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Police Reform and Social Responsibility Act 2011

2011 CHAPTER 13

PART 2

LICENSING

CHAPTER 1

AMENDMENTS OF THE LICENSING ACT 2003

Early morning alcohol restriction orders

PROSPECTIVE

119 Early morning alcohol restriction orders

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 7 (exercise and delegation of functions), in subsection (2), after paragraph (a) (but before the final “or”) insert—
 - “(aa) the functions of making, and varying or revoking, an order under section 172A (early morning alcohol restriction order).”
- (3) For sections 172A to 172E (early morning alcohol restriction order), as inserted by section 55 of the Crime and Security Act 2010, substitute—

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“172A Power to make early morning alcohol restriction order

- (1) If a licensing authority considers it appropriate for the promotion of the licensing objectives, it may, subject as follows, make an order under this section.
- (2) An order under this section is an order providing that—
 - (a) premises licences and club premises certificates granted by the authority, and temporary event notices given to the authority, do not have effect to the extent that they authorise the sale of alcohol during the period specified in the order, and
 - (b) club premises certificates granted by the authority do not have effect to the extent that they authorise the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club during the period specified in the order.
- (3) For the purposes of subsection (2)(a) and (b), the period that may be specified in the order must—
 - (a) begin no earlier than midnight, and
 - (b) end no later than 6am.
- (4) It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given, before or after the order is made.
- (5) An order under this section may provide that it is to apply—
 - (a) in relation to the same period of every day on which the order is to apply, or in relation to different periods of different days,
 - (b) every day or only on particular days (for example, particular days of the week or year),
 - (c) in relation to the whole or part of a licensing authority's area, or
 - (d) for a limited or unlimited period.
- (6) An order under this section must specify—
 - (a) the days on which it is to apply and the period of those days,
 - (b) the area in relation to which it is to apply,
 - (c) if it is to apply for a limited period, that period, and
 - (d) the date from which it is to apply.
- (7) An order under this section must—
 - (a) be in the prescribed form, and
 - (b) have the prescribed content.

172B Procedural requirements for early morning alcohol restriction order

- (1) A licensing authority proposing to make an order under section 172A must—
 - (a) advertise the proposed order in the prescribed manner, and
 - (b) hold a hearing to consider any relevant representations, unless the authority and each person who has made such representations agree that a hearing is unnecessary.

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- (2) In this section “relevant representations” means representations which—
- (a) are about the likely effect of the making of the proposed order on the promotion of the licensing objectives,
 - (b) are made to the licensing authority by an affected person, a responsible authority or any other person,
 - (c) are made in the prescribed form and manner and within the prescribed period,
 - (d) have not been withdrawn, and
 - (e) in the case of representations made by a person who is not a responsible authority, are not, in the opinion of the licensing authority, frivolous or vexatious.
- (3) In subsection (2)(b), “affected person” means—
- (a) the holder of the premises licence or club premises certificate in respect of affected premises,
 - (b) the premises user in relation to a temporary event notice in respect of affected premises,
 - (c) a person who has applied for a premises licence or club premises certificate in respect of affected premises (where the application has not been determined), and
 - (d) a person to whom a provisional statement has been issued in respect of affected premises.
- (4) In subsection (2)(b) and (e), “responsible authority” means—
- (a) the licensing authority and any other licensing authority in whose area part of any affected premises is situated,
 - (b) the chief officer of police for a police area any part of which is in the area specified in the order,
 - (c) the fire and rescue authority for an area any part of which is in the area specified in the order,
 - (d) the Primary Care Trust or Local Health Board for an area any part of which is in the area specified in the order,
 - (e) the local weights and measures authority for any such area,
 - (f) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any such area,
 - (g) the local planning authority within the meaning given by the Town and Country Planning Act 1990 for any such area,
 - (h) the local authority by which statutory functions are exercisable in the area specified in the order in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
 - (i) a body which—
 - (i) represents those who, in relation to the area specified in the order, are responsible for, or interested in, matters relating to the protection of children from harm, and
 - (ii) is recognised by the licensing authority for the purposes of this section as being competent to advise on such matters,
 - (j) where affected premises are a vessel—
 - (i) a navigation authority (within the meaning given by section 221(1) of the Water Resources Act 1991) having

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functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is navigated at a time when it is used for licensable activities to which the proposed order relates,

- (ii) the Environment Agency,
 - (iii) the British Waterways Board, and
 - (iv) the Secretary of State, and
- (k) a prescribed person.

(5) Where a licensing authority determines for the purposes of subsection (2)(e) that any representations are frivolous or vexatious, it must notify the person who made them of its reasons for its determination.

(6) In this section—

“affected premises”, in relation to a proposed order, means premises in respect of which it applies from the date specified in it;

“statutory function” means a function conferred by or under an enactment.

172C Making of early morning alcohol restriction order

(1) A licensing authority may not make an order under section 172A applying in relation to—

- (a) an area not specified in the proposed order advertised under section 172B,
- (b) a day not specified in that proposed order, or
- (c) a period other than the period specified in that proposed order of any day so specified.

(2) After making an order under section 172A a licensing authority must publish it or otherwise make it available—

- (a) in the prescribed form and manner, and
- (b) within the prescribed period.

172D Variation and revocation of early morning alcohol restriction order

(1) A licensing authority may vary or revoke an order under section 172A.

(2) Sections 172B and 172C apply in relation to the variation or revocation of an order under section 172A as in relation to the making of such an order.

172E Exceptions from effect of early morning alcohol restriction order

(1) An order under section 172A does not apply in prescribed cases or circumstances.

(2) The cases referred to in subsection (1) may in particular be defined by reference to—

- (a) particular kinds of premises, or
- (b) particular days.

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- (3) An order under section 172A is subject to an order under section 172 (whether made before or afterwards), unless and to the extent that the order under section 172 provides otherwise.”.
- (4) Section 55 of the Crime and Security Act 2010 (power to restrict sale and supply of alcohol) is repealed.

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Changes and effects yet to be applied to :

- s. 119(3) words substituted by [S.I. 2012/1659 Sch. 3 para. 22](#)

Commencement Orders yet to be applied to the Police Reform and Social Responsibility Act 2011:

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2011/2515 art. 2 3](#) commences (2011 c. 13)
- [S.I. 2011/2834 art. 2 3](#) commences (2011 c. 13)
- [S.I. 2011/3019 art. 3 Sch. 1](#) commences (2011 c. 13)

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2011/2896 art. 2](#) commences (2011 c. 20)