

Violent Crime Reduction Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, will be published separately as Bill 10–EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr Secretary Clarke has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Violent Crime Reduction Bill are compatible with the Convention rights.

Violent Crime Reduction Bill

CONTENTS

PART 1

ALCOHOL-RELATED VIOLENCE AND DISORDER

CHAPTER 1

DRINKING BANNING ORDERS

Introductory

- 1 Drinking banning orders

Orders made on application

- 2 Orders on an application to magistrates' court
- 3 Orders in county court proceedings
- 4 Variation or discharge of orders under section 2 or 3

Orders made on conviction

- 5 Orders on conviction in criminal proceedings
- 6 Supplementary provision about orders on conviction
- 7 Variation or discharge of orders under section 5

Supplemental provisions about drinking banning orders

- 8 Interim orders
- 9 Appeals
- 10 Breach of drinking banning orders
- 11 Interpretation of Chapter 1

CHAPTER 2

ALCOHOL DISORDER ZONES

- 12 Power to impose charges on licence holders etc. in zones
- 13 Designation of alcohol disorder zones
- 14 Procedure for designation of zones

- 15 Functions of local chief officer of police
- 16 Guidance about the designation of zones
- 17 Supplemental provisions for Chapter 2

CHAPTER 3

OTHER PROVISIONS

Licence reviews

- 18 Power of police to require review of premises licence
- 19 Provisions supplemental to s. 18

Persistently selling alcohol to children

- 20 Offence of persistently selling alcohol to children
- 21 Closure notices for persistently selling alcohol to children

Directions to individuals to leave a locality

- 22 Directions to individuals who represent a risk of disorder

Exclusions from licensed premises

- 23 Exclusion orders in respect of licensed premises

PART 2

WEAPONS ETC.

Firearms, ammunition etc.

- 24 Using someone to mind a weapon
- 25 Penalties etc. for offence under s. 24
- 26 Age limits for purchase etc. of air weapons
- 27 Firing an air weapon beyond premises
- 28 Restriction on sale and purchase of primers
- 29 Restriction on sale and purchase of ammunition loading presses

Imitation firearms

- 30 Manufacture, import and sale of realistic imitation firearms
- 31 Specification for imitation firearms
- 32 Supplying imitation firearms to minors
- 33 Increase of maximum sentence for possessing an imitation firearm

Other weapons

- 34 Sale etc. of knives and other weapons
- 35 Power to search school pupils for weapons

Supplemental

- 36 Supplemental provisions for Part 2

PART 3

MISCELLANEOUS

- 37 Football-related disorder
- 38 Forfeiture and detention of vehicles etc.
- 39 Amendment of s. 82 of the Sexual Offences Act 2003
- 40 Parenting orders
- 41 Committal of young persons of unruly character
- 42 Offering or agreeing to re-programme a mobile telephone

PART 4

GENERAL

- 43 Expenses
- 44 Repeals
- 45 Short title, commencement and extent

-
- Schedule 1 – Football banning orders and football-related consequential amendments
 - Part 1 – Football banning orders
 - Part 2 – Consequential Amendments
 - Schedule 2 – Forfeiture and detention of vehicles etc.
 - Schedule 3 – Repeals

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Make provision for reducing and dealing with the abuse of alcohol; to make provision about real and imitation firearms, about ammunition and about knives and other weapons; to amend the Football Spectators Act 1989 and the Football (Disorder) Act 2000; to amend the Sexual Offences Act 2003 and section 8 of the Crime and Disorder Act 1998; to amend section 23 of the Children and Young Persons Act 1969; to amend the Mobile Telephones (Re-programming) Act 2002; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

ALCOHOL-RELATED VIOLENCE AND DISORDER

CHAPTER 1

DRINKING BANNING ORDERS

Introductory

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1 Drinking banning orders

- (1) A drinking banning order is an order that prohibits the individual against whom it is made (“the subject”) from doing the things described in the order.
- (2) Such an order may impose any prohibition on the subject which is necessary for the purpose of protecting other persons from criminal or disorderly conduct by the subject while he is under the influence of alcohol. 10
- (3) The prohibitions imposed by such an order must include such prohibition as the court making it considers necessary, for that purpose, on the subject’s entering—

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- (a) premises in respect of which there is a premises licence authorising the use of the premises for the sale of alcohol by retail; and
 - (b) premises in respect of which there is a club premises certificate authorising the use of the premises for the supply of alcohol to members or guests. 5
- (4) A drinking banning order may not impose a prohibition on the subject that prevents him –
- (a) from having access to a place where he resides;
 - (b) from attending at any place which he is required to attend for the purposes of any employment of his or of any contract of services to which he is a party; 10
 - (c) from attending at any place which he is expected to attend during the period for which the order has effect for the purposes of education or training or for the purpose of receiving medical treatment; or
 - (d) from attending at any place which he is required to attend by any obligation imposed on him by or under an enactment or by the order of a court or tribunal. 15
- (5) A drinking banning order has effect for a period (not less than two months and not more than two years) specified in the order.
- (6) A drinking banning order may provide that different prohibitions have effect for different periods, but in each case that period must be not less than two months and not more than two years. 20
- (7) Expressions used in subsection (3) and in the Licensing Act 2003 (c. 17) or in a Part of that Act have the same meanings in that subsection as in that Act or Part. 25

Orders made on application

2 Orders on an application to magistrates' court

- (1) An application to a magistrates' court for the making of a drinking banning order against an individual may be made by a relevant authority if –
- (a) it appears to the authority that the conditions in subsection (2) are satisfied with respect to the individual; and 30
 - (b) the individual is aged 16 or over.
- (2) The conditions are –
- (a) that the individual has, after the commencement of this section, engaged in criminal or disorderly conduct while under the influence of alcohol; and 35
 - (b) that such an order is necessary to protect relevant persons from further conduct by him of that kind while he is under the influence of alcohol.
- (3) An application under this section to a magistrates' court has to be made by complaint. 40
- (4) Before making an application under this section, a relevant authority must consult the appropriate persons.
- (5) If, on an application under this section with respect to an individual, it is proved that the conditions in subsection (2) are satisfied in his case, the magistrates' court may make a drinking banning order against him. 45

3 Orders in county court proceedings

- (1) This section applies where proceedings have been brought in a county court.
- (2) If a relevant authority –
 - (a) is a party to the proceedings, and
 - (b) considers that another party to the proceedings is an individual in relation to whom it would be reasonable for it to make an application under section 2,
it may make an application in the proceedings for a drinking banning order against the individual.5
- (3) If a relevant authority –
 - (a) is not a party to the proceedings, and
 - (b) considers that a party to the proceedings is an individual in relation to whom it would be reasonable for it to make an application under section 2,
it may make an application to be joined to those proceedings for the purposes of this section and (if it is joined) may apply for a drinking banning order against the individual.10
- (4) Subsection (5) applies if a relevant authority is a party to the proceedings and considers that –
 - (a) an individual who is not a party to the proceedings has engaged in criminal or disorderly conduct while under the influence of alcohol; and
 - (b) that conduct is material in relation to the proceedings.15
- (5) The relevant authority –
 - (a) may make an application for the individual to be joined for the purposes of this section; and
 - (b) if that individual is joined, may apply for a drinking banning order against him.20
- (6) A relevant authority must consult the appropriate persons –
 - (a) before making an application for a drinking banning order under subsection (2);
 - (b) before making an application to be joined to proceedings under subsection (3);
 - (c) before making an application to join an individual to proceedings under subsection (5).25
- (7) If, on an application under this section for a drinking banning order against an individual –
 - (a) it is proved that the conditions in section 2(2) are satisfied in relation to the individual, and
 - (b) his criminal or disorderly conduct while under the influence of alcohol is material in relation to the proceedings,
the court may make a drinking banning order against him.30

4 Variation or discharge of orders under section 2 or 3

- (1) This section applies to a drinking banning order made under section 2 or 3.

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- (2) The following persons may apply to the court which made the order for it to be varied or discharged by a further order –
- (a) the subject;
 - (b) the relevant authority on whose application the order was made.
- (3) In the case of an order under section 2 made by a magistrates' court, the reference in subsection (2) to the court which made the order includes a reference to any magistrates' court acting in the same local justice area as that court. 5
- (4) An application under subsection (2) to a magistrates' court has to be made by complaint. 10
- (5) The order may not be varied so as to extend the period for which it has effect to more than two years.
- (6) The order may not be discharged unless –
- (a) it is discharged from a time after the end of the period that is half the duration of the period specified in the order in accordance with section 1(5); or 15
 - (b) the relevant authority on whose application the order was made has consented to its earlier discharge.

Orders made on conviction

- 5 Orders on conviction in criminal proceedings** 20
- (1) This section applies where –
- (a) an individual aged 16 or over is convicted of an offence (the “offender”); and
 - (b) at the time he committed the offence, he was under the influence of alcohol. 25
- (2) The court must consider whether the conditions in section 2(2) are satisfied in relation to the offender.
- (3) If the court decides that the conditions are satisfied in relation to the offender, it may make a drinking banning order against him.
- (4) If the court – 30
- (a) decides that the conditions are satisfied in relation to the offender, but
 - (b) does not make a drinking banning order,
- it must give its reasons for not doing so in open court.
- (5) If the court decides that the conditions are not satisfied in relation to the offender, it must state that fact in open court and give its reasons. 35
- 6 Supplementary provision about orders on conviction**
- (1) For the purpose of deciding whether to make a drinking banning order under section 5 the court may consider evidence led by the prosecution and evidence led by the defence.
- (2) It is immaterial whether the evidence would have been admissible in the proceedings in which the offender was convicted. 40

- (3) A drinking banning order under section 5 must not be made except—
 - (a) in addition to a sentence imposed in respect of the offence; or
 - (b) in addition to an order discharging the offender conditionally.
- (4) The court may adjourn any proceedings in relation to a drinking banning order under section 5 even after sentencing the offender. 5
- (5) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.
- (6) But the court may not issue a warrant for the offender’s arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings. 10
- (7) A drinking banning order under section 5 takes effect on—
 - (a) the day on which it is made; or
 - (b) if on that day the offender is detained in legal custody, the day on which he is released from that custody.
- (8) Subsection (9) applies in relation to proceedings in which a drinking banning order is made under section 5 against a young person. 15
- (9) In so far as the proceedings relate to the making of the order—
 - (a) section 49 of the Children and Young Persons Act 1933 (c. 12) (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the young person against whom the order is made; and 20
 - (b) section 39 of that Act (power to prohibit publication of certain matters) does so apply.
- (10) In section 3(2)(fa) of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director), after the first occurrence of “conviction of certain offences” insert “, section 5 of the Violent Crime Reduction Act 2005 (orders on conviction in criminal proceedings)”. 25
- (11) In this section and section 5 “the court” in relation to an offender means—
 - (a) the court by or before which he is convicted of the offence; or
 - (b) if he is committed to the Crown Court to be dealt with for the offence, the Crown Court. 30

7 Variation or discharge of orders under section 5

- (1) The following persons may apply to the court which made a drinking banning order under section 5 for the order to be varied or discharged by a further order— 35
 - (a) the subject;
 - (b) the Director of Public Prosecutions; or
 - (c) a relevant authority.
- (2) But a relevant authority may make an application under subsection (1) only if it appears to it that— 40
 - (a) in the case of variation, the protection of relevant persons from criminal or disorderly conduct of the subject while he is under the influence of alcohol would be more appropriately effected by a variation of the order;

- (b) in the case of discharge, that it is no longer necessary by means of such an order to protect relevant persons from criminal or disorderly conduct by the subject while he is under the influence of alcohol.
- (3) If the subject makes an application under subsection (1), he must also send notice of his application to the Director of Public Prosecutions. 5
- (4) If the Director of Public Prosecutions or a relevant authority makes an application under subsection (1), he or it must also send notice of the application to the subject.
- (5) In the case of an order under section 5 made by a magistrates' court, the reference in subsection (1) to the court which made the order includes a reference to any magistrates' court acting in the same local justice area as that court. 10
- (6) An order under section 5 may not be varied so as to extend the period for which it has effect to more than two years.
- (7) No order under section 5 is to be discharged on an application under subsection (1)(a) unless— 15
- (a) it is discharged from a time after the end of the period that is half the duration of the period specified in the order in accordance with section 1(5); or
- (b) the Director of Public Prosecutions has consented to its earlier discharge. 20
- (8) In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2) after paragraph (fc) insert— 25
- “(fd) where it appears to him appropriate to do so, to have the conduct of applications under section 7(1)(b) of the Violent Crime Reduction Act 2005 for the variation or discharge of orders made under section 5 of that Act;
- (fe) where it appears to him appropriate to do so, to appear on any application under section 7(1)(a) by a person subject to an order under section 5 of that Act for the variation or discharge of the order.” 30

Supplemental provisions about drinking banning orders

8 Interim orders

- (1) This section applies in each of the following cases— 35
- (a) where an application is made for a drinking banning order;
- (b) where the court is required under section 5 to consider whether the conditions for making a drinking banning order are satisfied.
- (2) Before— 40
- (a) determining the application, or
- (b) considering whether the conditions are satisfied,
- the court may make an order under this section (“an interim order”) if it considers that it is just to do so.
- (3) An application for an interim order against an individual may be made without notice being given to that individual.

- (4) The following permission is required for the making of an application in accordance with subsection (3) –
 - (a) in the case of proceedings in or before the Crown Court or the county court, the permission of the court; and
 - (b) in the case of an application to a magistrates’ court or of proceedings in such a court, the permission of the justices’ clerk. 5
 - (5) Permission may only be given under subsection (4) if the court or clerk is satisfied that it is necessary for the application to be made without notice being given to the individual in question.
 - (6) An interim order – 10
 - (a) may contain any provision that may be contained in a drinking banning order; but
 - (b) has effect, unless renewed, only for such fixed period of not more than four weeks as may be specified in the order.
 - (7) An interim order – 15
 - (a) may be renewed (on one or more occasions) for a period of not more than four weeks from the end of the period when it would otherwise cease to have effect;
 - (b) must cease to have effect (if it has not previously done so) on the determination of the application mentioned in subsection (1)(a) or on the court’s making its decision whether to make a drinking banning order under section 5. 20
 - (8) Section 4 applies in relation to an interim order made in a case falling within subsection (1)(a) as it applies in relation to a drinking banning order made under section 2 or 3, but with the omission of section 4(5) and (6). 25
 - (9) Section 7 applies in relation to an interim order made in a case falling within subsection (1)(b) as it applies in relation to a drinking banning order made under section 5, but with the omission of section 7(6) and (7).
- 9 Appeals**
- (1) An appeal lies to the Crown Court against the making by a magistrates’ court of a drinking banning order under section 2 or 5. 30
 - (2) On such an appeal the Crown Court –
 - (a) may make such orders as may be necessary to give effect to its determination of the appeal;
 - (b) may also make such incidental or consequential orders as appear to it to be just. 35
 - (3) An order of the Crown Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates’ court) shall be treated for the purposes of sections 4 and 7 as an order of the magistrates’ court from which the appeal was brought. 40
- 10 Breach of drinking banning orders**
- (1) If the subject of a drinking banning order or of an interim order does, without reasonable excuse, anything that he is prohibited from doing by the order, he is guilty of an offence.

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- (2) A person guilty of an offence under subsection (1) shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (2) of this section to 51 weeks is to be read as a reference to 3 months. 5
- (4) If a person is convicted of an offence under subsection (1), it is not open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6). 10
- (5) A local authority may bring proceedings for an offence under subsection (1).
- (6) The Secretary of State may by order provide that a person of a description specified in the order may bring proceedings for an offence under subsection (1) in such cases and such circumstances as may be prescribed by the order.
- (7) In proceedings for an offence under subsection (1), a copy of the original drinking banning order or interim order, certified as such by the proper officer of the court which made it, is admissible as evidence – 15
- (a) of its having been made, and
- (b) of its contents,
- to the same extent that oral evidence of those things is admissible in those proceedings. 20
- (8) If proceedings for an offence under subsection (1) are brought in a youth court, section 47(2) of the Children and Young Persons Act 1933 (c. 12) has effect as if the persons entitled to be present for the purposes of those proceedings included one person authorised to be present by a relevant authority. 25
- (9) In relation to proceedings brought against a young person for an offence under subsection (1) –
- (a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the young person against whom the proceedings are brought; and 30
- (b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (power to restrict reporting on criminal proceedings involving persons under 18) does so apply.
- (10) If, in relation to any such proceedings, the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it must give its reasons for doing so. 35
- (11) Subject to paragraph 2(2) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999, until section 45 of that Act comes into force, the references to it in this section are to be read as references to section 39 of the Children and Young Persons Act 1933 (power to prohibit publication of certain matters). 40
- (12) The power of the Secretary of State to make an order under this section is exercisable by statutory instrument subject to annulment pursuant to a resolution of either House of Parliament.

11 Interpretation of Chapter 1

- (1) In this Chapter –
- “appropriate persons”, in relation to an application for a drinking banning order or an application referred to in section 3(6)(b) or (c), means such of the following as is not a party to the application – 5
 - (a) the chief officer of police of the police force for the police area where the conduct to which the application relates occurred;
 - (b) the chief officer of police of the police force for the police area in which the individual to whose conduct the application relates normally resides; 10
 - (c) the local authority in whose area that individual normally resides; and
 - (d) the Chief Constable of the British Transport Police Force;
 - “drinking banning order” means an order under section 2, 3 or 5;
 - “interim order” means an order under section 8; 15
 - “local authority” means –
 - (a) a county council in England;
 - (b) a metropolitan district council;
 - (c) a non-metropolitan district council for an area for which there is no county council; 20
 - (d) a London borough council;
 - (e) the Common Council of the City of London;
 - (f) the Council of the Isles of Scilly;
 - (g) a county council or a county borough council in Wales;
 - “relevant authority” means – 25
 - (a) the chief officer of police of a police force for a police area;
 - (b) the Chief Constable of the British Transport Police Force;
 - (c) a local authority;
 - “relevant persons” means –
 - (a) in relation to the chief officer of a police force, persons who are within or likely to be within the police area for which that force is maintained; 30
 - (b) in relation to the Chief Constable of the British Transport Police Force, persons who are within or likely to be within a place specified in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003 (c. 20); 35
 - (c) in relation to a local authority, persons who are within or likely to be within the area of the authority;
 - “subject”, in relation to an order, means the individual against whom it is made; 40
 - “young person” has the same meaning as in the Children and Young Persons Act 1933 (c. 12) (see section 107(1) of that Act).
- (2) References in this Chapter to protecting persons from criminal or disorderly conduct include references to protecting their property from unlawful loss or damage; and, in relation to such protection, references to persons within an area include references to any persons with property within that area. 45
- (3) The Secretary of State may by order provide that a person of a description specified in the order is to be regarded as a relevant authority for such purposes of the provisions of this Chapter as are specified in the order.

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- (4) The power to make an order under subsection (3) is exercisable by statutory instrument subject to annulment pursuant to a resolution of either House of Parliament.
- (5) That power includes power –
- (a) to make different provision for different cases; 5
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- (6) The power under subsection (5) to make incidental, supplemental and consequential provision includes power to modify so much of this section as defines “appropriate persons” and “relevant persons”. 10

CHAPTER 2

ALCOHOL DISORDER ZONES

- 12 Power to impose charges on licence holders etc. in zones** 15
- (1) The Secretary of State may, by regulations, make provision for the imposition by a local authority of charges to be paid to the authority for each month by –
- (a) persons who for the whole or a part of that month held premises licences authorising the use of premises in alcohol disorder zones in the authority’s area for the sale of alcohol by retail; and 20
 - (b) clubs which for the whole or a part of that month were authorised by virtue of club premises certificates to use premises in such zones for the supply of alcohol to members or guests.
- (2) The Secretary of State may by regulations make provision requiring or authorising a local authority that imposes charges by reference to an alcohol disorder zone to use sums received by them in respect of those charges for the purposes specified in or determined under the regulations. 25
- (3) Those regulations may include provision requiring the amounts to be paid by a local authority towards compensating and reimbursing a police authority to be determined – 30
- (a) by agreement between the local authority and the police authority; or
 - (b) in the absence of agreement, by the Secretary of State.
- (4) The rates of charges fixed under this section must be such as the Secretary of State considers appropriate for securing that the funds that he considers appropriate are available (after the costs of the scheme have been met from the charges) to be used for any purposes specified in or determined under subsection (2). 35
- (5) Regulations under this section fixing the rates of charges may fix different rates for different descriptions of local authority, different descriptions of alcohol disorder zones and different descriptions of premises and may do so either – 40
- (a) by setting out the different rates in the regulations; or
 - (b) by specifying the methods of computing the different rates in the regulations.
- (6) Regulations under this section fixing such rates –

- (a) may authorise or require a local authority to grant discounts from the charges; and
 - (b) must provide for exemptions from the charges for the purpose mentioned subsection (7).
 - (7) The only exemptions from charges for which regulations under this section may provide are exemptions for the purpose of securing that charges are not imposed in relation to premises where –
 - (a) the principal use to which the premises are put does not consist in or include the sale or supply of alcohol; and
 - (b) the availability of alcohol on those premises is not the main reason, or one of the main reasons, why individuals enter or remain on those premises (whether generally or at particular times of the day or on particular days of the week, or both).
 - (8) Regulations providing for a discount or exemption from charges may make a discount or exemption subject to compliance with conditions which –
 - (a) are set out in the regulations; or
 - (b) are specified by the local authority in accordance with provision made under the regulations;and those conditions may include conditions requiring approvals to be given in respect of premises by such persons, and in accordance with such scheme, as may be provided for in the regulations.
 - (9) The Secretary of State may by regulations make provision about –
 - (a) the payment, collection and enforcement of charges imposed in accordance with regulations under this section;
 - (b) the determination of questions about liability for such charges, about the rate of charge applicable in relation to a particular set of premises or about compliance with the conditions of any exemption or discount; and
 - (c) appeals against decisions determining such questions.
 - (10) Such regulations may include provision for the suspension of premises licences and club premises certificates for non payment of a charge.
 - (11) In subsection (4) the reference, in relation to any charges, to the costs of the scheme is a reference to the costs of the arrangements made for or in connection with the imposition, collection and recovery of those charges.
- 13 Designation of alcohol disorder zones**
- (1) A local authority may by order designate a locality in their area as an alcohol disorder zone if they are satisfied –
 - (a) that there has been nuisance or annoyance to members of the public, or a section of the public, or disorder, in or near that locality;
 - (b) that the nuisance, annoyance or disorder is associated with the consumption of alcohol in that locality or with the consumption of alcohol supplied at premises in that locality;
 - (c) that there is likely to be a repetition of nuisance, annoyance or disorder that is so associated; and
 - (d) that subsection (8) allows the making of the order.
 - (2) Before designating a locality as an alcohol disorder zone, a local authority must publish a notice –

- (a) setting out their proposal to designate the locality; and
 - (b) inviting persons interested to make representations about the proposal, and about what might be included in the action plan under subsection (4).
- (3) That notice must require the representations to be made before the end of the period of 28 days beginning with the day after publication of the notice. 5
- (4) As soon as reasonably practicable after the end of the period for making representations about a proposal by a local authority to designate a locality, the local authority and the local chief officer of police must –
- (a) prepare a document (“the action plan”) setting out the steps the taking of which would, in their opinion, make the designation of the locality unnecessary; 10
 - (b) publish the action plan in such manner as they consider appropriate for bringing it to the attention of persons likely to be interested in it; and
 - (c) send a copy of the plan to every person who holds – 15
 - (i) a premises licence authorising the use of premises in the locality for the sale of alcohol by retail; or
 - (ii) a club premises certificate by virtue of which authorisation is given to the use of premises in the locality for the supply of alcohol to members or guests. 20
- (5) The steps set out in the action plan may include the establishment and maintenance of a scheme for the making of payments to the local authority.
- (6) The action plan must also contain proposals by –
- (a) the local authority in whose area the locality to which the proposed designation relates is situated, and 25
 - (b) the local chief officer of police,
- about what action they will take in relation to that locality if the plan is implemented.
- (7) The power of the Secretary of State to make regulations under subsection (2) of section 12 shall be exercisable in relation to sums received by a local authority in accordance with such a scheme as it is exercisable in relation to sums received by a local authority in respect of charges imposed by virtue of regulations under that section. 30
- (8) A local authority may only make an order designating a locality as an alcohol disorder zone if – 35
- (a) the period of 8 weeks beginning with the day after the publication of the action plan has expired without such steps for implementing the action plan having been taken as, in that authority’s opinion, make the designation of the locality unnecessary; or
 - (b) the local authority is satisfied (whether before or after the end of that period) that the plan will not be implemented, that the steps required by the plan are no longer being taken or that effect is no longer being given to arrangements made in accordance with the plan. 40

14 Procedure for designation of zones

- (1) An order designating an alcohol disorder zone must identify the locality being designated either by name or, if appropriate, by describing its boundaries. 45

- (2) A local authority who have designated a locality as an alcohol disorder zone may by order revoke the designation.
- (3) If a local authority consider that the locality designated by an alcohol disorder zone should be varied, they may –
 - (a) make a proposal for the purposes of section 13 for a replacement order designating a locality that includes the whole or part of the locality already designated; and 5
 - (b) in any designation order made to give effect to that proposal, revoke the previous designation with effect from the coming into force of the replacement order. 10
- (4) The local authority who have designated a locality as an alcohol disorder zone and the local chief officer of police must –
 - (a) as soon as reasonably practicable after the end of three months from the coming into force of the designation, and
 - (b) as soon as reasonably practicable after the end of each subsequent period of three months, 15together carry out a review of the need for the designation.
- (5) On each such review the local authority and local chief officer of police must consider whether it would be appropriate for any of the powers in subsections (2) and (3) to be exercised. 20
- (6) The Secretary of State may make regulations which, for the purpose of supplementing the provisions of section 13 and this section, prescribe additional procedures to be followed in relation to the making or revocation of orders for the designation of a locality as an alcohol disorder zone.
- (7) Those regulations must include, in particular, provision requiring local authorities to publicise the making and effect of orders designating localities as alcohol disorder zones. 25

15 Functions of local chief officer of police

- (1) It is the duty of a local authority to consider whether to make a proposal for the designation of a locality as an alcohol disorder zone if the local chief officer of police applies to them to do so. 30
- (2) If on such an application the local authority decides not to make a proposal, they must –
 - (a) give notice of their decision (setting out their reasons) to the local chief officer of police; and 35
 - (b) send a copy of that notice to the Secretary of State.
- (3) A local authority which –
 - (a) are proposing to designate a locality as an alcohol disorder zone, and
 - (b) are not doing so on an application from the local chief officer of police, must consult that chief officer before publishing notice of their proposal. 40
- (4) The consent of the local chief officer of police is required for the making of –
 - (a) an order designating a locality as an alcohol disorder zone; or
 - (b) the making of an order under section 14(2).

- (5) Where the local chief officer of police does not give a consent required by subsection (4)(a), he must give notice of his decision (setting out his reasons) to the Secretary of State.

16 Guidance about the designation of zones

- (1) The Secretary of State – 5
- (a) must issue such guidance as he considers appropriate about the manner in which local authorities, police authorities and chief officers of police are to exercise and perform their powers and duties by virtue of this Chapter; and
- (b) may from time to time revise that guidance. 10
- (2) The guidance must include guidance about what alternative steps should be considered before a proposal is made for the designation of a locality as an alcohol disorder zone.
- (3) Before issuing or revising any guidance under this section, the Secretary of State must consult – 15
- (a) persons he considers represent the interests of local authorities;
- (b) persons he considers represent the interests of chief officers of police;
- (c) persons he considers represent the interests of holders of premises licences;
- (d) persons he considers represent the interests of holders of club premises certificates; and 20
- (e) such other persons as he thinks fit.
- (4) It shall be the duty of every local authority, police authority and chief officer of police, in exercising their powers and duties by virtue of this Chapter, to have regard to the guidance for the time being in force under this section. 25

17 Supplemental provisions for Chapter 2

- (1) In this Chapter –
- “alcohol disorder zone” means a locality designated as such a zone under section 13;
- “local authority” means – 30
- (a) a district council;
- (b) a county council for an area for which there are no district councils;
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority; 35
- (e) the Council of the Isles of Scilly;
- (f) a county council or a county borough council in Wales;
- “local chief officer of police”, in relation to the designation of a locality as an alcohol disorder zone, means the chief of police of the police force for the police area in which that locality is situated; 40
- “locality” includes a part of a locality.
- (2) Expressions used in this Chapter and in the Licensing Act 2003 (c. 17) or in a Part of that Act have the same meanings in this Chapter as in that Act or Part.

- (3) References in this Chapter to premises' being in a locality (however described) include references to their being partly in that locality.
- (4) The powers of the Secretary of State to make regulations under this Chapter shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament. 5
- (5) Those powers all include power –
 - (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit. 10
- (6) Subsection (5)(b) is subject to the restriction on exemptions contained in section 12(7).

CHAPTER 3

OTHER PROVISIONS 15

Licence reviews

18 Power of police to require review of premises licence

After section 53 of the Licensing Act 2003 (c. 17), insert –

“Summary reviews in serious cases of crime or disorder

53A Summary reviews on application of senior police officer 20

- (1) The chief officer of police of a police force for a police area may apply under this section to the relevant licensing authority for a review of the premises licence for any premises wholly or partly in that area if –
 - (a) the premises are licensed premises in relation to the sale of alcohol by retail; and 25
 - (b) a senior member of that force has given a certificate that it is his opinion that the premises are associated with serious crime or serious disorder or both;and that certificate must accompany the application.
- (2) On receipt of such an application, the relevant licensing authority must – 30
 - (a) within 48 hours of the time of its receipt, consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
 - (b) within 28 days after the day of its receipt, review that licence in accordance with section 53C and reach a determination on that review. 35
- (3) The Secretary of State must by regulations –
 - (a) require a relevant licensing authority to whom an application for a review under this section has been made to give notice of the review to the holder of the premises licence and to every responsible authority; 40

-
- (b) prescribe the period after the making of the application within which the notice under paragraph (a) must be given;
 - (c) require a relevant licensing authority to advertise the review, inviting representations about it to be made to the authority by the responsible authorities and interested parties; 5
 - (d) prescribe the period after the making of the application within which the advertisement must be published;
 - (e) prescribe the period after the publication of the advertisement during which representations may be made by the holder of the premises licence, any responsible authority or any interested party; and 10
 - (f) require a notice or advertisement under paragraph (a) or (c) to specify the period prescribed under paragraph (e).
- (4) In this section –
- ‘senior member’, in relation to a police force, means a police officer who is a member of that force and of or above the rank of superintendent; and 15
 - ‘serious crime’ has the same meaning as in the Regulation of Investigatory Powers Act 2000 (c. 23) (see section 81(2) and (3) of that Act). 20
- (5) In computing the period of 48 hours mentioned in subsection (2)(a) time that is not on a working day is to be disregarded.
- 53B Interim steps pending review**
- (1) This section applies to the consideration by a relevant licensing authority on an application under section 53A whether it is necessary to take interim steps pending the determination of the review applied for. 25
 - (2) The consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. 30
 - (3) The interim steps the relevant licensing authority must consider taking are –
 - (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence; 35
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence.
 - (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added. 40
 - (5) Where on its consideration of whether to take interim steps the relevant licensing authority does take one or more such steps –
 - (a) its decision takes effect immediately or as soon after that as that authority directs; but 45
 - (b) it must give immediate notice of its decision and of its reasons for making it to –
 - (i) the holder of the premises licence; and

- (ii) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (6) If the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the relevant licensing authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations. 5
- (7) The relevant licensing authority must give advance notice of the hearing to— 10
 - (a) the holder of the premises licence;
 - (b) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (8) At the hearing, the relevant licensing authority must— 15
 - (a) consider whether the interim steps are necessary for the promotion of the licensing objectives; and
 - (b) determine whether to withdraw or modify the steps taken.
- (9) In considering those matters the relevant licensing authority must have regard to— 20
 - (a) the certificate that accompanied the application;
 - (b) any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and
 - (c) any representations made by the holder of the premises licence. 25
- (10) In computing the period of 48 hours mentioned in subsection (6) time that is not on a working day is to be disregarded.

53C Review of premises licence following review notice

- (1) This section applies to a review of a premises licence which a relevant licensing authority has to conduct on an application under section 53A. 30
- (2) The relevant licensing authority must—
 - (a) hold a hearing to consider the application for the review and any relevant representations;
 - (b) take such steps mentioned in subsection (3) (if any) as it considers necessary for the promotion of the licensing objectives; and 35
 - (c) secure that, from the coming into effect of the decision made on the determination of the review, any interim steps having effect pending that determination cease to have effect (except so far as they are comprised in steps taken in accordance with paragraph (b)). 40
- (3) Those steps are—
 - (a) the modification of the conditions of the premises licence,
 - (b) the exclusion of a licensable activity from the scope of the licence, 45
 - (c) the removal of the designated premises supervisor from the licence,

-
- (d) the suspension of the licence for a period not exceeding three months, or
 - (e) the revocation of the licence.
- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added. 5
- (5) Subsection (2)(b) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (6) Where the authority takes a step within subsection (3)(a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months). 10
- (7) 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 (8). 15
- (8) 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 53A(3)(e),
 - (b) that they have not been withdrawn, and 20
 - (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.
- (9) 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. 25
- (10) Where a relevant 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 premises licence, 30
 - (b) any person who made relevant representations, and
 - (c) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (11) A decision under this section does not have effect until – 35
- (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.”
- 19 Provisions supplemental to s. 18** 40
- (1) In section 10(4) of the Licensing Act 2003 (c. 17) (matters not capable of delegation to officers of a relevant licensing authority) –
- (a) in paragraph (a), after sub-paragraph (vi) insert – 45
 - “(via) section 53A(2)(a) or 53B (determination of interim steps pending summary review),”;

- (b) after paragraph (b), insert –
“(ba) any function under section 53C (review following review notice), in a case where relevant representations (within the meaning of section 53C(7)) have been made,”.

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- (2) In Schedule 5 to that Act (appeals), after paragraph 8 insert –

“Summary review of premises licence

- 8A (1) This paragraph applies where a review of a premises licence is decided under section 53A(2)(b) (review of premises licence following review notice).

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- (2) An appeal may be made against that decision by –
(a) the chief officer of police for the police area (or each police area) in which the premises are situated,
(b) the holder of the premises licence, or
(c) any other person who made relevant representations in relation to the application for the review.

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- (3) In sub-paragraph (2) ‘relevant representations’ has the meaning given in section 53C(7).”

Persistently selling alcohol to children

20 Offence of persistently selling alcohol to children

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- (1) After section 147 of the Licensing Act 2003 (c. 17) insert –

“147A Persistently selling alcohol to children

- (1) A person is guilty of an offence if –
(a) on 3 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.

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- (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.

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- (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

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- (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 5
- (b) the person or one of the persons who is the premises user in respect 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. 10
- (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 15
- (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— 20
- (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; 25
- (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. 30
- (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. 35
- (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. 40
- (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. 45
- (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.” 5
- (2) In section 186(2) of that Act (persons who may institute prosecutions under that Act) –
- (a) in paragraph (a) (licensing authority), at the beginning insert “except in the case of an offence under section 147A,”; and
- (b) in paragraph (c) (local weights and measures authority), for “or 147” substitute “, 147 or 147A”. 10
- (3) In the Criminal Appeal Act 1968 (c. 19) –
- (a) in sections 31(2C) and 44(3), after “section 129” insert, in each case, “or 147B(1)”;
- (b) in section 50(1)(i) for “section 129(2) of the Licensing Act 2003 (forfeiture or suspension of personal licence)” substitute “section 129 or 147B(1) of the Licensing Act 2003 (forfeiture or suspension etc. of licence)”. 15
- (4) A sale of alcohol is not to count for the purposes of the offence under section 147A of the Licensing Act 2003 (c. 17) if it took place before the commencement of this section. 20

21 Closure notices for persistently selling alcohol to children

- (1) After section 169 of the Licensing Act 2003 insert –

“Closure notices

169A Closure notices for persistently selling alcohol to children 25

- (1) A relevant officer may give a notice under this section (a ‘closure notice’) applying to any premises if he has reasonable grounds for believing –
- (a) that an offence under section 147A (‘the alleged offence’) has been committed in relation to those premises; and 30
- (b) that a person liable for that offence 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 35
- (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 – 40
- (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; 5
- (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; 10
- (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. 15
- (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). 20
- (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; 25
- (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 7 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. 30
- (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. 35
- (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 40
- (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. 45

- (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. 5
- (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** 10
- (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. 15
- (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 20
 - (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. 25
- (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. 30
- (6) The operation of this section is not affected by any contravention of section 169A(8).”
- (2) In subsection (1) of section 170 of that Act (exemptions from liability) –
- (a) for “A constable is not” substitute “Neither a constable nor a trading standards officer is”; and 35
 - (b) at the end insert “or of his functions in relation to a closure notice”.
- (3) For subsection (2) of that section substitute –
- “(2) Neither a chief officer of police nor a local weights and measures authority is liable for relevant damages in respect of any act or omission of a person in the performance or purported performance, while under the direction or control of such a chief officer or local weights and measures authority – 40
- (a) of a function of that person in relation to a closure order, or any extension of it; or 45
 - (b) of a function in relation to a closure notice.”

- (4) After subsection (4) of that section insert –
- “(4A) In this section references to a constable include references to a person exercising the powers of a constable by virtue of a designation under section 38 of the Police Reform Act 2002 (community support officers etc.); and, in relation to such a person, the first reference in subsection (2) to a chief officer of police has effect as a reference to a police authority.” 5
- (5) In section 171(5) of that Act (expressions defined for the purposes of Part 8),
- (a) after the definition of “appropriate person” insert –
“closure notice’ has the meaning given in section 169A;” 10
- (b) after the definition of “extension” insert –
“local weights and measures authority’ has the meaning given by section 69 of the Weights and Measures Act 1985;”
- (c) after the definition of “senior police officer” insert – 15
“trading standards officer’, in relation to any premises to which a premises licence relates, means a person authorised by a local weights and measures authority to act in the area where those premises are situated in relation to proposed prohibitions contained in closure notices;”. 20
- (6) In Part 1 of Schedule 4 to the Police Reform Act 2002 (c. 30) (powers of community support officers), after paragraph 5 insert –
- “Power to serve closure notice for licensed premises persistently selling to children*
- 5A Where a designation applies this paragraph to any person, that person shall have – 25
- (a) within the relevant police area, and
- (b) if it appears to him as mentioned in subsection (7) of section 169A of the Licensing Act 2003 (closure notices served on licensed premises persistently serving children), 30
the capacity of a constable under that subsection to be the person by whose delivery of a closure notice that notice is served.”

Directions to individuals to leave a locality

22 Directions to individuals who represent a risk of disorder

- (1) If the test in subsection (2) is satisfied in the case of an individual aged 16 or over who is in a public place, a constable in uniform may give a direction to that individual – 35
- (a) requiring him to leave the locality of that place; and
- (b) prohibiting the individual from returning to that locality for such period (not exceeding 48 hours) from the giving of the direction as the constable may specify. 40
- (2) That test is that the presence of the individual in that locality is likely, in all the circumstances, to cause or to contribute to the occurrence or continuance in that locality of alcohol-related crime or disorder.
- (3) A direction under this section – 45

- (a) must be given in writing;
 - (b) may require the individual to whom it is given to leave the locality in question either immediately or by such time as the constable giving the direction may specify;
 - (c) must clearly identify the locality to which it relates; 5
 - (d) must specify the period for which the individual is prohibited from returning to that locality;
 - (e) may impose requirements as to the manner in which that individual leaves the locality, including his route; and
 - (f) may be withdrawn or varied (but not extended so as to apply for a period of more than 48 hours) by a constable. 10
- (4) A constable may not give a direction under this section that prevents the individual to whom it is given –
- (a) from having access to a place where he resides;
 - (b) from attending at any place which he is required to attend for the purposes of any employment of his or of any contract of services to which he is a party; 15
 - (c) from attending at any place which he is expected to attend during the period to which the direction applies for the purposes of education or training or for the purpose of receiving medical treatment; or 20
 - (d) from attending at any place which he is required to attend by any obligation imposed on him by or under an enactment or by the order of a court or tribunal.
- (5) A constable who gives a direction under this section must make a record of –
- (a) the terms of the direction and the locality to which it relates; 25
 - (b) the individual to whom it is given;
 - (c) the time at which it is given;
 - (d) the period during which that individual is required not to return to the locality.
- (6) A person who fails to comply with a direction under this section is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale. 30
- (7) In section 64A of the Police and Criminal Evidence Act 1984 (c. 60) (power to photograph suspects), in subsection (1B), after paragraph (c) insert –
- “(ca) given a direction by a constable under section 22 of the Violent Crime Reduction Act 2005;” 35
- (8) In this section “public place” means –
- (a) a highway; or
 - (b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; 40
- and for this purpose “place” includes a place on a means of transport.

Exclusions from licensed premises

23 Exclusion orders in respect of licensed premises

- (1) In section 1 of the Licensed Premises (Exclusion of Certain Persons) Act 1980 45

(c. 32) (exclusion orders), after subsection (1) insert –

- “(1A) Where a person is convicted by or before a court in England and Wales of an offence committed on licensed premises –
- (a) the court must consider making an exclusion order under subsection (1) in respect of the convicted person; and
 - (b) if it decides not to make an order, it must state that fact in open court and give reasons.”

5

PART 2

WEAPONS ETC.

Firearms, ammunition etc.

10

24 Using someone to mind a weapon

- (1) A person is guilty of an offence if –
 - (a) he uses another to look after, hide or transport a dangerous weapon for him; and
 - (b) he does so under arrangements or in circumstances that facilitate, or are intended to facilitate, the weapon’s being available to him for an unlawful purpose.
- (2) For the purposes of this section the cases in which a dangerous weapon is to be regarded as available to a person for an unlawful purpose include any case where –
 - (a) the weapon is available for him to take possession of it at a time and place; and
 - (b) his possession of the weapon at that time and place would constitute, or be likely to involve or to lead to, the commission by him of an offence.
- (3) In this section “dangerous weapon” means –
 - (a) a firearm other than an air weapon or a component part, or accessory to, an air weapon; or
 - (b) a weapon to which section 141A of the Criminal Justice Act 1988 (c. 33) applies (knives and bladed weapons).
- (4) In its application to Scotland, this section has effect with the omission of subsection (3)(b), and of the word “or” immediately preceding it.

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25 Penalties etc. for offence under s. 24

- (1) This section applies where a person (“the offender”) is guilty of an offence under section 24.
- (2) Where the dangerous weapon in respect of which the offence was committed is a weapon to which section 141A of the Criminal Justice Act 1988 (knives and bladed weapons) applies, the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
- (3) Where –
 - (a) at the time of the offence, the offender was aged 16 or over, and

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- (b) the dangerous weapon in respect of which the offence was committed was a firearm mentioned in section 5(1)(a) to (af) or (c) or section 5(1A)(a) of the 1968 Act (firearms possession of which attracts a minimum sentence),
the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine, or to both. 5
- (4) On a conviction in England and Wales, where –
(a) subsection (3) applies, and
(b) the offender is aged 18 or over at the time of conviction,
the court must impose (with or without a fine) a term of imprisonment of not less than 5 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so. 10
- (5) On a conviction in England and Wales, where –
(a) subsection (3) applies, and 15
(b) the offender is aged under 18 at the time of conviction,
the court must impose (with or without a fine) a term of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so. 20
- (6) On a conviction in Scotland, where –
(a) subsection (3) applies, and
(b) the offender is aged 21 or over at the time of conviction,
the court must impose (with or without a fine) a sentence of imprisonment of not less than 5 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so. 25
- (7) On a conviction in Scotland, where –
(a) subsection (3) applies, and 30
(b) the offender is aged under 21 at the time of conviction and is not a person in whose case subsection (8) applies,
the court must impose (with or without a fine) a sentence of detention under section 207 of the Criminal Procedure (Scotland) Act 1995 (c. 46) of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so. 35
- (8) On a conviction in Scotland, where –
(a) subsection (3) applies, and
(b) the offender is, at the time of conviction, both aged under 18 and subject to a supervision requirement, 40
the court must impose (with or without a fine) a sentence of detention under section 208 of the Criminal Procedure (Scotland) Act 1995 of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (9) In any case not mentioned in subsection (2) or (3), the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both. 45
- (10) Where –

- (a) a court is considering for the purposes of sentencing the seriousness of an offence under this section, and
- (b) at the time of the offence the offender was aged 18 or over and the person used to look after, hide or transport the weapon was not,
- the court must treat the fact that that person was under the age of 18 at that time as an aggravating factor (that is to say, a factor increasing the seriousness of the offence). 5
- (11) Where a court treats a person’s age as an aggravating factor in accordance with subsection (10), it must state in open court that the offence was aggravated as mentioned in that subsection. 10
- (12) Where –
- (a) an offence under section 24 of using another person for a particular purpose is found to have involved that other person’s having possession of a weapon, or being able to make it available, over a period of two or more days, or at some time during a period of two or more days, and 15
- (b) on any day in that period, an age requirement was satisfied, the question whether subsection (3) applies or (as the case may be) the question whether the offence was aggravated under this section is to be determined as if the offence had been committed on that day. 20
- (13) In subsection (12) the reference to an age requirement is a reference to either of the following –
- (a) the requirement of subsection (3) that the offender was aged 16 or over at the time of the offence;
- (b) the requirement of subsection (10) that the offender was aged 18 or over at that time and that the other person was not. 25
- (14) In its application to Scotland, this section has effect with the omission of subsection (2), and of the reference to it in subsection (9).

26 Age limits for purchase etc. of air weapons

- (1) The 1968 Act is amended as follows. 30
- (2) For section 22(1) (acquisition and possession of firearms by minors) substitute –
- “(1) It is an offence –
- (a) for a person under the age of eighteen to purchase or hire an air weapon or ammunition for an air weapon; 35
- (b) for a person under the age of seventeen to purchase or hire a firearm or ammunition of any other description.”
- (3) In subsection (4) of that section, for “seventeen” substitute “eighteen”.
- (4) For section 24(1) (supplying firearms to minors) substitute –
- “(1) It is an offence – 40
- (a) to sell or let on hire an air weapon or ammunition for an air weapon to a person under the age of eighteen;
- (b) to sell or let on hire a firearm or ammunition of any other description to a person under the age of seventeen.”

- (5) In subsection (4) of that section in paragraphs (a) and (b), for “seventeen” substitute “eighteen”.
- (6) In the table in Part 1 of Schedule 6 (punishment) –
- (a) in the entry for section 22(1), in the second column, at the end insert “or person under 18 acquiring air weapon”; 5
 - (b) in the entry for section 22(4), in the second column, for “17” substitute “18”;
 - (c) in the entry for section 24(1), in the second column, at the end insert “or an air weapon to a person under 18”;
 - (d) in the entry for section 24(4), in the second column, for “17” substitute “18”. 10

27 Firing an air weapon beyond premises

- (1) The 1968 Act is amended as follows.
- (2) After section 21 (possession of firearms by persons previously convicted of crime) insert – 15

“21A Firing an air weapon beyond premises

A person commits an offence if –

- (a) he has with him an air weapon on any premises; and
- (b) he uses it for firing a missile beyond those premises.”

- (3) In section 23 (exceptions from section 22(4)) – 20
- (a) in subsection (1), for paragraphs (a) and (b) substitute “for the person under whose supervision he is to allow him to use it for firing any missile beyond those premises.”;
 - (b) omit subsection (4).
- (4) In the table in Part 1 of Schedule 6 (punishment), after the entry for section 21(5) insert – 25

“Section 21A	Person making improper use of air weapon	Summary	A fine of level 3 on the standard scale	Paragraphs 7 and 8 of Part II of this Schedule apply.”	30
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- (5) In that table, in the entry for section 23(1), for the words in the second column substitute “Person supervising a person under 17 and allowing him to make improper use of air weapon”.
- (6) In Part 2 of that Schedule (supplementary) – 35
- (a) in paragraph 7, after “under section” insert “21A,”;
 - (b) in paragraph 8, after “under section” insert “21A,”.

28 Restriction on sale and purchase of primers

- (1) This section applies to a primer that is capable of being comprised in ammunition for a firearm. 40

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- (2) It is an offence for a person to sell to another either –
- (a) a primer to which this section applies,
 - (b) anything which is not itself ammunition for a firearm but contains such a primer,
- unless that other person falls within subsection (3). 5
- (3) A person falls within this subsection if –
- (a) he is a registered firearms dealer;
 - (b) he sells by way of any trade or business either primers or things in which they are contained, or both;
 - (c) he produces a certificate authorising him to possess a firearm of the relevant kind; 10
 - (d) he produces a certificate authorising him to possess ammunition for a firearm;
 - (e) he shows that he is entitled, by virtue of the 1968 Act, the Firearms (Amendment) Act 1988 (c. 45) or any other enactment, to have possession of a firearm of the relevant kind, or of such ammunition, without a certificate; or 15
 - (f) he produces a certificate authorising another person to have possession of such a firearm, or of such ammunition, together with that other person's authority to purchase the primer or other thing on his behalf. 20
- (4) It is an offence for a person to buy or to attempt to buy –
- (a) a primer to which this section applies, or
 - (b) anything which is not itself ammunition for a firearm but contains such a primer,
- unless he falls within subsection (5). 25
- (5) A person falls within this subsection if –
- (a) he is a registered firearms dealer;
 - (b) he sells by way of any trade or business either primers or things in which they are contained, or both;
 - (c) he holds a certificate authorising him to possess a firearm of the relevant kind; 30
 - (d) he holds a certificate authorising him to possess ammunition for a firearm;
 - (e) he is entitled, by virtue of the 1968 Act, the Firearms (Amendment) Act 1988 or any other enactment, to have possession of a firearm of the relevant kind, or of such ammunition, without a certificate; or 35
 - (f) he is in possession of a certificate authorising another person to have possession of such a firearm, or of such ammunition, and has that other person's authority to purchase the primer or other thing on his behalf.
- (6) An offence under this section shall be punishable, on summary conviction – 40
- (a) in England and Wales, with imprisonment for a term not exceeding 51 weeks or with a fine not exceeding level 5 on the standard scale, or with both; and
 - (b) in Scotland, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both. 45
- (7) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (6)(a) of this section to 51 weeks is to be read as a reference to 6 months.

- (8) For the purposes of this section a firearm is of a relevant kind in relation to a sale or purchase if ammunition capable of being used with that firearm contains, or may contain, primers of the same description as the primer to which the sale or purchase relates or (as the case may be) as the primer contained in the thing to which it relates. 5
- (9) In this section “enactment” includes an enactment passed after the passing of this Act.

29 Restriction on sale and purchase of ammunition loading presses

- (1) It is an offence for a person to sell an ammunition loading press to another unless that other person falls within subsection (2). 10
- (2) A person falls within this subsection if –
- (a) he is a registered firearms dealer;
 - (b) he sells ammunition loading presses by way of any trade or business;
 - (c) he produces a certificate authorising him to possess a firearm;
 - (d) he produces a certificate authorising him to possess ammunition for a firearm; 15
 - (e) he shows that he is entitled, by virtue of the 1968 Act, the Firearms (Amendment) Act 1988 (c. 45) or any other enactment, to have possession of a firearm, or of such ammunition, without a certificate; or
 - (f) he produces a certificate authorising another person to have possession of a firearm, or of such ammunition, together with that other person’s authority to purchase the ammunition loading press on his behalf. 20
- (3) It is an offence for a person to buy or to attempt to buy an ammunition loading press unless he falls within subsection (4).
- (4) A person falls within this subsection if – 25
- (a) he is a registered firearms dealer;
 - (b) he sells ammunition loading presses by way of any trade or business;
 - (c) he holds a certificate authorising him to possess a firearm;
 - (d) he holds a certificate authorising him to possess ammunition for a firearm; 30
 - (e) he is entitled, by virtue of the 1968 Act, the Firearms (Amendment) Act 1988 or any other enactment, to have possession of a firearm, or of such ammunition, without a certificate; or
 - (f) he is in possession of a certificate authorising another person to have possession of a firearm, or of such ammunition, and has that other person’s authority to purchase the ammunition loading press on his behalf. 35
- (5) An offence under this section shall be punishable, on summary conviction –
- (a) in England and Wales, with imprisonment for a term not exceeding 51 weeks or with a fine not exceeding level 5 on the standard scale, or with both; and 40
 - (b) in Scotland, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (5)(a) of this section to 51 weeks is to be read as a reference to 6 months. 45

- (7) In this section –
 “ammunition loading press” includes ammunition loading die;
 “enactment” includes an enactment passed after the passing of this Act.

Imitation firearms

- 30 Manufacture, import and sale of realistic imitation firearms** 5
- (1) A person is guilty of an offence if –
- (a) he manufactures a realistic imitation firearm;
 - (b) he modifies a firearm or an imitation firearm so that it becomes a realistic imitation firearm;
 - (c) he sells a realistic imitation firearm; or 10
 - (d) he brings a realistic imitation firearm into Great Britain or causes one to be brought into Great Britain.
- (2) The Secretary of State may by regulations –
- (a) provide for exceptions and exemptions from the offence under subsection (1); and 15
 - (b) provide for it to be a defence in proceedings for such an offence to show the matters specified or described in the regulations.
- (3) Regulations under subsection (2) may –
- (a) frame any exception, exemption or defence by reference to an approval or consent given in accordance with the regulations; 20
 - (b) provide for approvals and consents to be given in relation to particular cases or in relation to such descriptions of case as may be specified or described in the regulations; and
 - (c) confer the function of giving approvals or consents on such persons specified or described in the regulations as the Secretary of State thinks fit. 25
- (4) The power of the Secretary of State to make regulations under subsection (2) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) That power includes power – 30
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit. 35
- (6) An offence under this section shall be punishable, on summary conviction –
- (a) in England and Wales, with imprisonment for a term not exceeding 51 weeks or with a fine not exceeding level 5 on the standard scale, or with both; and
 - (b) in Scotland, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both. 40
- (7) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (6)(a) of this section to 51 weeks is to be read as a reference to 6 months.

- (8) In this section “realistic imitation firearm” means an imitation firearm whose appearance is so realistic as to make it indistinguishable, for all practical purposes, from—
- (a) a firearm of an existing make or model; or
 - (b) a firearm falling within a description that applies to an existing category of firearms which, even though they include firearms of different makes or models or both, all have the same or a similar appearance.
- (9) For the purposes of subsection (8) an imitation firearm is not to be regarded as distinguishable from a firearm for any practical purpose if it could be so distinguished only—
- (a) by an expert;
 - (b) on a close examination; or
 - (c) as a result of an attempt to load or to fire it.

31 Specification for imitation firearms

- (1) The Secretary of State may by regulations make provision requiring imitation firearms to conform to specifications which are—
- (a) set out in the regulations; or
 - (b) approved by such persons and in such manner as may be so set out.
- (2) A person is guilty of an offence if—
- (a) he manufactures an imitation firearm which does not conform to the specifications required of it by regulations under this section;
 - (b) he modifies an imitation firearm so that it ceases to conform to the specifications so required of it;
 - (c) he modifies a firearm to create an imitation firearm that does not conform to the specifications so required of it; or
 - (d) he brings an imitation firearm which does not conform to the specifications so required of it into Great Britain or causes such an imitation firearm to be brought into Great Britain.
- (3) An offence under this section shall be punishable, on summary conviction—
- (a) in England and Wales, with imprisonment for a term not exceeding 51 weeks or with a fine not exceeding level 5 on the standard scale, or with both; and
 - (b) in Scotland, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both.
- (4) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(a) of this section to 51 weeks is to be read as a reference to 6 months.
- (5) Regulations under this section may provide that, in proceedings for an offence under this section, it is to be presumed, unless the contrary is proved, that an imitation firearm conforms to the required specification if it, or the description of imitation firearms to which it belongs, has been certified as so conforming by a person who is—
- (a) specified in the regulations; or
 - (b) determined for the purpose in accordance with provisions contained in the regulations.

- (6) The power of the Secretary of State to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) That power includes power –
- (a) to make different provision for different cases; 5
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- 32 Supplying imitation firearms to minors 10**
- (1) After section 24 of the 1968 Act insert –
- “24A Supplying imitation firearms to minors**
- (1) It is an offence for a person under the age of eighteen to purchase an imitation firearm.
 - (2) It is a offence to sell an imitation firearm to a person under the age of eighteen. 15
 - (3) In proceedings for an offence under subsection (2) it is a defence to show that the person charged with the offence –
 - (a) believed the other person to be aged eighteen or over; and
 - (b) had reasonable ground for that belief. 20
 - (4) For the purposes of this section a person shall be taken to have shown the matters specified in subsection (3) if –
 - (a) sufficient evidence of those matters is adduced to raise an issue with respect to them; and
 - (b) the contrary is not proved beyond a reasonable doubt.” 25
- (2) In the table in Part 1 of Schedule 6 (punishment), after the entry for section 24(4) insert –
- | | | | | | |
|------------------------|---|---------|---|----|----|
| “Section 24A(1) or (2) | Acquisition by a minor of an imitation firearm and supplying him. | Summary | In England and Wales, 51 weeks or a fine of level 5 on the standard scale, or both. In Scotland, 6 months, or a fine of level 5 on the standard scale, or both. | –” | 30 |
| | | | | | 35 |
| | | | | | 40 |
- (3) In relation to an offence committed in England and Wales before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the

reference to 51 weeks in the entry inserted by subsection (2) of this section is to be read as a reference to 6 months.

33 Increase of maximum sentence for possessing an imitation firearm

- (1) In the entry in Schedule 6 to the 1968 Act relating to section 19 of that Act (mode of trial and punishment of possession of firearm or imitation firearm in a public place) –
 - (a) in paragraph (b) of column 3 (offence to be triable either way except in the case of an imitation firearm or air weapon), omit the words “in the case of an imitation firearm or”; and
 - (b) in column 4, for “7 years or a fine; or both” substitute –
 - “(i) if the weapon is an imitation firearm, 12 months or a fine, or both;
 - (ii) in any other case, 7 years or a fine, or both.”
- (2) An offence in England and Wales under section 19 of the 1968 Act in respect of an imitation firearm which is triable either way by virtue of this section is to be treated –
 - (a) as an offence to which section 282(3) of the Criminal Justice Act 2003 (c. 44) (increase of maximum sentence on conviction of an either way offence) applies; and
 - (b) as not being an offence to which section 281(5) of that Act (increase of maximum sentence on conviction of a summary only offence) applies.
- (3) This section –
 - (a) applies only to offences committed after the commencement of this section; and
 - (b) so far as it relates to subsection (3) of section 282 of the Criminal Justice Act 2003 or subsection (5) of section 281 of that Act, does not have effect in relation to offences committed before the commencement of that subsection.

Other weapons 30

34 Sale etc. of knives and other weapons

- (1) The Criminal Justice Act 1988 (c. 33) is amended as follows.
- (2) In section 141A(1) (prohibition on sale of knives etc. to persons under sixteen), for “sixteen” substitute “eighteen”.
- (3) In subsections (5), (8) and (9) of section 141 (defences relating to museums and galleries to offence of manufacture, sale etc. of prescribed weapons), for “prove” substitute “show”. 35
- (4) After subsection (11) of that section insert –
 - “(11A) It shall be a defence for a person charged in respect of conduct of his relating to a weapon to which this section applies –
 - (a) with an offence under subsection (1) above, or
 - (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

	to show that his conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).	
(11B)	Those purposes are –	
	(a) the purposes of theatrical performances and of rehearsals for such performances;	5
	(b) the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 - see section 5B of that Act);	
	(c) the production of television programmes (within the meaning of the Communications Act 2003 - see section 401(1) of that Act).	10
(11C)	For the purposes of this section a person shall be taken to have shown a matter specified in subsection (5), (8), (9) or (11A) if –	
	(a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and	15
	(b) the contrary is not proved beyond a reasonable doubt.”	
(5)	The defence in section 141(11A) is not available in relation to so much of any charge as relates to conduct taking place before the commencement of this section.	
35	Power to search school pupils for weapons	20
	After section 550A of the Education Act 1996 (c. 56) insert –	
	“550AA Power of members of staff to search pupils etc. for weapons	
(1)	A member of the staff of a school who has reasonable grounds for believing that a pupil at the school may have with him or in his possessions –	25
	(a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or	
	(b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),	
	may search that pupil or his possessions for such articles and weapons.	30
(2)	A search under this section may be carried out only where –	
	(a) the member of the staff and the pupil are on the premises of the school; or	
	(b) they are elsewhere and the member of the staff has lawful control or charge of the pupil.	35
(3)	A person may carry out a search under this section only if –	
	(a) he is the head teacher of the school; or	
	(b) he has been authorised by the head teacher to carry out the search.	
(4)	A person who carries out a search of a pupil under this section –	40
	(a) may not require the pupil to remove any clothing other than outer clothing;	
	(b) must be of the same sex as the pupil; and	
	(c) may carry out the search only in the presence of another person who is aged 18 or over and is also of the same sex as the pupil.	45

- (5) A pupil’s possessions may not be searched under this section except in his presence and in the presence of a person (in addition to the person carrying out the search) who is aged 18 or over.
- (6) If a person who, in the course of a search under this section, finds –
- (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,
- he may seize and retain it. 5
- (7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power. 10
- (8) An authorisation for the purposes subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (9) In this section –
- ‘member of the staff’ has the same meaning as in section 550A;
 - ‘outer clothing’ includes an outer coat, a jacket, gloves and a hat;
 - ‘possessions’, in relation to a pupil of a school, includes any goods over which he has or appears to have control.
- 15
- (10) The powers conferred by this section are in addition to any powers exercisable by the member of the staff in question apart from this section and are not to be construed as restricting such powers.” 20

Supplemental

36 Supplemental provisions for Part 2

- (1) In this Part “the 1968 Act” means the Firearms Act 1968 (c. 27). 25
- (2) Expressions used in this Part and in the 1968 Act have the same meanings in this Part as in that Act.
- (3) The following provisions of the 1968 Act apply as if sections 24, 25 and 28 to 31 of this Act were contained in that Act –
- (a) section 46 (power of search with warrant); 30
 - (b) section 51(4) (limitation period for prosecutions);
 - (c) section 52 (forfeiture and disposal of firearms and ammunition);
 - (d) section 54 (Crown application);
 - (e) section 58 (savings).
- (4) In section 52 of the 1968 Act, after subsection (4) insert – 35
- “(5) In this section references to ammunition include references to –
- (a) a primer to which section 28 of the Violent Crime Reduction Act 2005 applies and to anything in which such a primer is contained; and
 - (b) an ammunition loading press (within the meaning of section 29 of that Act).” 40

PART 3

MISCELLANEOUS

37 Football-related disorder

- (1) Section 5(2) of the Football (Disorder) Act 2000 (c. 25) (which imposes a latest date of 27th August 2007 for the making of applications for football banning orders under the Football Spectators Act 1989 (c. 37) and for the exercise of constables' powers under that Act to take summary measures) shall have no effect. 5
- (2) Schedule 1 (which amends the provisions of the Football Spectators Act 1989 relating to football banning orders and makes other amendments consequential on the amendment of that Act by this Act) has effect. 10
- (3) Sections 2 to 7 of the Football Spectators Act 1989 (the national membership scheme) shall cease to have effect.

38 Forfeiture and detention of vehicles etc.

- Schedule 2 (which amends the Sexual Offences Act 2003 (c. 42) to restore powers of forfeiture and detention of vehicles, ships and aircraft used in relation to offences of trafficking for sexual exploitation) has effect. 15

39 Amendment of s. 82 of the Sexual Offences Act 2003

- (1) In the table in section 82(1) of the Sexual Offences Act 2003 (notification period for persons convicted of sexual offences under requirement to notify the police about certain matters), in the entry relating to a person sentenced to imprisonment for life or for a term of 30 months or more, for “or for” substitute “, to imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or to imprisonment for”. 20
- (2) This section applies in relation to sentences passed before the passing of this Act, as well as to those passed after that. 25

40 Parenting orders

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 8 (parenting orders) – 30
- (a) in subsections (1)(b) and (6)(a) for “sex offender order” substitute “sexual offences prevention order”; and
- (b) after subsection (8) insert –
- “(9) In this section “sexual offences prevention order” means an order under section 104 of the Sexual Offences Act 2003 (sexual offences prevention orders).” 35
- (3) In section 18(1) (interpretation etc of Chapter 1 of Part 1), omit the definition of “sex offender order”.
- (4) The amendments made by subsection (2) have effect in relation to court proceedings in which an order under section 104 of the Sexual Offences Act

2003 is made before the passing of this Act, as well as those in which such an order is made after that.

41 Committal of young persons of unruly character

In section 23(1) of the Children and Young Persons Act 1969 (c. 54) (remand to local authority accommodation etc. of young persons of unruly character) – 5

(a) in paragraph (a), for “commits him for trial or” substitute “sends him for trial or commits him for”;

(b) for “the remand or committal”, substitute “the remand, sending or committal”;

(c) for “a reference to a committal”, substitute “a reference to such a sending or a committal”. 10

42 Offering or agreeing to re-programme a mobile telephone

In section 1(1) of the Mobile Telephones (Re-programming) Act 2002 (c. 31) (offence of re-programming mobile telephone etc), omit “or” at the end of paragraph (a) and after paragraph (b) insert – 15

“(c) he offers or agrees to change, or interfere with the operation of, a unique device identifier, or

(d) he offers or agrees to arrange for another person to change, or interfere with the operation of, a unique device identifier.”

PART 4 20

GENERAL

43 Expenses

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of such money under any other Act.

44 Repeals 25

The enactments listed in column 1 of Schedule 3 are repealed to the extent set out in column 2 of that Schedule.

45 Short title, commencement and extent

(1) This Act may be cited as the Violent Crime Reduction Act 2005.

(2) This Act, other than – 30

(a) this section; and

(b) section 40 and the repeal in section 18(1) of the Crime and Disorder Act 1998 (c. 37),

shall come into force on such day as the relevant national authority may by order made by statutory instrument appoint; and different days may be appointed for different purposes, including different areas. 35

(3) In subsection (2) “the relevant national authority” means –

- (a) in relation to section 35 so far as it authorises the exercise of powers in relation to pupils of schools in Wales, means the National Assembly for Wales; and
 - (b) in all other cases, means the Secretary of State.
- (4) This Part and section 42 extend to the United Kingdom, except that the repeals in Schedule 3 extend only so far as the enactments repealed. 5
- (5) Sections 24 to 33 and 36 extend to Great Britain only.
- (6) Section 38 and Schedule 2 and section 39 extend to England and Wales and Northern Ireland only.
- (7) The other provisions of this Act extend to England and Wales only. 10

SCHEDULES

SCHEDULE 1

Section 37

FOOTBALL BANNING ORDERS AND FOOTBALL-RELATED CONSEQUENTIAL AMENDMENTS

PART 1

FOOTBALL BANNING ORDERS

5

Introductory

- 1 The Football Spectators Act 1989 (c. 37) is amended as follows.

Banning orders: bail conditions

- 2 (1) In section 14A (banning orders on conviction of an offence), after subsection (4B) insert – 10
- “(4BA) If the court adjourns or further adjourns any proceedings under subsection (4A) or (4B), the court may remand the offender.
- (4BB) A person who, by virtue of subsection (4BA), is remanded on bail may be required by the conditions of his bail – 15
- (a) not to leave England and Wales before his appearance before the court, and
- (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such matches, to surrender his passport to a police constable, if he has not already done so.” 20
- (2) In subsection (4C) of that section, omit “But” and after “a warrant” insert “under subsection (4B) above”.
- (3) In section 14B (banning orders on a complaint), after subsection (4) insert –
- “(5) If the magistrates’ court adjourns proceedings on an application under this section, the court may remand the person in respect of whom the application is made. 25
- (6) A person who, by virtue of subsection (5) above, is remanded on bail under section 128 of the Magistrates’ Courts Act 1980 may be required by the conditions of his bail – 30
- (a) not to leave England and Wales before his appearance before the court, and
- (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such matches, to surrender his passport to a police constable, if he has not already done so.” 35

Appeals against decisions not to make banning orders

- 3 (1) In section 14A (banning order made on conviction for an offence), after subsection (5) insert –
- “(5A) The prosecution has a right of appeal against a failure by the court to make a banning order under this section – 5
- (a) where the failure is by a magistrates’ court, to the Crown Court; and
- (b) where it is by the Crown Court, to the Court of Appeal.
- (5C) An appeal under subsection (5A)(b) may be brought only if the Court of Appeal gives permission or the judge who decided not to make an order grants a certificate that his decision is fit for appeal. 10
- (5D) An order made on appeal under this section (other than one directing that an application be re-heard by the court from which the appeal was brought) is to be treated for the purposes of this Part as if it were an order of the court from which the appeal was brought.” 15
- (2) In section 14D (appeals against banning orders made on complaint), after subsection (1) insert –
- “(1A) An appeal lies to the Crown Court against the dismissal by a magistrates’ court of an application for the making of a banning order under section 14B above.” 20
- (3) In subsection (2) of that section, for “the appeal” substitute “an appeal under this section”.

Applications for banning orders under section 14B

- 4 (1) In section 14B (banning orders made on a complaint) –
- (a) in subsection (1) for “the chief officer of police for the area in which the person resides or appears to reside” substitute “the relevant chief officer”; and 25
- (b) after subsection (1) insert –
- “(1A) In subsection (1) ‘the relevant chief officer’ means –
- (a) the chief officer of police of any police force maintained for a police area; or 30
- (b) the chief constable of the British Transport Police Force.”
- (2) In section 21B(4) (summary measures: reference to a court), for “the chief officer of police for the area in which the person resides or appears to reside” substitute “the relevant chief officer”. 35

Notification obligations under banning orders

- 5 (1) Section 14E (banning orders: general) is amended as follows.
- (2) After subsection (2) insert –
- “(2A) A banning order must require the person subject to the order to give notification of the events mentioned in subsection (2B) to the enforcing authority. 40

- (2B) The events are –
- (a) a change of any of his names;
 - (b) the first use by him after the making of the order of a name for himself that was not disclosed by him at the time of the making of the order; 5
 - (c) a change of his home address;
 - (d) his acquisition of a temporary address;
 - (e) a change of his temporary address or his ceasing to have one;
 - (f) the loss of his passport;
 - (g) receipt by him of a new passport and the details of that passport; 10
 - (h) an appeal made by him in relation to the order;
 - (i) an application made by him under section 14H(2) for termination of the order;
 - (j) an appeal made by him under section 23(3) against the making of a declaration of relevance in respect of an offence of which he has been convicted. 15
- (2C) A notification required by a banning order by virtue of subsection (2A) must be given before the end of the period of seven days beginning with the day on which the event in question occurs.” 20
- (3) After subsection (7) insert –
- “(8) In this section –
- ‘declaration of relevance’ has the same meaning as in section 23;
 - ‘home address’, in relation to any person, means the address of his sole or main residence; 25
 - ‘loss’ includes theft or destruction;
 - ‘new’ includes replacement;
 - ‘temporary address’, in relation to any person, means the address (other than his home address) of a place at which he intends to reside, or has resided, for a period of at least four weeks.” 30

Duration of banning orders

- 6 In section 14F(5) (duration of banning orders), for “three” substitute “five” and for “two” substitute “three”.

Notices during control periods

- 7 In section 19 (functions of enforcing authority and local police), after subsection (2E)(b) insert –
- “(c) must require him to notify the enforcing authority within the time period specified in the notice of each address at which he intends to stay, or has stayed, for one night or more in a period which is the control period in relation to a regulated football match.” 40

Deemed receipt of notices and other documents

- 8 (1) In section 25 (service of documents), after subsection (1) insert –
- “(1A) A notice or other document served in accordance with subsection (1) on a person who is the subject of a banning order is to be deemed to be received by him at the time when it is served unless he proves otherwise.” 5
- (2) In section 21(7) (service of notices under section 19), after “subsection (6) above” insert “(instead of section 25(1A))”.

PART 2

CONSEQUENTIAL AMENDMENTS 10

Meaning of “spectator” in Part 1

- 9 For section 1(6) of the Football Spectators Act 1989 (c. 37) (definition of “authorised spectator”) substitute –
- “(6) A person is not to be regarded as a ‘spectator’ in relation to a designated football match if the principal purpose of his being on the premises is to provide services in connection with the match, or to report on it.” 15

General provisions relating to licences to admit spectators

- 10 In section 10(17) of that Act (licences to admit spectators: general), for “, the licensing authority or the Football Membership Authority” substitute “or the licensing authority”. 20

Declarations of relevance

- 11 In section 23 of that Act (provisions about declarations of relevance), at the end insert –
- “(5) In this section ‘declaration of relevance’ means a declaration by a court for the purposes of Schedule 1 to this Act that an offence related to football matches, or that it related to one or more particular football matches.” 25

Periods relevant to football matches

- 12 For paragraph 4(2) of Schedule 1 to that Act (meaning of period relevant to a football match) substitute – 30
- “(2) For the purposes of this Schedule each of the following periods is ‘relevant to’ a football match to which this Schedule applies –
- (a) in the case of a match which takes place on the day on which it is advertised to take place, the period – 35
- (i) beginning 24 hours before whichever is the earlier of the start of the match and the time at which it was advertised to start; and
- (ii) ending 24 hours after it ends;

- (b) in the case of a match which does not take place on the day on which it was advertised to take place, the period –
 - (i) beginning 24 hours before the time at which it was advertised to start on that day; and
 - (ii) ending 24 hours after that time.” 5

Amendments of other enactments

- 13 (1) In each of the enactments specified in sub-paragraph (2), for “declaration of relevance under” substitute “declaration of relevance, within the meaning of section 23 of”.
- (2) Those provisions are – 10
- (a) section 50(1)(h) of the Criminal Appeal Act 1968 (c. 19); and
 - (b) section 108(3) of the Magistrates’ Courts Act 1980 (c. 43).
- (3) This paragraph does not apply in relation to declarations made before the commencement of paragraph 11.

SCHEDULE 2

Section 38

15

FORFEITURE AND DETENTION OF VEHICLES ETC.

- 1 The Sexual Offences Act 2003 (c. 42) is amended as follows.
- 2 After section 60 (sections 57 to 59: interpretation and jurisdiction) insert –
- “60A Forfeiture of land vehicle, ship or aircraft**
- (1) This section applies if a person is convicted on indictment of an offence under sections 57 to 59. 20
 - (2) The court may order the forfeiture of a land vehicle used or intended to be used in connection with the offence if the convicted person –
 - (a) owned the vehicle at the time the offence was committed;
 - (b) was at that time a director, secretary or manager of a company which owned the vehicle; 25
 - (c) was at that time in possession of the vehicle under a hire-purchase agreement;
 - (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement; or 30
 - (e) was driving the vehicle in the course of the commission of the offence.
 - (3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person – 35
 - (a) owned the ship or aircraft at the time the offence was committed;
 - (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft; 40

- (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement;
- (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement; 5
- (e) was at the time a charterer of the ship or aircraft; or
- (f) committed the offence while acting as captain of the ship or aircraft.
- (4) But in a case to which subsection (3)(a) or (b) does not apply, forfeiture may be ordered only – 10
- (a) in the case of a ship, if subsection (5) or (6) applies;
- (b) in the case of an aircraft, if subsection (5) or (7) applies.
- (5) This subsection applies where a person who, at the time the offence was committed, owned the ship or aircraft or was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention to use it in the course of the commission of an offence under sections 57 to 59. 15
- (6) This subsection applies where a ship's gross tonnage is less than 500 tons.
- (7) This subsection applies where the maximum weight at which an aircraft (which is not a hovercraft) may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes. 20
- (8) Where a person who claims to have an interest in a land vehicle, ship or aircraft applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle, ship or aircraft unless the person has been given an opportunity to make representations. 25

60B Detention of land vehicle, ship or aircraft

- (1) If a person has been arrested for an offence under sections 57 to 59, a constable or a senior immigration officer may detain a relevant vehicle, ship or aircraft – 30
- (a) until a decision is taken as to whether or not to charge the arrested person with that offence;
- (b) if the arrested person has been charged, until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or 35
- (c) if he has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.
- (2) A vehicle, ship or aircraft is a relevant vehicle, ship or aircraft, in relation to an arrested person if it is a land vehicle, ship or aircraft which the constable or officer concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under section 60A. 40
- (3) A person (other than the arrested person) may apply to the court for the release of a land vehicle, ship or aircraft on the grounds that – 45
- (a) he owns the vehicle, ship or aircraft;

- (b) he was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement; or
 - (c) he is a charterer of the ship or aircraft.
 - (4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the vehicle, ship or aircraft on condition that it is made available to the court if –
 - (a) the arrested person is convicted; and
 - (b) an order for its forfeiture is made under section 60A.
 - (5) In this section, ‘court’ means –
 - (a) in relation to England and Wales –
 - (i) if the arrested person has not been charged, or he has been charged but proceedings for the offence have not begun to be heard, a magistrates’ court;
 - (ii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings;
 - (b) in relation to Northern Ireland –
 - (i) if the arrested person has not been charged, a magistrates’ court for the county court division in which he was arrested;
 - (ii) if he has been charged but proceedings for the offence have not begun to be heard, a magistrates’ court for the county court division in which he was charged;
 - (iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.
 - (6) In this section, ‘senior immigration officer’ means an immigration officer (appointed or employed as such under the Immigration Act 1971) not below the rank of chief immigration officer.
- 60C Sections 60A and 60B: interpretation**
- (1) In this section and sections 60A and 60B, unless the contrary intention appears –
 - ‘aircraft’ includes hovercraft;
 - ‘captain’ means master (of a ship) or commander (of an aircraft);
 - ‘land vehicle’ means any vehicle other than a ship or aircraft;
 - ‘ship’ includes every description of vessel used in navigation.
 - (2) In sections 60A and 60B, a reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.”
- 3 In section 142(2) (provisions extending to Northern Ireland), in paragraph (a) for “to 60” substitute “to 60C”.

SCHEDULE 3

Section 44

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Firearms Act 1968 (c. 27)	Section 23(4). In Part 1 of Schedule 6, the entry for section 23(4). In paragraph 7 of Part 2 of Schedule 6, the words “or (4)”. In paragraph 8 of Part 2 of Schedule 6, the words “or (4)” in the second place they appear.	5 10
Football Spectators Act 1989 (c. 37)	In section 1 – (a) subsection (3); (b) in subsection (4), paragraph (b) and the word “and” immediately preceding it; (c) subsections (5) and (8A). Sections 2 to 7. In section 10 – (a) in subsection (8), paragraph (c) and the word “or” immediately preceding it; (b) in subsection (12), paragraph (b). In section 22A(1), the definition of “declaration of relevance”. In Schedule 1, in paragraph 1(a), “2(1), 5(7)”. In section 27 – (a) in subsection (4), the words “section 3 or”; (b) subsection (5).	15 20 25
Criminal Justice and Public Order Act 1994 (c. 33)	In the table in Part 3 of Schedule 8, the entry relating to offences under section 19 of the Firearms Act 1968.	30
Data Protection Act 1998 (c. 29)	In Schedule 15, paragraph 9.	
Crime and Disorder Act 1998 (c. 37)	In section 18(1), the definition of “sex offender order”.	
Football (Offences and Disorder) Act 1999 (c. 21)	Section 2(3).	35
Access to Justice Act 1999 (c. 22)	In Schedule 13, in paragraph 158, the words “7(7)(b) and”.	
Football (Disorder) Act 2000 (c. 25)	Section 5(2). In Schedule 2, paragraphs 12 and 13.	40
Football (Disorder) (Amendment) Act 2002 (c. 12)	The whole Act.	
Mobile Telephones (Re-programming) Act 2002 (c. 31)	In section 1(1)(a), the word “or” at the end.	45
Anti-social Behaviour Act 2003 (c. 38)	Section 37(3).	

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Anti-social Behaviour Act 2003 (c. 38) – <i>cont.</i>	In section 38, subsections (2), (4), (5)(a) to (c) and (5)(e).
Courts Act 2003 (c. 39)	In Schedule 8, paragraph 331.
Criminal Justice Act 2003 (c. 44)	In Schedule 26, paragraph 41.

Violent Crime Reduction Bill

A

B I L L

To make provision for reducing and dealing with the abuse of alcohol; to make provision about real and imitation firearms, about ammunition and about knives and other weapons; to amend the Football Spectators Act 1989 and the Football (Disorder) Act 2000; to amend the Sexual Offences Act 2003 and section 8 of the Crime and Disorder Act 1998; to amend section 23 of the Children and Young Persons Act 1969; to amend the Mobile Telephones (Re-programming) Act 2002; and for connected purposes.

*Presented by Mr Secretary Clarke
supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Secretary Tessa Jowell, Secretary Ruth Kelly and
Hazel Blears.*

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