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Closure Powers, Orders and Notices





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Area Closure

S.160 Licensing Act 2003

Area Closure

Power	S.160 Licensing Act 2003.
Who	Police Superintendent applies to magistrates' court.
What	All premises licences and TENs at or near place of disorder or expected disorder. Not Club Premises Certificates (CPCs).
Why	There is or is expected to be disorder. Closure necessary to prevent disorder.
Length	Up to 24 hours.
Effect	Premises closed with immediate effect.



Closure Notice: Nuisance/Disorder

S.76 Anti-Social Behaviour Crime and Policing Act 2014

S.80 Anti-Social Behaviour Crime and Policing Act 2014

Nuisance/Disorder S.76

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- Power** S.76 Anti-Social Behaviour Crime and Policing Act 2014.
- Who** Police Inspector or local authority issue closure notice.
- What** All premises including those with premises licences, TENs and CPCs.
- Why** If satisfied on reasonable grounds:
- That use of premises has resulted in or (if the notice is not issued) is likely soon to result in, nuisance to members of the public; or
 - That there has been or (if the notice is not issued) is likely soon to be, disorder near the premises associated with the use of the premises and;
 - The notice is necessary to prevent nuisance or disorder from continuing or occurring.

(Continues overleaf)

Nuisance/Disorder S.76

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Length

Up to 24 hours. Can be extended to 48 hours, if issued by Superintendent or Chief Executive of Authority.

Effect

Immediately prohibits access to the premises by all persons, except those specified (cannot prohibit access by owner or resident) - either at all times or during hours stated, and in all circumstances specified. A notice can be cancelled or varied.

If it is not cancelled then application must be made to magistrates' court for a closure order under s.80. (See next card).

Offence: Remaining or entering in contravention of notice = up to 3 months imprisonment and/or fine.

Nuisance/Disorder S.80

Power	S.80 Anti-Social Behaviour Crime and Policing Act 2014.
Who	Police constable or local authority authorised officer apply to magistrates' court.
What	All premises including those with premises licences, TENs and CPCs.
Why	<p>Application must be made to magistrates' court when a s.76 closure notice is issued unless the notice is cancelled.</p> <p>Applications must be heard within 48 hours of service of the closure notice. The court may make an order if it is satisfied:</p> <ul style="list-style-type: none">• That a person has engaged or is likely to engage in disorderly, offensive or criminal behaviour on the premises, or• The use of the premises has resulted or is likely to result in serious nuisance to members of the public, or• There has been or is likely to be disorder near those premises associated with the premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

Nuisance/Disorder S.80

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Length Up to 3 months - can be extended to 6 months.

Effect Prohibit access to whole or part of the premises by all persons (except those specified) at all times or during the hours stated and in all circumstances specified in the order.

Triggers requirement for licensing authority to hold a review under s.167 of the Licensing Act 2003. If order not made, the court can order that the closure notice remains in effect for a further period of up to 48 hours if continuation of the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

Offence: Without reasonable excuse remaining or entering premises in contravention of closure order = imprisonment of up to 51 weeks and/or fine.

An order may be extended; discharged or appealed.



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Closure Notice: Unlicensed Premises

S.19 Criminal Justice and Police Act 2001

S.20 Criminal Justice and Police Act 2001

Unlicensed Premises S.19

Power	S.19 Criminal Justice and Police Act 2001.
Who	Police constable or Licensing authority authorised officer.
What	All premises including those with premises licences, TENs and CPCs.
Why	Sales of alcohol otherwise than in accordance with authorisation, this includes breaching licence conditions.
Length	Continues until the notice is cancelled.
Effect	<p>Police or local authority officer may apply to magistrates within 6 months for closure order. Closure order can only be applied for if alleged breach has not been remedied within 7 days of the notice.</p> <p>There is no requirement to close when a closure notice is served. A closure order would have to be obtained from the court. However, the effect of the notice means that the premises are trading otherwise than in accordance with its permission which amounts to an offence under s.136 Licensing Act 2003. This might lead to an application for review or prosecution.</p>

Unlicensed Premises S.20

Power	S.20 Criminal Justice and Police Act 2001.
Who	Police constable or local authority apply to magistrates' court.
What	All premises including those with premises licences, TENs and CPCs.
Why	Unauthorised sale of alcohol has not ceased within 7 days following issue of s.19 closure notice.
Length	Until conditions are satisfied and certificate issued by police or local authority.
Effect	Immediate closure of the premise to the public or require the use of the premises for the consumption on or in the vicinity of the premises to be discontinued with immediate effect.



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Closure Notice: Persistently Selling Alcohol to Children

S.169A Licensing Act

Persistently Selling Alcohol to Children

Power	S.169A Licensing Act 2003.
Who	Police Superintendent or Inspector of weights and measures.
What	Premises licences - suspends alcohol sales.
Why	<p>If evidence of offence section under s.147A (persistently selling alcohol to children), committed an underage on two or more different occasions under same licence within the last 3 months, and</p> <ul style="list-style-type: none">• There is a realistic prospect of a person being convicted of the offence, and• At the time the notice is given the offender remains the licence holder.

Persistently Selling Alcohol to Children

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Length	Commences not less than 14 days after the date of the service of the closure notice. Prohibition between 48 hours and 14 days.
Effect	<ol style="list-style-type: none">1. Prohibits alcohol sales during period stated; and2. Offers the opportunity to discharge all criminal liability under s.147A in respect of the alleged offence by acceptance of the prohibition proposed by the notice.



Summary Review: Suspension

S.160 Licensing Act 2003

Suspension

Power	S.53B Licensing Act 2003.
Who	Police Superintendent (certificate needs signing by Superintendent).
What	Interim steps could include suspension of premises licence.
Why	Premises associated with serious crime or serious disorder, or both.
Length	<p>Potentially until full review hearing when licensing committee are required to consider interim measures such as suspension (within 28 days). Suspension may continue until appeal determined.</p> <p>(Licence holder can request hearing be held within 48 hours of a request in order to challenge interim steps. Licence holder can only make additional representations and request further hearing if there has been material change in circumstances).</p>
Effect	<p>Upon receipt of summary review application the licensing authority will hold a hearing within 48 hours and may suspend premises licence pending a full review hearing.</p> <p>Hearing for full review will be within 28 days after the day of receipt of the review application.</p>



Fire Authority Prohibition Notice

Article 31 Regulatory Reform (Fire Safety Order 2005)

Fire Authority Prohibition Notice

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Power	Article 31 Regulatory Reform (Fire Safety) Order 2005.
Who	Fire officer.
What	Any premises.
Why	If the use of premises involves a risk so serious that the use of the premises ought to be prohibited or restricted. Can only take effect immediately if the risk of serious personal injury is or will be imminent.
Length	Until withdrawn by authority/cancelled or modified by the court.
Effect	Immediate restriction or prohibition of use of premises until matters detailed in notice are remedied. Enforcement authority can withdraw the notice at any time.



Illegal Working Closure Notice and Compliance Order

Immigration Act 2016, Schedule 6 IA 2016

Illegal Working Closure Notice

Power	Schedule 6 IA 2016.
Who	Chief immigration officer.
What	Any premises.
Why	<p>Reasons:</p> <ul style="list-style-type: none">• Employer operating at the premises is employing a person over the age of 16 and, subject to immigration control,<ol style="list-style-type: none">1. Has not obtained leave to enter or remain in the UK or2. Whose leave to enter or remain is invalid, has ceased to have effect, or is subject to restrictions regarding employment.• Employer or connected person

(Continues on overleaf)

Illegal Working Closure Notice

3. Has been convicted of any offence under s.21 of the Immigration, Asylum and Nationality Act 2006 (employment of a person who is disqualified from employment by reason of their immigration status, and employer knows or has reasonable cause to believe the employee is disqualified);
4. Has within three years, been required to pay a penalty under section 15 of the 2006 Act (penalty imposed for employment of an adult whose status is subject to points 1 and 2 above); or
5. Has at any time failed to pay such a penalty.

Length Up to 24 hours. Can be extended up to 48 hours if issued by an officer of at least Immigration Inspector rank. Notices can be cancelled.

Effect Immediately prohibits:

- access to the premises other than a resident; or
- paid or voluntary work being performed on the premises, except where so authorised. Unless cancelled, application for an illegal working compliance order must be made to the court.

Illegal Working Compliance Order

Power	Schedule 6 IA 2016.
Who	Immigration officer.
What	Any premises.
Why	<p>Whenever illegal working closure notice issued application must be made to court (unless the notice has been cancelled). Hearing determined within 48 hours service of closure notice.</p> <p>Order made if court satisfied</p> <ol style="list-style-type: none">1. Conditions satisfied are met; and2. Necessary to prevent an employer operating at the premises from employing an illegal working.
Length	Up to 12 months (however, immigration officer can apply to extend).
Effect	<p>May prohibit or restrict access to premises (other powers available). Triggers requirement for licensing authority to hold a review under s.167 of the Licensing Act 2003.</p>
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Miscellaneous Closure Powers/ Points to Remember

Planning authorities

Planning authorities can issue a variety of enforcement, stop and temporary stop notices for breaches of planning control under the Town & Country Planning Act 1990.

Powers can be used to prohibit a particular use of land in question.

A temporary stop notice is a powerful enforcement tool taking immediate effect and lasting for no more than 28 days used to prohibit unauthorised activities where it is expedient to do so.

A temporary stop notice can be served in cases where planning permission has been granted subject to conditions, which if not complied with, can result in serious harm.

Injunction

Injunction in the High Court or County Court. Clearly, in certain circumstances ex parte injunctions can be obtained which may apply to licensed premises.

This could be to restrict a continued tortious use of the premises, or prevent a breach of contract, or to force performance of a contract.



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