

New and Amended Legislation as a result of the changes made in Part 3 of the Policing and Crime Act 2009.

Licensing Act 2003

13 Authorised persons, interested parties and responsible authorities

(1) In this Part in relation to any premises each of the following expressions has the meaning given to it by this section—

- “authorised person”,
- “interested party”,
- “responsible authority”.

(2) “Authorised person” means any of the following—

(a) an officer of a licensing authority in whose area the premises are situated who is authorised by that authority for the purposes of this Act,

(b) an inspector appointed under section 18 of the Fire Precautions Act 1971 (c. 40),

(c) an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974 (c. 37),

(d) an officer of a local authority, in whose area the premises are situated, who is authorised by that authority for the purposes of exercising one or more of its statutory functions in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,

(e) in relation to a vessel, an inspector, or a surveyor of ships, appointed under section 256 of the Merchant Shipping Act 1995 (c. 21),

(f) a person prescribed for the purposes of this subsection.

(3) “Interested party” means any of the following—

(a) a person living in the vicinity of the premises,

(b) a body representing persons who live in that vicinity,

(c) a person involved in a business in that vicinity,

(d) a body representing persons involved in such businesses

(e) a member of the relevant licensing authority.

(4) “Responsible authority” means any of the following—

- (a) the chief officer of police for any police area in which the premises are situated,
- (b) the fire authority for any area in which the premises are situated,
- (c) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated,
- (d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c. 8) for any area in which the premises are situated,
- (e) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
- (f) a body which—
 - (i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
 - (ii) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters,
- (g) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated,
- (h) in relation to a vessel—
 - (i) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
 - (ii) the Environment Agency,
 - (iii) the British Waterways Board, or
 - (iv) the Secretary of State,
- (i) a person prescribed for the purposes of this subsection.

(5) For the purposes of this section, “statutory function” means a function conferred by or under any enactment.

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- (d) an officer of a local authority, in whose area the premises are situated, who is authorised by that authority for the purposes of exercising one or more of its statutory functions in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
- (e) in relation to a vessel, an inspector, or a surveyor of ships, appointed under section 256 of the Merchant Shipping Act 1995 (c. 21),
- (f) a person prescribed for the purposes of this subsection.

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- (d) a body representing persons involved in such businesses,
- (e) a member of the relevant licensing authority.

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- (b) the fire authority for any area in which the premises are situated,
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- (d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c. 8) for any area in which the premises are situated,
- (e) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,

(f) a body which—

(i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and

(ii) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters,

(g) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated,

(h) in relation to a vessel—

(i) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for qualifying club activities,

(ii) the Environment Agency,

(iii) the British Waterways Board, or

(iv) the Secretary of State,

(i) a person prescribed for the purposes of this subsection.

(5) For the purposes of this section, "statutory function" means a function conferred by or under any enactment.

147A Persistently selling alcohol to children

(1) A person is guilty of an offence if—

(a) on 2 or more different occasions within a period of 3 consecutive months alcohol is unlawfully sold on the same premises to an individual aged under 18;

(b) at the time of each sale the premises were either licensed premises or premises authorised to be used for a permitted temporary activity by virtue of Part 5; and

(c) that person was a responsible person in relation to the premises at each such time.

(2) For the purposes of this section alcohol sold to an individual aged under 18 is unlawfully sold to him if—

(a) the person making the sale believed the individual to be aged under 18; or

(b) that person did not have reasonable grounds for believing the individual to be aged 18 or over.

(3) For the purposes of subsection (2) a person has reasonable grounds for believing an individual to be aged 18 or over only if—

(a) he asked the individual for evidence of his age and that individual produced evidence that would have convinced a reasonable person; or

(b) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.

(4) A person is, in relation to premises and a time, a responsible person for the purposes of subsection (1) if, at that time, he is—

(a) the person or one of the persons holding a premises licence in respect of the premises; or

(b) the person or one of the persons who is the premises user in respect of a temporary event notice by reference to which the premises are authorised to be used for a permitted temporary activity by virtue of Part 5.

(5) The individual to whom the sales mentioned in subsection (1) are made may, but need not be, the same in each case.

(6) The same sale may not be counted in respect of different offences for the purpose—

(a) of enabling the same person to be convicted of more than one offence under this section; or

(b) of enabling the same person to be convicted of both an offence under this section and an offence under section 146 or 147.

(7) In determining whether an offence under this section has been committed, the following shall be admissible as evidence that there has been an unlawful sale of alcohol to an individual aged under 18 on any premises on any occasion—

(a) the conviction of a person for an offence under section 146 in respect of a sale to that individual on those premises on that occasion;

(b) the giving to a person of a caution (within the meaning of Part 5 of the Police Act 1997) in respect of such an offence; or

(c) the payment by a person of a fixed penalty under Part 1 of the Criminal Justice and Police Act 2001 in respect of such a sale.

(8) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding £10,000.

(9) The Secretary of State may by order amend subsection (8) to increase the maximum fine for the time being specified in that subsection.

147B Order suspending a licence in respect of offence under section 147A

(1) Where the holder of a premises licence is convicted of an offence under section 147A in respect of sales on the premises to which the licence relates, the court may order that so much of the licence as authorises the sale by retail of alcohol on those premises is suspended for a period not exceeding three months.

(2) Where more than one person is liable for an offence under section 147A relating to the same sales, no more than one order under subsection (1) may be made in relation to the premises in question in respect of convictions by reference to those sales.

(3) Subject to subsections (4) and (5), an order under subsection (1) comes into force at the time specified by the court that makes it.

(4) Where a magistrates' court makes an order under subsection (1), it may suspend its coming into force pending an appeal.

(5) Section 130 (powers of appellate court to suspend section 129 order) applies (with the omission of subsection (9)) where an order under subsection (1) is made on conviction of an offence under section 147A as it applies where an order under section 129 is made on conviction of a relevant offence in Part 6.

Schedule 4

Mandatory licensing conditions relating to alcohol

Part 1 Premises licences

Types of mandatory conditions

1 After section 19(3) of the Licensing Act 2003 (c. 17) (mandatory conditions where licence authorises supply of alcohol) insert—

“(4) The other conditions are any conditions specified in an order under section 19A and applicable to the premises licence.”

Power of Secretary of State to impose section 19(4) mandatory conditions

2 After section 19 of that Act insert—

“19A Power of Secretary of State to impose section 19(4) mandatory conditions

(1) The Secretary of State may by order specify conditions relating to the supply of alcohol and applicable to all relevant premises licences or relevant premises licences of a particular description if the Secretary of State considers it appropriate to do so for the promotion of the licensing objectives.

(2) The number of conditions in force by virtue of subsection (1) in relation to all relevant premises licences and the number of conditions in force by virtue of that subsection in relation to relevant premises licences of particular descriptions must not (when added together) exceed at any time nine.

(3) An order under subsection (1) may—

(a) relate to existing or future relevant premises licences,

(b) specify conditions which involve, or consist of, the exercise of a discretion by any person.

(4) Any conditions specified by an order under subsection (1) in relation to existing relevant premises licences are to be treated as—

(a) included in those licences from the coming into force of the order, and

(b) overriding any conditions already included in those licences (“the existing conditions”) so far as they are—

(i) identical to the existing conditions, or

(ii) inconsistent with, and more onerous than, the existing conditions.

(5) Any conditions included, or treated as included, in relevant premises licences by virtue of section 19(4) and this section cease to have effect so far as they cease to be specified under this section in relation to those licences.

(6) Any conditions treated as mentioned in subsection (4)(b) cease to be so treated so far as they cease to be specified under this section in relation to the relevant premises licences concerned.

(7) So far as conditions cease to be treated as mentioned in subsection (4)(b), the existing conditions revive.

(8) Subsections (5) to (7) are subject to any alternative transitional or saving provision made by the order revoking the specification.

(9) In this section—

- “existing relevant premises licence”, in relation to an order, means a relevant premises licence granted before the coming into force of the order and in effect, or capable of having effect, on its coming into force,
- “future relevant premises licence”, in relation to an order, means a relevant premises licence granted on or after the coming into force of the order,
- “relevant premises licence” means a premises licence authorising the supply of alcohol.”

Part 2 Club premises certificates

Mandatory conditions relating to the supply of alcohol to members or guests

3 After section 73 of the Licensing Act 2003 (c. 17) (certificate authorising supply of alcohol for consumption off the premises) insert—

“73A Mandatory conditions relating to the supply of alcohol to members or guests

Where a club premises certificate authorises the supply of alcohol to members or guests, the certificate must include any conditions specified in an order under section 73B and applicable to the certificate.”

Power of Secretary of State to impose section 73A mandatory conditions

4 After section 73A of that Act (as inserted by paragraph 3 above) insert—

“73B Power of Secretary of State to impose section 73A mandatory conditions

(1) The Secretary of State may by order specify conditions relating to the supply of alcohol to members or guests and applicable to all relevant club premises certificates or relevant club premises certificates of a particular description if the Secretary of State considers it appropriate to do so for the promotion of the licensing objectives.

(2) The number of conditions in force by virtue of subsection (1) in relation to all relevant club premises certificates and the number of conditions in force by virtue of that subsection in relation to relevant club premises certificates of particular descriptions must not (when added together) exceed at any time nine.

(3) An order under subsection (1) may—

(a) relate to existing or future relevant club premises certificates,

(b) specify conditions which involve, or consist of, the exercise of a discretion by any person.

(4) Any conditions specified by an order under subsection (1) in relation to existing relevant club premises certificates are to be treated as—

(a) included in those certificates from the coming into force of the order, and

(b) overriding any conditions already included in those certificates (“the existing conditions”) so far as they are—

(i) identical to the existing conditions, or

(ii) inconsistent with, and more onerous than, the existing conditions.

(5) Any conditions included, or treated as included, in relevant club premises certificates by virtue of section 73A and this section cease to have effect so far as they cease to be specified under this section in relation to those certificates.

(6) Any conditions treated as mentioned in subsection (4)(b) cease to be so treated so far as they cease to be specified under this section in relation to the relevant club premises certificates concerned.

(7) So far as conditions cease to be treated as mentioned in subsection (4)(b), the existing conditions revive.

(8) Subsections (5) to (7) are subject to any alternative transitional or saving provision made by the order revoking the specification.

(9) In this section—

- “existing relevant club premises certificate”, in relation to an order, means a relevant club premises certificate granted before the coming into force of the order and in effect, or capable of having effect, on its coming into force,
- “future relevant club premises certificate”, in relation to an order, means a relevant club premises certificate granted on or after the coming into force of the order,
- “relevant club premises certificate” means a club premises certificate authorising the supply of alcohol to members or guests.”