



# Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

## PART 9

### PARENTING ORDERS

#### *Miscellaneous*

#### **111 Restriction on reporting proceedings relating to parenting orders**

- (1) Subject to subsection (2), a person shall be guilty of an offence if the person publishes, anywhere in the world, any matter in respect of relevant proceedings which is intended, or likely to, identify—
- (a) the parent concerned in the proceedings (the “person concerned”);
  - (b) any address as being that of the person concerned;
  - (c) the child concerned in the proceedings;
  - (d) any other child—
    - (i) who is a member of the same household as the person concerned; or
    - (ii) of whom the person concerned is a parent; or
  - (e) any—
    - (i) address; or
    - (ii) school,as being that of a child mentioned in paragraph (c) or (d).
- (2) In relevant proceedings, the court may, in the interests of justice, order that subsection (1) shall not apply to the proceedings to such extent as the court considers appropriate.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) It shall be a defence for a person charged with an offence under subsection (1) to show that the person—
- (a) did not know; and

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- (b) had no reason to suspect, that the published matter was intended, or was likely, to identify the person concerned, child, address or school (as the case may be).
- (5) Section 46 of the Children and Young Persons (Scotland) Act 1937 (c. 37) shall apply in relation to relevant proceedings only in respect of a person concerned in the proceedings as a witness.
- (6) A child in whose interests a parenting order has been made shall be regarded as a person who falls within subsection (1)(a) of section 47 of the Criminal Procedure (Scotland) Act 1995 (c. 46) for the purposes of that section in its application to proceedings in respect of the commission of an offence under section 107(1) in respect of that order.
- (7) In this section—
  - “programme service” has the meaning given by section 201 of the Broadcasting Act 1990 (c. 42);
  - “publishes” includes—
    - (a) causing to be published; and
    - (b) publishing in a programme service,
  - and “published” shall be construed accordingly; and
  - “relevant proceedings” means—
    - (a) proceedings before a sheriff for the purpose of considering whether to make a parenting order under section 13(1);
    - (b) proceedings before a sheriff on an application for the making of a parenting order under section 102(1);
    - (c) proceedings before a sheriff on an application for the variation, or revocation, of a parenting order under section 105(1);
    - (d) proceedings before a sheriff for the purpose of considering whether to make an order under section 105(5);
    - (e) an appeal arising from proceedings such as are mentioned in paragraphs (a) to (d).

## **112 Conduct of proceedings by reporters**

- (1) The Scottish Ministers may by regulations empower a reporter, whether or not the reporter is an advocate or solicitor, to conduct proceedings—
  - (a) before a sheriff—
    - (i) on an application by the Principal Reporter for the making of a parenting order;
    - (ii) on an application for the variation, or revocation, of a parenting order made on the application of the Principal Reporter, under section 105(1); or
    - (iii) for the purpose of considering whether to make an order under section 105(5) in respect of a parenting order made on the application of the Principal Reporter; or
  - (b) before a sheriff principal, on any appeal arising from proceedings such as are mentioned in paragraph (a).

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- (2) Regulations under subsection (1) may prescribe such requirements as the Scottish Ministers think fit as to—
- (a) qualifications;
  - (b) training; or
  - (c) experience,
- necessary for a reporter to be so empowered.
- (3) In this section, “reporter” means—
- (a) the Principal Reporter; and
  - (b) any officer of the Scottish Children’s Reporter Administration to whom there is delegated, under section 131(1) of the Local Government etc. (Scotland) Act 1994 (c. 39), any of the functions which the Principal Reporter has under any enactment.

### **113 Initial investigations by Principal Reporter**

- (1) For the purpose of determining whether to make an application for the making of a parenting order under section 102, the Principal Reporter may make such investigations as the Principal Reporter considers appropriate.
- (2) On a request made by the Principal Reporter for the purpose mentioned in subsection (1), a local authority shall supply to the Principal Reporter a report on—
- (a) the child in relation to whom the Principal Reporter is determining whether to make the application;
  - (b) the parent in relation to whom the Principal Reporter is determining whether to make the application; and
  - (c) such circumstances concerning—
    - (i) the child; and
    - (ii) the parent,as appear to the Principal Reporter to be relevant.

### **114 Power of court to direct Principal Reporter to consider application for parenting order**

Where, in any proceedings (other than proceedings under section 4 or 102), it appears to a court that it might be appropriate for a parenting order to be made in respect of a parent of a child, the court may require the Principal Reporter to consider whether to apply under section 102 for such an order.

### **115 Guidance about parenting orders**

A person (other than a court) shall, in discharging functions by virtue of section 13 or this Part, have regard to any guidance given by the Scottish Ministers about—

- (a) the discharge of those functions; and
- (b) matters arising in connection with the discharge of those functions.

### **116 Power of hearing to direct Principal Reporter to consider application for parenting order**

After section 75 of the Children (Scotland) Act 1995 (c. 36) there shall be inserted—

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## *“Parenting orders*

### **75A Requirement on Principal Reporter to consider application for parenting order**

- (1) Subsection (2) below applies where it appears to—
  - (a) the children’s hearing to whom a child’s case has been referred under section 65(1) of this Act; or
  - (b) a children’s hearing arranged, under section 73(8) of this Act, to review a supervision requirement in respect of a child,  
that it might be appropriate for a parenting order to be made in respect of a parent of the child under section 102 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (the “2004 Act”).
- (2) The hearing may require the Principal Reporter to consider whether to apply, under subsection (3) of that section of the 2004 Act, for such an order.
- (3) A requirement under subsection (2) above shall specify—
  - (a) the parent in respect of whom it might be appropriate for the order to be made; and
  - (b) by reference to subsections (4) to (6) of that section of the 2004 Act, the condition in respect of which the application might be made.
- (4) In subsection (1) above, “parent” and “child” have the same meanings as in section 117 of the 2004 Act.”.

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