law or otherwise).
- (5) In this section, “relevant damages” means damages awarded in proceedings for judicial review, the tort of negligence or misfeasance in public office.

VALID FROM 06/04/2007

### *[<sup>F4</sup>Closure notices*

#### **Textual Amendments**

- F4** Ss. 169A, 169B and preceding cross-heading inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), [ss. 24\(1\)](#), [66\(2\)\(3\)](#); [S.I. 2007/858](#), [art. 2\(a\)](#)

#### **169A Closure notices for persistently selling alcohol to children**

- (1) A relevant officer may give a notice under this section (a “closure notice”) applying to any premises if—
- (a) there is evidence that a person (“the offender”) has committed an offence under section 147A in relation to those premises;



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- (b) the relevant officer considers that the evidence is such that, if the offender were prosecuted for the offence, there would be a realistic prospect of his being convicted; and
  - (c) the offender is still, at the time when the notice is given, the holder of a premises licence in respect of those premises, or one of the holders of such a licence.
- (2) A closure notice is a notice which—
- (a) proposes a prohibition for a period not exceeding 48 hours on sales of alcohol on the premises in question; and
  - (b) offers the opportunity to discharge all criminal liability in respect of the alleged offence by the acceptance of the prohibition proposed by the notice.
- (3) A closure notice must—
- (a) be in the form prescribed by regulations made by the Secretary of State;
  - (b) specify the premises to which it applies;
  - (c) give such particulars of the circumstances believed to constitute the alleged offence (including the sales to which it relates) as are necessary to provide reasonable information about it;
  - (d) specify the length of the period during which it is proposed that sales of alcohol should be prohibited on those premises;
  - (e) specify when that period would begin if the prohibition is accepted;
  - (f) explain what would be the effect of the proposed prohibition and the consequences under this Act (including the maximum penalties) of a sale of alcohol on the premises during the period for which it is in force;
  - (g) explain the right of every person who, at the time of the alleged offence, held or was one of the holders of a premises licence in respect of those premises to be tried for that offence; and
  - (h) explain how that right may be exercised and how (where it is not exercised) the proposed prohibition may be accepted.
- (4) The period specified for the purposes of subsection (3)(d) must be not more than 48 hours; and the time specified as the time from which that period would begin must be not less than 14 days after the date of the service of the closure notice in accordance with subsection (6).
- (5) The provision included in the notice by virtue of subsection (3)(h) must—
- (a) provide a means of identifying a police officer or trading standards officer to whom notice exercising the option to accept the prohibition may be given;
  - (b) set out particulars of where and how that notice may be given to that police officer or trading standards officer;
  - (c) require that notice to be given within 14 days after the date of the service of the closure notice; and
  - (d) explain that the right to be tried for the alleged offence will be taken to have been exercised unless every person who, at the time of the notice, holds or is one of the holders of the premises licence for the premises in question accepts the proposed prohibition.
- (6) Section 184 (giving of notices) does not apply to a closure notice; but such a notice must be served on the premises to which it applies.

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- (7) A closure notice may be served on the premises to which it applies—
- (a) only by being handed by a constable or trading standards officer to a person on the premises who appears to the constable or trading standards officer to have control of or responsibility for the premises (whether on his own or with others); and
  - (b) only at a time when it appears to that constable or trading standards officer that licensable activities are being carried on there.
- (8) A copy of every closure notice given under this section must be sent to the holder of the premises licence for the premises to which it applies at whatever address for that person is for the time being set out in the licence.
- (9) A closure notice must not be given more than 3 months after the time of the last of the sales to which the alleged offence relates.
- (10) No more than one closure notice may be given in respect of offences relating to the same sales; nor may such a notice be given in respect of an offence in respect of which a prosecution has already been brought.
- (11) In this section “relevant officer” means—
- (a) a police officer of the rank of superintendent or above; or
  - (b) an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985.

#### **169B Effect of closure notices**

- (1) This section applies where a closure notice is given under section 169A in respect of an alleged offence under section 147A.
- (2) No proceedings may be brought for the alleged offence or any related offence at any time before the time when the prohibition proposed by the notice would take effect.
- (3) If before that time every person who, at the time of the notice, holds or is one of the holders of the premises licence for the premises in question accepts the proposed prohibition in the manner specified in the notice—
  - (a) that prohibition takes effect at the time so specified in relation to the premises in question; and
  - (b) no proceedings may subsequently be brought against any such person for the alleged offence or any related offence.
- (4) If the prohibition contained in a closure notice takes effect in accordance with subsection (3)(a) in relation to any premises, so much of the premises licence for those premises as authorises the sale by retail of alcohol on those premises is suspended for the period specified in the closure notice.
- (5) In this section “related offence”, in relation to the alleged offence, means an offence under section 146 or 147 in respect of any of the sales to which the alleged offence relates.
- (6) The operation of this section is not affected by any contravention of section 169A(8).

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## Interpretation

### 171 Interpretation of Part 8

- (1) This section has effect for the purposes of this Part.
- (2) Relevant premises are open if a person who is not within subsection (4) enters the premises and—
  - (a) he buys or is otherwise supplied with food, drink or anything usually sold on the premises, or
  - (b) while he is on the premises, they are used for the provision of regulated entertainment.
- (3) But in determining whether relevant premises are open the following are to be disregarded—
  - (a) where no premises licence has effect in respect of the premises, any use of the premises for activities (other than licensable activities) which do not take place during an event period specified in a temporary event notice having effect in respect of the premises,
  - (b) any use of the premises for a qualifying club activity under and in accordance with a club premises certificate, and
  - (c) any supply exempted under paragraph 3 of Schedule 2 (certain supplies of hot food and drink by clubs, hotels etc. not a licensable activity) in circumstances where a person will neither be admitted to the premises, nor be supplied as mentioned in sub-paragraph (1)(b) of that paragraph, except by virtue of being a member of a recognised club or a guest of such a member.
- (4) A person is within this subsection if he is—
  - (a) an appropriate person in relation to the premises,
  - (b) a person who usually lives at the premises, or
  - (c) a member of the family of a person within paragraph (a) or (b).
- (5) The following expressions have the meanings given—

“appropriate person”, in relation to any relevant premises, means—

  - (a) any person who holds a premises licence in respect of the premises,
  - (b) any designated premises supervisor under such a licence,
  - (c) the premises user in relation to any temporary event notice which has effect in respect of the premises, or
  - (d) a manager of the premises;

“closure order” has the meaning given in section 161(2);

“extension”, in relation to a closure order, means an extension of the order under section 162;

“manager”, in relation to any premises, means a person who works at the premises in a capacity, whether paid or unpaid, which authorises him to close them;

“relevant licensing authority”, in relation to any licensed premises, has the same meaning as in Part 3;

“relevant magistrates' court”, in relation to any relevant premises, means a magistrates' court [<sup>F5</sup>acting in the local justice area] in which the premises are situated;

“relevant premises” has the meaning given in section 161(8);

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“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 chief officer of police for the police area in which the premises are situated, that other officer;

“senior police officer” has the meaning given in section 161(8).

- (6) A temporary event notice has effect from the time it is given in accordance with Part 5 until—
  - (a) the time it is withdrawn,
  - (b) the time a counter notice is given under that Part, or
  - (c) the expiry of the event period specified in the temporary event notice, whichever first occurs.]

#### **Textual Amendments**

- F5** [S. 171\(5\)](#): words in definition of "relevant magistrates' court" substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 92](#)

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Point in time view as at 24/11/2005. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Licensing Act 2003, Part 8 is up to date with all changes known to be in force on or before 24 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.