



Children and Young Persons Act 1933

1933 CHAPTER 12 23 and 24 Geo 5

PART I

PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND PHYSICAL DANGER

[^{F1}Persistent sales of tobacco [^{F2}or nicotine products] to persons under 18

Textual Amendments

- F1** Ss. 12A-12D and preceding cross-heading inserted (1.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. **143(2)**, 153; S.I. 2009/860, art. **2(c)**
- F2** Words in s. 12A cross-heading inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), ss. **93(2)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

12A Restricted premises orders

- (1) This section applies where a person (“the offender”) is convicted of a tobacco [^{F3}or nicotine] offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted premises order to be made in respect of the premises in relation to which that offence was committed (“the relevant premises”).
- (3) A restricted premises order is an order prohibiting the sale on the premises to which it relates of any tobacco [^{F4}, cigarette papers or nicotine product] to any person.
- (4) The prohibition applies to sales whether made—
 - (a) by the offender or any other person, or
 - (b) by means of any machine kept on the premises or any other means.
- (5) The order has effect for the period specified in the order, but that period may not exceed one year.

***Changes to legislation:** Children and Young Persons Act 1933, Cross Heading: Persistent sales of tobacco or nicotine products to persons under 18 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (6) The applicant must, after making reasonable enquiries, give notice of the application to every person appearing to the applicant to be a person affected by it.
- (7) The court may make the order if (and only if) it is satisfied that—
 - (a) on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco [^{F5}or nicotine] offences in relation to the relevant premises, and
 - (b) the applicant has complied with subsection (6).
- (8) Persons affected by the application may make representations to the court as to why the order should not be made.
- (9) If—
 - (a) a person affected by an application for a restricted premises order was not given notice under subsection (6), and
 - (b) consequently the person had no opportunity to make representations to the court as to why the order should not be made,
 the person may by complaint apply to the court for an order varying or discharging it.
- (10) On an application under subsection (9) the court may, after hearing—
 - (a) that person, and
 - (b) the applicant for the restricted premises order,
 make such order varying or discharging the restricted premises order as it considers appropriate.
- (11) For the purposes of this section the persons affected by an application for a restricted premises order in respect of any premises are—
 - (a) the occupier of the premises, and
 - (b) any other person who has an interest in the premises.

Textual Amendments

- F3** Words in s. 12A(1) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(3)(a)**, 139(6); [S.I. 2014/2609](#), art. 2; [S.I. 2015/375](#), art. 3
- F4** Words in s. 12A(3) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(3)(b)**, 139(6); [S.I. 2014/2609](#), art. 2; [S.I. 2015/375](#), art. 3
- F5** Words in s. 12A(7)(a) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(3)(c)**, 139(6); [S.I. 2014/2609](#), art. 2; [S.I. 2015/375](#), art. 3

12B Restricted sale orders

- (1) This section applies where a person (“the offender”) is convicted of a tobacco [^{F6}or nicotine] offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted sale order to be made in respect of the offender.
- (3) A restricted sale order is an order prohibiting the person to whom it relates—

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- (a) from selling any tobacco [^{F7}, cigarette papers or nicotine product] to any person,
 - (b) from having any management functions in respect of any premises in so far as those functions relate to the sale on the premises of tobacco [^{F8}, cigarette papers or nicotine products] to any person,
 - (c) from keeping any ^{F9}... machine on any premises for the purpose of selling tobacco [^{F10} or nicotine products] or permitting any ^{F9}... machine to be kept on any premises by any other person for that purpose, and
 - (d) from having any management functions in respect of any premises in so far as those functions relate to any ^{F11}... machine kept on the premises for the purpose of selling tobacco [^{F12} or nicotine products].
- (4) The order has effect for the period specified in the order, but that period may not exceed one year.
- (5) The court may make the order if (and only if) it is satisfied that, on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco [^{F13} or nicotine] offences.
- (6) In this section any reference to a ^{F14}... machine is a reference to an automatic machine for the sale of tobacco [^{F15} or nicotine products].

Textual Amendments

- F6** Words in s. 12B(1) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(a)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F7** Words in s. 12B(3)(a) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(i)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F8** Words in s. 12B(3)(b) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(ii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F9** Word in s. 12B(3)(c) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F10** Words in s. 12B(3)(c) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iv)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F11** Word in s. 12B(3)(d) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F12** Words in s. 12B(3)(d) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(b)(iv)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F13** Words in s. 12B(5) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(c)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F14** Word in s. 12B(6) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(d)(i)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

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- F15** Words in s. 12B(6) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(4)(d)(ii)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

12C Enforcement

- (1) If—
 - (a) a person sells on any premises any tobacco^{F16}, cigarette papers or nicotine product] in contravention of a restricted premises order, and
 - (b) the person knew, or ought reasonably to have known, that the sale was in contravention of the order,
 the person commits an offence.
- (2) If a person fails to comply with a restricted sale order, the person commits an offence.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) A person guilty of an offence under this section is liable, on summary conviction, to ^{F17}a fine].
- (5) A restricted premises order is a local land charge and in respect of that charge the applicant for the order is the originating authority for the purposes of the Local Land Charges Act 1975.

Textual Amendments

- F16** Words in s. 12C(1)(a) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(5)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F17** Words in s. 12C(4) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 1** (with reg. 5(1))

12D Interpretation

- (1) In sections 12A and 12B a ^{F18}“tobacco or nicotine offence”] means—
 - (a) an offence committed under section 7(1) on any premises (which are accordingly “the premises in relation to which the offence is committed”),^{F19} . . .
 - (b) an offence committed under section 7(2) in respect of an order relating to any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”)]^{F20}, ^{F21} . . .
 - (c) an offence committed under section 3A of the Children and Young Persons (Protection from Tobacco) Act 1991 in respect of any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”).]^{F22}, or
 - (d) an offence committed under section 92 of the Children and Families Act 2014 on any premises (which are accordingly “the premises in relation to which the offence is committed”).]

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(2) In sections 12A to 12C the expressions “tobacco” and “cigarette” have the same meaning as in section 7.

[In sections 12A to 12C “nicotine product” means a nicotine product within the
^{F23}(2A) meaning of section 92 of the Children and Families Act 2014 the sale of which to persons aged under 18 is for the time being prohibited by regulations under subsection (1) of that section.]

(3) In sections 12A and 12B “notice” means notice in writing.]

Textual Amendments

- F18** Words in s. 12D(1) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(6)(a)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F19** Word in s. 12D(1)(a) repealed (12.11.2009 for specified purposes, 1.10.2011 in so far as not already in force for E., 1.2.2012 in so far as not already in force for W.) by [Health Act 2009 \(c. 21\)](#), **ss. 22(2)(a)**, 40(1)(6)(b), **Sch. 6**; S.I. 2010/1068, art. 2(1)(a)(b) (as amended (9.5.2011) by S.I. 2011/1255, art. 2(a)(b)); S.I. 2011/2362, art. 2
- F20** S. 12D(1)(c) and word inserted (12.11.2009 for specified purposes, 1.10.2011 in so far as not already in force for E., 1.2.2012 in so far as not already in force for W.) by [Health Act 2009 \(c. 21\)](#), **ss. 22(2)(b)**, 40(1)(6)(b); S.I. 2010/1068, art. 2(1)(a) (as amended (9.5.2011) by S.I. 2011/1255, art. 2(a)(b)); S.I. 2011/2362, art. 2
- F21** Word in s. 12D(1)(b) omitted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(6)(b)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F22** S. 12D(1)(d) and preceding word inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(6)(b)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F23** S. 12D(2A) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 93(6)(c)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12D(1A)-(1F) inserted by [2017 anaw 2 s. 51](#)
- s. 39(2A) inserted by [2010 c. 26 Sch. 3 para. 3](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by 2013 c. 22, s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 49(12)-(14) inserted by [1999 c. 23 Sch. 2 para. 3\(9\)](#)