

CHAPTER 19

Licensed premises, licensed persons, clubs, places of entertainment and offences of drunkenness

Persistently selling alcohol to children p 680

The provisions set out under this heading are not yet in force.

The Violent Crime Reduction Act 2006 (VCRA 2006) inserted new ss 147A and 147B into the LA 2003. Section 147A(1) provides that an offence is committed if, on three or more different occasions in a period of three consecutive months, alcohol is unlawfully sold on the same premises, which *at the time of each sale* are licensed by a premises licence or upon which a permitted temporary activity is taking place, to an individual who is under 18. The offence is committed by a person who was a 'responsible person' in relation to the premises *at each such time*. A person is a 'responsible person' for the purposes of s 147A(1) if, *at that time*, he is the premises licence holder or the premises user in respect of a temporary event notice or, if there is more than one, every person who is one of the licence holders or premises users at the time of each unlawful sale). Section 147A(2) provides that for the purposes of s 147A, alcohol is unlawfully sold to an individual under 18 if the person making the sale believed the individual to be under 18 or did not have reasonable grounds for believing him to be 18 or over. A person has reasonable grounds for so believing only if he asked for evidence of age and the evidence produced was such that it would have convinced a reasonable person, or if no person could reasonably have suspected from that the individual was less than 18. The individual to whom the sales mentioned in s 147A(1) are made may, but need not be, the same individual. The same sale may not be counted in respect of different offences for the purpose of enabling the same person to be convicted of more than one offence under s 147A, or for the purpose of enabling the same person to be convicted under s 147A and an offence under s 146 (sale of alcohol to children) or s 147 (allowing such a sale) referred to on p 678 of the text. The purpose of a 147A is to provide a much larger penalty for persistent sales by responsible persons.

For the purposes of establishing the offence under s 147A, the following is admissible as evidence that there has been an unlawful sale of alcohol to an individual under 18 on any premises on any occasion:

- (a) evidence in respect of a conviction for an offence under s 146 in respect of a sale *to that individual on those premises on that occasion;*
- (b) evidence of a caution given for such an offence; or
- (c) evidence of the payment of a fixed penalty in respect of such a sale.

Section 147B provides that, on conviction of a premises licence holder for an offence against s 147A, the court may make an order suspending the premises licence for a period of not more than three months in respect of retail sales of alcohol. Such an order may be suspended pending an appeal.

New ss 169A and 169B are also inserted into the LA 2003 by VCRA 2006. Section 169A permits a 'relevant officer' (superintendent or above or an inspector of weights and measures) to issue a closure notice in relation to any premises if:

- (a) there is evidence of the commission of an offence against s 147A;
- (b) the relevant officer considers that the evidence provides a realistic prospect of a conviction; and
- (c) the offender is still the premises licence holder (or one of them) in respect of the premises in question.

Such a notice proposes a prohibition of the sale of alcohol at the premises in question for a period not exceeding 48 hours and offers the offender the chance to discharge all criminal liability for the alleged offence against s 147A by the acceptance of the prohibition proposed by the notice. The period specified in the notice as the start time for closure must not be less than 14 days following service of the notice. Service of a notice must take place when licensable activities are taking place. The notice has the effect of temporarily suspending the premises licence. If sales take place during the period of prohibition, those sales will be unlawful in terms of LA 2003. s 136 (carrying on a licensable activity without authorisation: see p 674 of the text).

Alcohol consumption in designated public places p 682

The definition in Criminal Justice and Police Act 2001, s 14 of places which are not a designated public place has been amended as follows. For (a) there is substituted the following:

- '(a) premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol;
- (aa) premises in respect of which a club premises certificate has effect which certifies that the premises may be used by the club for the sale or supply of alcohol;'

In (b) 'any premises' refers to premises in (a) or (aa). In (c) substitute 'thirty minutes' for 'twenty minutes'.

In addition, subs (1B) is added to s 14 It provides that s 14 prevents premises to which s 14(1B) applies (see below) from being, or being part of, a designated public place only (a) at times when it is being used for the sale or supply of alcohol; and (b) at times falling within 30 minutes after the end of a period during which it has been so used.

A new s 14(1A) provides that s 14(1B) applies to premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol if the premises licence is held by a local authority in whose area the premises or part of the premises is situated, or the premises licence is held by another person but the premises are occupied by such an authority or are managed by or on behalf of such an authority. The effect of s 14(1A) and (1B) is that licensed premises in respect of which a local authority holds the [remises licence or which are occupied by such an authority or managed by it or on its behalf will only be exempt from being

a designated public place during the hours when alcohol is being sold or supplied there and for thirty minutes thereafter. Violent Crime Reduction Act 2006, s 26

The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 now apply to procedural matters relating to orders.

Exclusion of persons convicted of offences of violence from licensed premises p 686

The Licensed Premises (Exclusion of Certain Persons) Act 1980 is **prospectively** repealed by the Violent Crime Reduction Act 2006 (VCRA 2006), Sch 5.

This repeal will be brought into force when Chapters 1 and 2 of the VCRA 2006 are brought into force. The provisions of these chapters are summarised below and will be dealt with in detail in later updates as the provisions are brought into force. The **prospective** changes are as follows:

Chapter 1

Chapter 1 makes provision for drinking banning orders to be made the effect of which is the exclusion of persons aged 16 or over who are responsible for alcohol related disorder to be excluded from licensed premises and clubs in a specified area for a period of time which will be specified in a drinking banning order. The order must have effect for not less than two months and not more than two years. Other relevant matters may be dealt with by the order. Provision is also made for a reduction in the duration of the order if an individual agrees to complete an approved course.

Chapter 2

Local authorities may, with the consent of the police, designate a locality as an alcohol disorder zone where problems are experienced with alcohol-related nuisance and disorder. This can lead to the design of action plans to try to deal with the problem. A part of such a plan may require the funding of services such as late transport. Local authorities may impose charges on the holders of premises licences and club premises certificates related to provision of alcohol where they do not implement such an action plan.

In addition, a part of *Chapter 3* provides local authorities, on an application of a chief officer of police, with accelerated powers to review a premises licence and to attach temporary conditions. This can only be done if a police officer (of or above the rank of superintendent) has certified that in his opinion the licensed premises are associated with serious crime and/or disorder. On receipt of such an application, a licensing authority must consider within 48 hours whether it is necessary to take interim steps pending a full review within 28 days.