

The Clerk to the Justices,  
The Clerk to the Magistrates' Courts Committee,  
The Chief Officer of Police in England and Wales,  
The Chief Executive of:  
County and County Borough Councils in Wales  
    London Borough Councils  
    Metropolitan District Councils  
    District Councils  
The Town Clerk of the City of London,

16 October 2001

Dear Sir or Madam,

**DCMS LICENSING CIRCULAR NO: 02/2001**

**CRIMINAL JUSTICE AND POLICE ACT 2001**

**Sections 19-28 and 30-32 – Power to Close Premises Which Sell Alcohol Without a Licence, Test Purchasing of Alcohol & Other Alcohol and Disorder Measures**

I am writing to draw your attention to the provisions of sections 19 to 28 and 30-32 of the Criminal Justice and Police Act 2001, which are expected to be brought into force by commencement order on 1 December 2001. **The text of the Act can be read or downloaded from the HMSO web-site ([www.hmso.gov.uk](http://www.hmso.gov.uk)).**

Sections 19-28 – Power to Close Premises Which Sell Alcohol Without a Licence

2. The provisions in sections 19 to 28 of the Act provide new powers for the police and the local authority to obtain court orders to close down premises which are used to sell alcohol without a justices' licence, in contravention of section 160 of the Licensing Act 1964. **Details about these provisions are contained in the attached addendum to this circular.**

Section 30 – Sale of Alcohol to a person under the age of eighteen

3. The provisions in section 30 of the Act places a positive duty on licensees and the staff of licensed premises not to sell alcohol unless they are reasonably sure that the purchaser is not under the age of eighteen. This does so by amending the defences available to persons charged with offences under section 169A of the Licensing Act 1964, involving the sale of alcohol to persons under eighteen, by requiring the defendant to prove that either he took all reasonable steps to establish the customer's age, or that nobody could reasonably have suspected from the customer's appearance that he was under eighteen. The defendant will be deemed to have taken "all reasonable steps" if he asked the customer for evidence of his age. However, if it is proved by the prosecution that the



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evidence of age was such that no reasonable person would have been convinced by it, the defence would fail. The intention is to ensure that licensees and their staff seek proof of age before making sales. For example, proof of age is available through a variety of voluntary proof of age cards, photo-driving licences and passports. Subsection (2) provides that this particular provision does not apply to any sale of alcohol made before the coming into force of this amendment.

### Section 31 - Enforcement of offences relating to under-age drinking

4. The provisions of section 31 allow police officers and local authority weights and measures officers (i.e. trading standards officers) to enforce the law against under-age alcohol sales by lawfully using minors to make test purchases.

5. Subsection (1) adds a new subsection (1A) to section 169C of the Licensing Act 1964. It provides a defence for a person under 18 (a minor) who is sent by a police officer or an inspector of weights and measures, acting in the course of their duty, to purchase or attempt to purchase alcohol from licensed premises, to the offence contained in section 169C(1). That section makes it an offence for any minor to buy or attempt to buy intoxicating liquor in licensed premises. The new subsection enables the officers to seek the assistance of persons under eighteen years to conduct test purchasing operations for the purpose of establishing if licensees and other staff working in licensed premises are abiding by the prohibition on sales to minors contained in section 169A of the Licensing Act 1964.

6. Subsection (2) adds a new subsection (4) to section 169G of the 1964 Act. This provides a defence for the police and inspectors of weights and measures who are engaged in "test purchasing" operations to the offence set out in section 169G. That section makes it an offence knowingly to send a person under 18 to obtain alcohol sold in licensed premises. The defence only applies where a relevant officer is acting in the course of his duty.

7. Subsection (3) adds a new section 169I to the 1964 Act. This new section provides that every local weights and measures authority in England and Wales (which in practice means local councils) has a duty to enforce the offences contained in sections 169A and 169B of that Act (i.e. prohibition on sale of alcohol to minors on licensed premises). This also provides an express power to those authorities for using any person (i.e. minors) to conduct test purchase operations.

### Section 32 - Drunkenness or disorder on licensed premises

8. Section 32 amends section 172 of the Licensing Act 1964 by extending to all bar staff (rather than just the licensee) the responsibility to prevent disorder and drunkenness on licensed premises.

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9. Please note that responsibility for licensing law was transferred from the Home Office to the DCMS with effect from 8 June.

10. Any enquiries about this circular should be addressed to Naim Siddiqui at the above address, or by telephoning 0207 211 6351 (fax 0207 211 6319).

Yours faithfully

Naim Siddiqui

