

Legal Aid, Sentencing and Punishment of Offenders Act 2012: change to maximum fines for criminal offences under the Licensing Act 2003

This note provides information about recent changes made by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and the effect that this has on fines applicable to offences under the Licensing Act 2003. **These changes affect all offences committed from 12 March 2015.** The measure does not have retrospective effect.

Following changes introduced under section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (the '2012 Act'); and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (the '2015 Regulations'), **courts which could previously award maximum fines of £5,000, or up to £20,000 for certain offences, can now impose unlimited fines.**

The measure was introduced to give magistrates more flexibility when deciding on punishments.

When handing down any fines magistrates will still take into account the financial means of the offender and any aggravating and mitigating factors according to the sentencing guidelines. It is not anticipated that there will be a significant impact of raising the fine limits in the Magistrates' Court.

As a result of the 2012 Act, Magistrates' Courts can now give an unlimited fine for the following offences which previously had a maximum limit of £5,000:

- s146 – Sale of alcohol to children
- s147 – Allowing the sale or supply of alcohol to children
- s 149 (3) - Purchase on behalf of a person under the age of 18
- s 149 (4) - Purchase on behalf of a person under the age of 18 for consumption on premises
- s 150 – Knowingly allowing the consumption of alcohol on relevant premises by children
- s 151 – Delivering alcohol to children
- s 152 – Sending a child to obtain alcohol

Schedule 4 of the 2015 regulations removes the cap on fines for offences which previously had a maximum limit of £20,000 under the 2003 Act. This covers the following offences:

- s 136 (4) - Unauthorised licensable activities.
- s137 (3) - Exposing alcohol for unauthorised sale.
- s 147A (8) - Persistently selling alcohol to children.
- s 156 (2) - Prohibition on sale of alcohol on moving vehicles.
- s 157 (6) - Power to prohibit sale of alcohol on trains.
- s 161 (7) - Closure orders for identified premises.
- s 165 (8) - Consideration of closure order by magistrates' court in.
- s 168 (9) - Provision about decisions under section 167 allowing a premises to be open in contravention to a closure order while the premises licence is awaiting a review.

The 2012 Act, which relates to the removal of the cap of the £5,000 fine, can be found here:

<http://www.legislation.gov.uk/ukpga/2012/10/section/85/enacted>

The 2015 Regulations, which removed the cap of the £5,000 fine can be found here:

<http://www.legislation.gov.uk/uksi/2015/664/contents/made>

What action should licensees and trade associations?

As a result of these changes, any promotional material, such as Challenge 25 posters, which refers to maximum fines should be updated when an opportunity arises. Training and information to members and staff in this respect of these offences will also need to be updated.