



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

VALID FROM 01/07/2005

PART 4

PUBLIC ORDER AND CONDUCT IN PUBLIC PLACES ETC.

Harassment

125 Harassment intended to deter lawful activities

(1) The Protection from Harassment Act 1997 (c. 40) is amended as follows.

(2) In section 1 (prohibition of harassment)—

(a) after subsection (1) insert—

“(1A) A person must not pursue a course of conduct —

- (a) which involves harassment of two or more persons, and
- (b) which he knows or ought to know involves harassment of those persons, and
- (c) by which he intends to persuade any person (whether or not one of those mentioned above)—
 - (i) not to do something that he is entitled or required to do, or
 - (ii) to do something that he is not under any obligation to do.”;

(b) in subsection (2), after “amounts to” insert “ or involves ” and after “amounted to” insert “ or involved ”;

(c) in subsection (3), after “Subsection (1)” insert “ or (1A) ”.

Status: Point in time view as at 07/04/2005. This version of this part contains provisions that are not valid for this point in time.

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(3) In section 2(1) (offence of harassment) for “section 1” substitute “ section 1(1) or (1A) ”.

(4) In section 3(1) (civil remedy) for “section 1” substitute “ section 1(1) ”.

(5) After section 3 insert—

“3A Injunctions to protect persons from harassment within section 1(1A)

(1) This section applies where there is an actual or apprehended breach of section 1(1A) by any person (“the relevant person”).

(2) In such a case—

- (a) any person who is or may be a victim of the course of conduct in question, or
- (b) any person who is or may be a person falling within section 1(1A) (c),

may apply to the High Court or a county court for an injunction restraining the relevant person from pursuing any conduct which amounts to harassment in relation to any person or persons mentioned or described in the injunction.

(3) Section 3(3) to (9) apply in relation to an injunction granted under subsection (2) above as they apply in relation to an injunction granted as mentioned in section 3(3)(a).”

(6) In section 5(2) (restraining orders) after “victim” insert “ or victims ”.

(7) In section 7 (interpretation of sections 1 to 5)—

(a) for subsection (3) substitute—

“(3) A “course of conduct” must involve—

- (a) in the case of conduct in relation to a single person (see section 1(1)), conduct on at least two occasions in relation to that person, or
- (b) in the case of conduct in relation to two or more persons (see section 1(1A)), conduct on at least one occasion in relation to each of those persons.”; and

(b) after subsection (4) add—

“(5) References to a person, in the context of the harassment of a person, are references to a person who is an individual.”

126 Harassment etc. of a person in his home

(1) After section 42 of the Criminal Justice and Police Act 2001 (c. 16) insert—

“42A Offence of harassment etc. of a person in his home

(1) A person commits an offence if—

- (a) that person is present outside or in the vicinity of any premises that are used by any individual (“the resident”) as his dwelling;

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- (b) that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—
 - (i) that he should not do something that he is entitled or required to do; or
 - (ii) that he should do something that he is not under any obligation to do;
 - (c) that person—
 - (i) intends his presence to amount to the harassment of, or to cause alarm or distress to, the resident; or
 - (ii) knows or ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, the resident; and
 - (d) the presence of that person—
 - (i) amounts to the harassment of, or causes alarm or distress to, any person falling within subsection (2); or
 - (ii) is likely to result in the harassment of, or to cause alarm or distress to, any such person.
- (2) A person falls within this subsection if he is—
- (a) the resident,
 - (b) a person in the resident's dwelling, or
 - (c) a person in another dwelling in the vicinity of the resident's dwelling.
- (3) The references in subsection (1)(c) and (d) to a person's presence are references to his presence either alone or together with that of any other persons who are also present.
- (4) For the purposes of this section a person (A) ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, a resident if a reasonable person in possession of the same information would think that A's presence was likely to have that effect.
- (5) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (5) to 51 weeks is to be read as a reference to 6 months.
- (7) In this section “dwelling” has the same meaning as in Part 1 of the Public Order Act 1986.”
- (2) A constable in uniform may arrest without warrant any person he reasonably suspects is committing or has committed an offence under section 42A (as inserted by subsection (1)).
- (3) Subsection (2) ceases to have effect on the commencement of section 110 of this Act.

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127 Harassment etc: police direction to stay away from person's home

(1) Section 42 of the Criminal Justice and Police Act 2001 (c. 16) (police directions stopping harassment of a person in his home) is amended as follows.

(2) For subsection (4) substitute—

“(4) The requirements that may be imposed by a direction under this section include—

- (a) a requirement to leave the vicinity of the premises in question, and
- (b) a requirement to leave that vicinity and not to return to it within such period as the constable may specify, not being longer than 3 months; and (in either case) the requirement to leave the vicinity may be to do so immediately or after a specified period of time.”

(3) In subsection (7), for “contravenes a direction given to him under this section” substitute “ fails to comply with a requirement in a direction given to him under this section (other than a requirement under subsection (4)(b)) ”.

(4) After subsection (7) insert—

“(7A) Any person to whom a constable has given a direction including a requirement under subsection (4)(b) commits an offence if he—

- (a) returns to the vicinity of the premises in question within the period specified in the direction beginning with the date on which the direction is given; and
- (b) does so for the purpose described in subsection (1)(b).

(7B) A person guilty of an offence under subsection (7A) shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.

(7C) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (7B) to 51 weeks is to be read as a reference to 6 months.”

Trespass on designated site

128 Offence of trespassing on designated site

(1) A person commits an offence if he enters, or is on, any designated site in England and Wales or Northern Ireland as a trespasser.

(2) A “designated site” means a site—

- (a) specified or described (in any way) in an order made by the Secretary of State, and
- (b) designated for the purposes of this section by the order.

(3) The Secretary of State may only designate a site for the purposes of this section if—

- (a) it is comprised in Crown land; or
- (b) it is comprised in land belonging to Her Majesty in Her private capacity or to the immediate heir to the Throne in his private capacity; or

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- (c) it appears to the Secretary of State that it is appropriate to designate the site in the interests of national security.
- (4) It is a defence for a person charged with an offence under this section to prove that he did not know, and had no reasonable cause to suspect, that the site in relation to which the offence is alleged to have been committed was a designated site.
- (5) A person guilty of an offence under this section is liable on summary conviction—
- (a) to imprisonment for a term not exceeding 51 weeks, or
 - (b) to a fine not exceeding level 5 on the standard scale, or to both.
- (6) No proceedings for an offence under this section may be instituted against any person—
- (a) in England and Wales, except by or with the consent of the Attorney General, or
 - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.
- (7) For the purposes of this section a person who is on any designated site as a trespasser does not cease to be a trespasser by virtue of being allowed time to leave the site.
- (8) In this section—
- (a) “site” means the whole or part of any building or buildings, or any land, or both;
 - (b) “Crown land” means land in which there is a Crown interest or a Duchy interest.
- (9) For this purpose—
- “Crown interest” means an interest belonging to Her Majesty in right of the Crown, and
 - “Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.
- (10) In the application of this section to Northern Ireland, the reference to 51 weeks in subsection (5)(a) is to be read as a reference to 6 months.

129 Corresponding Scottish offence

- (1) A person commits an offence if he enters, or is on, any designated Scottish site without lawful authority.
- (2) A “designated Scottish site” means a site in Scotland—
- (a) specified or described (in any way) in an order made by the Secretary of State, and
 - (b) designated for the purposes of this section by the order.
- (3) The Secretary of State may only designate a site for the purposes of this section if it appears to him that it is appropriate to designate the site in the interests of national security.
- (4) It is a defence for a person charged with an offence under this section to prove that he did not know, and had no reasonable cause to suspect, that the site in relation to which the offence is alleged to have been committed was a designated Scottish site.

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- (5) A person guilty of an offence under this section is liable on summary conviction—
 - (a) to imprisonment for a term not exceeding 12 months, or
 - (b) to a fine not exceeding level 5 on the standard scale, or to both.
- (6) For the purposes of subsection (1), a person who is on any designated Scottish site without lawful authority does not acquire lawful authority by virtue of being allowed time to leave the site.
- (7) In this section “site” means the whole or part of any building or buildings, or any land, or both.

130 Designated sites: powers of arrest

- (1) A constable in uniform may, in England or Wales, arrest without warrant any person he reasonably suspects is committing or has committed an offence under section 128.
 This subsection ceases to have effect on the commencement of section 110.
- (2) An offence under section 128 is to be treated as an arrestable offence for the purposes of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (3) A constable in uniform may, in Scotland, arrest without warrant any person he reasonably suspects is committing or has committed an offence under section 129.

131 Designated sites: access

- (1) The following provisions do not apply to land in respect of which a designation order is in force—
 - (a) section 2(1) of the Countryside and Rights of Way Act 2000 (c. 37) (rights of public in relation to access land),
 - (b) Part III of the Countryside (Northern Ireland) Order 1983 (S.I. 1983/1895 (N.I. 18)) (access to open country), and
 - (c) section 1 of the Land Reform (Scotland) Act 2003 (asp 2) (access rights).
- (2) The Secretary of State may take such steps as he considers appropriate to inform the public of the effect of any designation order, including, in particular, displaying notices on or near the site to which the order relates.
- (3) But the Secretary of State may only—
 - (a) display any such notice, or
 - (b) take any other steps under subsection (2), in or on any building or land, if the appropriate person consents.
- (4) The “appropriate person” is—
 - (a) a person appearing to the Secretary of State to have a sufficient interest in the building or land to consent to the notice being displayed or the steps being taken, or
 - (b) a person acting on behalf of such a person.
- (5) In this section a “designation order” means—

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- (a) in relation to England and Wales or Northern Ireland, an order under section 128, or
- (b) in relation to Scotland, an order under section 129.

Demonstrations in vicinity of Parliament

132 Demonstrating without authorisation in designated area

- (1) Any person who—
 - (a) organises a demonstration in a public place in the designated area, or
 - (b) takes part in a demonstration in a public place in the designated area, or
 - (c) carries on a demonstration by himself in a public place in the designated area,is guilty of an offence if, when the demonstration starts, authorisation for the demonstration has not been given under section 134(2).
- (2) It is a defence for a person accused of an offence under subsection (1) to show that he reasonably believed that authorisation had been given.
- (3) Subsection (1) does not apply if the demonstration is—
 - (a) a public procession of which notice is required to be given under subsection (1) of section 11 of the Public Order Act 1986 (c. 64), or of which (by virtue of subsection (2) of that section) notice is not required to be given, or
 - (b) a public procession for the purposes of section 12 or 13 of that Act.
- (4) Subsection (1) also does not apply in relation to any conduct which is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).
- (5) If subsection (1) does not apply by virtue of subsection (3) or (4), nothing in sections 133 to 136 applies either.
- (6) Section 14 of the Public Order Act 1986 (imposition of conditions on public assemblies) does not apply in relation to a public assembly which is also a demonstration in a public place in the designated area.
- (7) In this section and in sections 133 to 136—
 - (a) “the designated area” means the area specified in an order under section 138,
 - (b) “public place” means any highway or any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission,
 - (c) references to any person organising a demonstration include a person participating in its organisation,
 - (d) references to any person organising a demonstration do not include a person carrying on a demonstration by himself,
 - (e) references to any person or persons taking part in a demonstration (except in subsection (1) of this section) include a person carrying on a demonstration by himself.

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133 Notice of demonstrations in designated area

- (1) A person seeking authorisation for a demonstration in the designated area must give written notice to that effect to the Commissioner of Police of the Metropolis (referred to in this section and section 134 as “the Commissioner”).
- (2) The notice must be given—
 - (a) if reasonably practicable, not less than 6 clear days before the day on which the demonstration is to start, or
 - (b) if that is not reasonably practicable, then as soon as it is, and in any event not less than 24 hours before the time the demonstration is to start.
- (3) The notice must be given—
 - (a) if the demonstration is to be carried on by more than one person, by any of the persons organising it,
 - (b) if it is to be carried on by a person by himself, by that person.
- (4) The notice must state—
 - (a) the date and time when the demonstration is to start,
 - (b) the place where it is to be carried on,
 - (c) how long it is to last,
 - (d) whether it is to be carried on by a person by himself or not,
 - (e) the name and address of the person giving the notice.
- (5) A notice under this section must be given by—
 - (a) delivering it to a police station in the metropolitan police district, or
 - (b) sending it by post by recorded delivery to such a police station.
- (6) Section 7 of the Interpretation Act 1978 (c. 30) (under which service of a document is deemed to have been effected at the time it would be delivered in the ordinary course of post) does not apply to a notice under this section.

134 Authorisation of demonstrations in designated area

- (1) This section applies if a notice complying with the requirements of section 133 is received at a police station in the metropolitan police district by the time specified in section 133(2).
- (2) The Commissioner must give authorisation for the demonstration to which the notice relates.
- (3) In giving authorisation, the Commissioner may impose on the persons organising or taking part in the demonstration such conditions specified in the authorisation and relating to the demonstration as in the Commissioner's reasonable opinion are necessary for the purpose of preventing any of the following—
 - (a) hindrance to any person wishing to enter or leave the Palace of Westminster,
 - (b) hindrance to the proper operation of Parliament,
 - (c) serious public disorder,
 - (d) serious damage to property,
 - (e) disruption to the life of the community,
 - (f) a security risk in any part of the designated area,

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- (g) risk to the safety of members of the public (including any taking part in the demonstration).
- (4) The conditions may, in particular, impose requirements as to—
- (a) the place where the demonstration may, or may not, be carried on,
 - (b) the times at which it may be carried on,
 - (c) the period during which it may be carried on,
 - (d) the number of persons who may take part in it,
 - (e) the number and size of banners or placards used,
 - (f) maximum permissible noise levels.
- (5) The authorisation must specify the particulars of the demonstration given in the notice under section 133 pursuant to subsection (4) of that section, with any modifications made necessary by any condition imposed under subsection (3) of this section.
- (6) The Commissioner must give notice in writing of—
- (a) the authorisation,
 - (b) any conditions imposed under subsection (3), and
 - (c) the particulars mentioned in subsection (5),
- to the person who gave the notice under section 133.
- (7) Each person who takes part in or organises a demonstration in the designated area is guilty of an offence if—
- (a) he knowingly fails to comply with a condition imposed under subsection (3) which is applicable to him (except where it is varied under section 135), or
 - (b) he knows or should have known that the demonstration is carried on otherwise than in accordance with the particulars set out in the authorisation by virtue of subsection (5).
- (8) It is a defence for a person accused of an offence under subsection (7) to show—
- (a) (in a paragraph (a) case) that the failure to comply, or
 - (b) (in a paragraph (b) case) that the divergence from the particulars,
- arose from circumstances beyond his control, or from something done with the agreement, or by the direction, of a police officer.
- (9) The notice required by subsection (6) may be sent by post to the person who gave the notice under section 133 at the address stated in that notice pursuant to subsection (4) (e) of that section.
- (10) If the person to whom the notice required by subsection (6) is to be given has agreed, it may be sent to him by email or by facsimile transmission at the address or number notified by him for the purpose to the Commissioner (and a notice so sent is “in writing” for the purposes of that subsection).

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VALID FROM 01/08/2005

135 Supplementary directions

- (1) This section applies if the senior police officer reasonably believes that it is necessary, in order to prevent any of the things mentioned in paragraphs (a) to (g) of subsection (3) of section 134—
 - (a) to impose additional conditions on those taking part in or organising a demonstration authorised under that section, or
 - (b) to vary any condition imposed under that subsection or under paragraph (a) (including such a condition as varied under subsection (2)).
- (2) The senior police officer may give directions to those taking part in or organising the demonstration imposing such additional conditions or varying any such condition already imposed.
- (3) A person taking part in or organising the demonstration who knowingly fails to comply with a condition which is applicable to him and which is imposed or varied by a direction under this section is guilty of an offence.
- (4) It is a defence for him to show that the failure to comply arose from circumstances beyond his control.
- (5) In this section, “the senior police officer” means the most senior in rank of the police officers present at the scene (or any one of them if there are more than one of the same rank).

VALID FROM 01/08/2005

136 Offences under sections 132 to 135: penalties

- (1) A person guilty of an offence under section 132(1)(a) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both.
- (2) A person guilty of an offence under section 132(1)(b) or (c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person guilty of an offence under section 134(7) or 135(3) is liable on summary conviction—
 - (a) if the offence was in relation to his capacity as organiser of the demonstration, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both,
 - (b) otherwise, to a fine not exceeding level 3 on the standard scale.
- (4) A person who is guilty of the offence of inciting another to—
 - (a) do anything which would constitute an offence mentioned in subsection (1), (2) or (3), or
 - (b) fail to do anything where the failure would constitute such an offence,

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is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both, notwithstanding section 45(3) of the Magistrates' Courts Act 1980 (c. 43).

- (5) A constable in uniform may arrest without warrant anyone he reasonably believes is committing an offence mentioned in subsections (1) to (4).

This subsection ceases to have effect on the coming into force of section 110.

VALID FROM 01/08/2005

137 Loudspeakers in designated area

- (1) Subject to subsection (2), a loudspeaker shall not be operated, at any time or for any purpose, in a street in the designated area.
- (2) Subsection (1) does not apply to the operation of a loudspeaker—
- (a) in case of emergency,
 - (b) for police, fire and rescue authority or ambulance purposes,
 - (c) by the Environment Agency, a water undertaker or a sewerage undertaker in the exercise of any of its functions,
 - (d) by a local authority within its area,
 - (e) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel,
 - (f) if the loudspeaker forms part of a public telephone system,
 - (g) if the loudspeaker is in or fixed to a vehicle and subsection (3) applies,
 - (h) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public, but only if the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed,
 - (i) in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).
- (3) This subsection applies if the loudspeaker referred to in subsection (2)(g)—
- (a) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle (or, if the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic), and
 - (b) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.
- (4) A person who operates or permits the operation of a loudspeaker in contravention of subsection (1) is guilty of an offence and is liable on summary conviction to—
- (a) a fine not exceeding level 5 on the standard scale, together with
 - (b) a further fine not exceeding £50 for each day on which the offence continues after the conviction.
- (5) In this section—
- “local authority” means a London borough council (and, in subsection (2)(d), the Greater London Authority),

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“street” means a street within the meaning of section 48(1) of the New Roads and Street Works Act 1991 (c. 22) which is for the time being open to the public,

“the designated area” means the area specified in an order under section 138,

“vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59).

- (6) In Schedule 2 to the Noise and Statutory Nuisance Act 1993 (consent to the operation of loudspeakers in streets or roads), in paragraph 1(1), at the end add “or of section 137(1) of the Serious Organised Crime and Police Act 2005”.

138 The designated area

- (1) The Secretary of State may by order specify an area as the designated area for the purposes of sections 132 to 137.
- (2) The area may be specified by description, by reference to a map or in any other way.
- (3) No point in the area so specified may be more than one kilometre in a straight line from the point nearest to it in Parliament Square.

Anti-social behaviour

139 Orders about anti-social behaviour etc.

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as provided in subsections (2) to (9).
- (2) In section 1 (anti-social behaviour orders), after subsection (10B) insert—

“(10C) In proceedings for an offence under subsection (10), a copy of the original anti-social behaviour order, certified as such by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.”
- (3) The existing text of section 1A (power of Secretary of State to add to relevant authorities) is to be subsection (1) of that section, and after that subsection add—

“(2) The Secretary of State may by order—

 - (a) provide that a person or body of any other description specified in the order is, in such cases and circumstances as may be prescribed by the order, to be a relevant authority for the purposes of such of sections 1 above and 1B, 1CA and 1E below as are specified in the order; and
 - (b) prescribe the description of persons who are to be “relevant persons” in relation to that person or body.”
- (4) In section 1C (orders about anti-social behaviour on conviction in criminal proceedings)—
 - (a) after subsection (4) insert—

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- “(4A) The court may adjourn any proceedings in relation to an order under this section even after sentencing the offender.
- (4B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.
- (4C) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.”,
- (b) in subsection (9), after “(10)” insert “, (10C) ”.
- (5) Section 1D (interim orders) is amended as provided in subsections (6) to (9).
- (6) For subsections (1) and (2) substitute—
- “(1) This section applies where—
- (a) an application is made for an anti-social behaviour order;
- (b) an application is made for an order under section 1B;
- (c) a request is made by the prosecution for an order under section 1C; or
- (d) the court is minded to make an order under section 1C of its own motion.
- (2) If, before determining the application or request, or before deciding whether to make an order under section 1C of its own motion, the court considers that it is just to make an order under this section pending the determination of that application or request or before making that decision, it may make such an order.”
- (7) In subsection (4)(c), for “main application” substitute “ application or request mentioned in subsection (1), or on the court's making a decision as to whether or not to make an order under section 1C of its own motion. ”
- (8) In subsection (5), at the beginning insert “ In relation to cases to which this section applies by virtue of paragraph (a) or (b) of subsection (1), ”.
- (9) After subsection (5) add—
- “(6) In relation to cases to which this section applies by virtue of paragraph (c) or (d) of subsection (1)—
- (a) subsections (6) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders under this section as they apply for the purposes of the making and effect of anti-social behaviour orders; and
- (b) section 1CA applies for the purposes of the variation or discharge of an order under this section as it applies for the purposes of the variation or discharge of an order under section 1C.”
- (10) In section 14A of the Football Spectators Act 1989 (c. 37) (banning orders on conviction of an offence), after subsection (4) insert—
- “(4A) The court may adjourn any proceedings in relation to an order under this section even after sentencing the offender.

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(4B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.

(4C) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.”

140 Variation and discharge of anti-social behaviour orders made on conviction

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 1 (anti-social behaviour orders), in subsection (1A), after “1B” insert “, 1CA”.
- (3) In section 1C (orders on conviction), omit subsections (6) to (8).
- (4) After section 1C insert—

“1CA Variation and discharge of orders under section 1C

- (1) An offender subject to an order under section 1C may apply to the court which made it for it to be varied or discharged.
- (2) If he does so, he must also send written notice of his application to the Director of Public Prosecutions.
- (3) The Director of Public Prosecutions may apply to the court which made an order under section 1C for it to be varied or discharged.
- (4) A relevant authority may also apply to the court which made an order under section 1C for it to be varied or discharged if it appears to it that—
 - (a) in the case of variation, the protection of relevant persons from anti-social acts by the person subject to the order would be more appropriately effected by a variation of the order;
 - (b) in the case of discharge, that it is no longer necessary to protect relevant persons from anti-social acts by him by means of such an order.
- (5) If the Director of Public Prosecutions or a relevant authority applies for the variation or discharge of an order under section 1C, he or it must also send written notice of the application to the person subject to the order.
- (6) In the case of an order under section 1C made by a magistrates' court, the references in subsections (1), (3) and (4) to the court by which the order was made include a reference to any magistrates' court acting in the same local justice area as that court.
- (7) No order under section 1C shall be discharged on an application under this section before the end of the period of two years beginning with the day on which the order takes effect, unless—
 - (a) in the case of an application under subsection (1), the Director of Public Prosecutions consents, or
 - (b) in the case of an application under subsection (3) or (4), the offender consents.”

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(5) In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2), after paragraph (fa) insert—

- “(fb) where it appears to him appropriate to do so, to have the conduct of applications under section 1CA(3) of the Crime and Disorder Act 1998 for the variation or discharge of orders made under section 1C of that Act;
- (fc) where it appears to him appropriate to do so, to appear on any application under section 1CA of that Act made by a person subject to an order under section 1C of that Act for the variation or discharge of the order.”

141 Anti-social behaviour orders etc: reporting restrictions

(1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.

(2) In section 1 (anti-social behaviour orders)—

(a) after subsection (10C) (inserted by section 139(2) of this Act), insert—

“(10D) In relation to proceedings brought against a child or a young person for an offence under subsection (10)—

- (a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the child or young person against whom the proceedings are brought;
- (b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (power to restrict reporting of criminal proceedings involving persons under 18) does so apply.

(10E) If, in relation to any such proceedings, the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it shall give its reasons for doing so.”

(b) in subsection (12), before the definition of “the commencement date” insert—

““child” and “young person” shall have the same meaning as in the Children and Young Persons Act 1933;”.

(3) In section 1C (orders about anti-social behaviour on conviction in criminal proceedings), in subsection (9), after “(10C)” (inserted by section 139(4)(b) of this Act) insert “, (10D), (10E) ”.

(4) Subject to paragraph 2(2) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999 (c. 23), until section 45 of that Act comes into force, the references to it in section 1(10D)(b) and (10E) of the Crime and Disorder Act 1998 (c. 37) (inserted by subsection (2) of this section) shall be read as references to section 39 of the Children and Young Persons Act 1933 (c. 12).

142 Contracting out of local authority functions relating to anti-social behaviour orders

(1) In the Crime and Disorder Act 1998 after section 1E (consultation requirements relating to individual support orders) insert—

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“1F Contracting out of local authority functions

- (1) The Secretary of State may by order provide that a relevant authority which is a local authority may make arrangements with a person specified (or of a description specified) in the order for the exercise of any function it has under sections 1 to 1E above—
 - (a) by such a person, or
 - (b) by an employee of his.
- (2) The order may provide—
 - (a) that the power of the relevant authority to make the arrangements is subject to such conditions as are specified in the order;
 - (b) that the arrangements must be subject to such conditions as are so specified;
 - (c) that the arrangements may be made subject to such other conditions as the relevant authority thinks appropriate.
- (3) The order may provide that the arrangements may authorise the exercise of the function—
 - (a) either wholly or to such extent as may be specified in the order or arrangements;
 - (b) either generally or in such cases or areas as may be so specified.
- (4) An order may provide that the person with whom arrangements are made in pursuance of the order is to be treated as if he were a public body for the purposes of section 1 of the Local Authorities (Goods and Services) Act 1970.
- (5) The Secretary of State must not make an order under this section unless he first consults—
 - (a) the National Assembly for Wales, if the order relates to a relevant authority in Wales;
 - (b) such representatives of local government as he thinks appropriate;
 - (c) such other persons as he thinks appropriate.
- (6) Any arrangements made by a relevant authority in pursuance of an order under this section do not prevent the relevant authority from exercising the function to which the arrangements relate.
- (7) The following provisions of the Deregulation and Contracting Out Act 1994 apply for the purposes of arrangements made in pursuance of an order under this section as they apply for the purposes of an authorisation to exercise functions by virtue of an order under section 70(2) of that Act—
 - (a) section 72 (effect of contracting out);
 - (b) section 73 (termination of contracting out);
 - (c) section 75 and Schedule 15 (provision relating to disclosure of information);
 - (d) paragraph 3 of Schedule 16 (authorised persons to be treated as officers of local authority).
- (8) For the purposes of subsection (7), any reference in the provisions specified in paragraphs (a) to (d) to a person authorised to exercise a function must be

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construed as a reference to a person with whom an arrangement is made for the exercise of the function in pursuance of an order under this section.

- (9) Relevant authorities and any person with whom arrangements are made in pursuance of an order under this section must have regard to any guidance issued by the Secretary of State for the purposes of this section.
- (10) An order under this section may make different provision for different purposes.
- (11) An order under this section may contain—
- (a) such consequential, supplemental or incidental provisions (including provision modifying any enactment), or
 - (b) such transitional provisions or savings,
- as the person making the order thinks appropriate.
- (12) Each of the following is a local authority—
- (a) a local authority within the meaning of section 270 of the Local Government Act 1972;
 - (b) the Common Council of the City of London;
 - (c) the Council of the Isles of Scilly.”
- (2) In subsection (1) of section 1A of that Act (definition of relevant authority) (as renumbered by section 139(3) of this Act) for “and 1E” substitute “ , 1E and 1F ”.
- (3) In section 114(3) of that Act (orders and regulations) after “section” insert “ 1F, ”.

143 Special measures for witnesses in proceedings for anti-social behaviour orders etc.

After section 1H of the Crime and Disorder Act 1998 (c. 37) (as amended by the Drugs Act 2005 (c. 17)) insert—

“1I Special measures for witnesses

- (1) This section applies to the following proceedings—
- (a) any proceedings in a magistrates' court on an application for an anti-social behaviour order,
 - (b) any proceedings in a magistrates' court or the Crown Court so far as relating to the issue whether to make an order under section 1C, and
 - (c) any proceedings in a magistrates' court so far as relating to the issue whether to make an order under section 1D.
- (2) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in the case of vulnerable and intimidated witnesses) shall apply in relation to any such proceedings as it applies in relation to criminal proceedings, but with—
- (a) the omission of the provisions of that Act mentioned in subsection (3) (which make provision appropriate only in the context of criminal proceedings), and
 - (b) any other necessary modifications.
- (3) The provisions are—

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- (a) section 17(4),
 - (b) section 21(1)(b) and (5) to (7),
 - (c) section 22(1)(b) and (2)(b) and (c),
 - (d) section 27(10), and
 - (e) section 32.
- (4) Any rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act shall apply in relation to proceedings to which this section applies—
- (a) to such extent as may be provided by rules of court, and
 - (b) subject to such modifications as may be so provided.
- (5) Section 47 of that Act (restrictions on reporting special measures directions etc.) applies, with any necessary modifications, in relation to—
- (a) a direction under section 19 of the Act as applied by this section, or
 - (b) a direction discharging or varying such a direction,
- and sections 49 and 51 of that Act (offences) apply accordingly.”

VALID FROM 20/07/2006

Parental compensation orders

144 Parental compensation orders

Schedule 10 is to have effect.

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