



# Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

## PART 9

### PARENTING ORDERS

#### *General requirements*

#### **108**      **Procedural requirements**

- (1) Before making, varying or revoking a parenting order, a court shall—
  - (a) having regard to the age and maturity of the child, so far as practicable—
    - (i) give the child an opportunity to indicate whether the child wishes to express views; and
    - (ii) if the child so wishes, give the child an opportunity to express those views;
  - (b) give the parent the opportunity to be heard;
  - (c) obtain information about the family circumstances of the parent and the likely effect of the order on those circumstances.
- (2) Before making a parenting order, the court shall explain in ordinary language—
  - (a) the effect of the order and of the requirements proposed to be included in it;
  - (b) the consequences of failing to comply with the order;
  - (c) the powers the court has under section 105; and
  - (d) the entitlement of the parent to appeal against the making of the order.
- (3) Before varying or revoking a parenting order, the court shall explain in ordinary language the effect of the variation or, as the case may be, revocation.
- (4) Subsections (2) and (3) apply only where the parent is present in court.
- (5) Failure to comply with subsection (2) or (3) shall not affect the validity of the order made.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Without prejudice to the generality of subsection (1)(a), a child who is at least 12 years of age shall be presumed to be of sufficient age and maturity to form a view.

### **109 General considerations relating to making, varying and revoking order**

- (1) Where a court is determining whether to make, vary or revoke a parenting order its paramount consideration shall be the welfare of the child.
- (2) Where a court is determining whether to make a parenting order it shall have regard to—
- (a) such views as the child has expressed in relation to that matter by virtue of paragraph (a) of subsection (1) of section 108;
  - (b) the information obtained in relation to that matter by virtue of paragraph (c) of that subsection;
  - (c) whether (and if so the extent to which) the parent has, at any time that appears to the court to be relevant, taken relevant voluntary steps; and
  - (d) any other behaviour of the parent that appears to the court to be relevant.
- (3) Where a court is determining whether to vary or revoke a parenting order it shall have regard to—
- (a) such views as the child has expressed in relation to that matter by virtue of paragraph (a) of subsection (1) of section 108;
  - (b) the information obtained in relation to that matter by virtue of paragraph (c) of that subsection; and
  - (c) any behaviour of the parent that appears to the court to be relevant.
- (4) In subsection (2)(c), “relevant voluntary steps” means—
- (a) where the court is determining whether to—
    - (i) make a parenting order under section 13; or
    - (ii) make a parenting order under subsection (1) of section 102 in respect of the condition mentioned in subsection (4) of that section,
 

voluntary steps intended to be in the interests of preventing the child from engaging in antisocial behaviour;
  - (b) where the court is determining whether to make a parenting order under subsection (1) of section 102 in respect of the condition mentioned in subsection (5) of that section, voluntary steps intended to be in the interests of preventing the child from engaging in criminal conduct;
  - (c) where the court is determining whether to make a parenting order under subsection (1) of section 102 in respect of the condition mentioned in subsection (6) of that section, voluntary steps intended to be in the interests of improving the welfare of the child.

### **110 Account to be taken of religion, work and education**

- (1) A court shall ensure that the requirements of a parenting order made by it avoid, so far as practicable—
- (a) any conflict with the religious beliefs of the person specified in the order; and
  - (b) any interference with times at which that person normally works (or carries out voluntary work) or attends an educational establishment.

- (2) The supervising officer appointed by a local authority in respect of a parenting order shall ensure that the directions given by the officer avoid, so far as practicable, the matters mentioned in subsection (1)(a) and (b).