



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART I

#### PREVENTION OF CRIME AND DISORDER

#### CHAPTER I

##### ENGLAND AND WALES

##### *Crime and disorder: general*

### 1 Anti-social behaviour orders.

(1) An application for an order under this section may be made by a relevant authority if it appears to the authority that the following conditions are fulfilled with respect to any person aged 10 or over, namely—

(a) that the person has acted, since the commencement date, in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and

[<sup>F1</sup>(b) that such an order is necessary to protect relevant persons from further anti-social acts by him.

<sup>F2</sup>.....]

[<sup>F3</sup>(1A) In this section and sections 1B and 1E “relevant authority” means—

(a) the council for a local government area;  
[ in relation to England, a county council;]

<sup>F4</sup>(aa)

(b) the chief officer of police of any police force maintained for a police area;

(c) the chief constable of the British Transport Police Force;<sup>F5</sup> . . .

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- (d) any person registered under section 1 of the Housing Act 1996 (c. 52) as a social landlord who provides or manages any houses or hostel in a local government area.<sup>[F6]</sup> or
- (e) a housing action trust established by order in pursuance of section 62 of the Housing Act 1988.]]

<sup>[F7]</sup>(1B) In this section “relevant persons” means—

- (a) in relation to a relevant authority falling within paragraph (a) of subsection (1A), persons within the local government area of that council;
- <sup>[F8]</sup>(aa) [ in relation to a relevant authority falling within paragraph (aa) of subsection (1A), persons within the county of the county council;]
- (b) in relation to a relevant authority falling within paragraph (b) of that subsection, persons within the police area;
- (c) in relation to a relevant authority falling within paragraph (c) of that subsection—
  - (i) persons who are on or likely to be on policed premises in a local government area; or
  - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises;
- (d) in relation to a relevant authority falling within paragraph (d) <sup>[F9]</sup>or (e)] of that subsection—
  - (i) persons who are residing in or who are otherwise on or likely to be on premises provided or managed by that authority; or
  - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises.]

(2) <sup>[F10]</sup>.....

(3) Such an application shall be made by complaint to the magistrates’ court whose commission area includes <sup>[F11]</sup>the local government area or police area concerned]

(4) If, on such an application, it is proved that the conditions mentioned in subsection (1) above are fulfilled, the magistrates’ court may make an order under this section (an “anti-social behaviour order”) which prohibits the defendant from doing anything described in the order.

(5) For the purpose of determining whether the condition mentioned in subsection (1)(a) above is fulfilled, the court shall disregard any act of the defendant which he shows was reasonable in the circumstances.

<sup>[F12]</sup>(6) The prohibitions that may be imposed by an anti-social behaviour order are those necessary for the purpose of protecting persons (whether relevant persons or persons elsewhere in England and Wales) from further anti-social acts by the defendant.]

(7) An anti-social behaviour order shall have effect for a period (not less than two years) specified in the order or until further order.

(8) Subject to subsection (9) below, the applicant or the defendant may apply by complaint to the court which made an anti-social behaviour order for it to be varied or discharged by a further order.

(9) Except with the consent of both parties, no anti-social behaviour order shall be discharged before the end of the period of two years beginning with the date of service of the order.

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- (10) If without reasonable excuse a person does anything which he is prohibited from doing by an anti-social behaviour order, he <sup>[F13]</sup>is guilty of an offence and] liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- <sup>[F14]</sup>(10A) The following may bring proceedings for an offence under subsection (10)—
- (a) a council which is a relevant authority;
  - (b) the council for the local government area in which a person in respect of whom an anti-social behaviour order has been made resides or appears to reside.
- (10B) If proceedings for an offence under subsection (10) are brought in a youth court section 47(2) of the Children and Young Persons Act 1933 (c. 12) has effect as if the persons entitled to be present at a sitting for the purposes of those proceedings include one person authorised to be present by a relevant authority.]
- (11) Where a person is convicted of an offence under subsection (10) above, it shall not be open to the court by or before which he is so convicted to make an order under subsection (1)(b) (conditional discharge) of <sup>[F15]</sup>section 12 of the Powers of Criminal Courts (Sentencing) Act 2000] in respect of the offence.
- (12) In this section—
- <sup>[F16]</sup>“British Transport Police Force” means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);]
  - “the commencement date” means the date of the commencement of this section;
  - “local government area” means—
    - (a) in relation to England, a district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
    - (b) in relation to Wales, a county or county borough.
  - <sup>[F17]</sup>“policed premises” has the meaning given by section 53(3) of the British Transport Commission Act 1949.]

#### Textual Amendments

- F1** S. 1(1)(b) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 61(2) (with s. 61(10)); S.I. 2002/2750, art. 2(a)(vii)
- F2** Words in s. 1(1) repealed (2.12.2002) by Police Reform Act 2002 (c. 30), ss. 61(3), 107(2), Sch. 8 (with s. 61(10)); S.I. 2002/2750, art. 2(a)(vii)(b)(iii)
- F3** S. 1(1A) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 61(4) (with s. 61(10)); S.I. 2002/2750, art. 2(a)(vii)
- F4** S. 1(1A)(aa) inserted (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 85(2)(a), 93(1); S.I. 2003/3300, art. 2(f)(i)
- F5** Word following s. 1(1A)(c) repealed (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 85(2)(b), 92, 93(1), Sch. 3; S.I. 2003/3300, art. 2(f)(i)(g)(ii)(e)
- F6** S. 1(1A)(e) and preceding word inserted (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 85(2)(c), 93(1); S.I. 2003/3300, art. 2(f)(i)
- F7** S. 1(1B) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 61(4) (with s. 61(10)); S.I. 2002/2750, art. 2(a)(vii)

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- F8** S. 1(1B)(aa) inserted (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 85(3)(a)**, 93(1); S.I. 2003/3300, **art. 2(f)(i)**
- F9** Words in s. 1(1B)(d) inserted (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 85(3)(b)**, 93(1); S.I. 2003/3300, **art. 2(f)(i)**
- F10** S. 1(2) repealed (2.12.2002) by Police Reform Act 2002 (c. 30), **ss. 61(5)**, 107(2), **Sch. 8** (with s. 61(10)); S.I. 2002/2750, **art. 2(a)(vii)(b)(iii)(c)**
- F11** Words in s. 1(3) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 61(6)** (with s. 61(10)); S.I. 2002/2750, **art. 2(a)(vii)**
- F12** S. 1(6) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 61(7)** (with s. 61(10)); S.I. 2002/2750, **art. 2(a)(vii)**
- F13** Words in s. 1(10) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 61(8)** (with s. 61(10)); S.I. 2002/2750 {art. 2(a)(vii)}
- F14** S. 1(10A)(10B) inserted (20.1.2004 in relation to s. 1(10B) and 31.3.2004 otherwise) by Anti-social Behaviour Act 2003 (c. 38), **ss. 85(4)**, 93(1); S.I. 2003/3300, **art. 2(f)(i)**; S.I. 2004/690, **art. 2(b)(i)**
- F15** Words in s. 1(11) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 192**
- F16** S. 1(12): definition of "British Transport Police Force" inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 61(9)** (with s. 61(10)); S.I. 2002/2750, **art. 2(a)(vii)**; and that definition ceased to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003 (c. 20), ss. 73, 120(1), **Sch. 5 para. 4(1)(b)(2)(j)**; S.I. 2004/1572, **art. 3(jjj)**
- F17** S. 1(12): definition of "policed premises" inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 61(9)** (with s. 61(10)); S.I. 2002/2750, **art. 2(a)(vii)**

**Modifications etc. (not altering text)**

- C1** S. 1(11) modified (30.9.1998) by 1991 c. 53, **Sch. 2 para. 8A(10)** (as inserted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 46(11)**); S.I. 1998/2327, **art. 2(1)(w)** (with savings in arts. 5-8))

**[<sup>F18</sup>1A Power of Secretary of State to add to relevant authorities**

The Secretary of State may by order provide that the chief officer of a body of constables maintained otherwise than by a police authority is, in such cases and circumstances as may be prescribed by the order, to be a relevant authority for the purposes of section 1 above.]

**Textual Amendments**

- F18** S. 1A inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 62(1)**; S.I. 2002/2750, **art. 2(a)(vii)**

VALID FROM 01/05/2004

**[<sup>F19</sup>1AA Individual support orders**

- (1) Where a court makes an anti-social behaviour order in respect of a defendant who is a child or young person when that order is made, it must consider whether the individual support conditions are fulfilled.
- (2) If it is satisfied that those conditions are fulfilled, the court must make an order under this section ("an individual support order") which—
  - (a) requires the defendant to comply, for a period not exceeding six months, with such requirements as are specified in the order; and

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- (b) requires the defendant to comply with any directions given by the responsible officer with a view to the implementation of the requirements under paragraph (a) above.
- (3) The individual support conditions are—
  - (a) that an individual support order would be desirable in the interests of preventing any repetition of the kind of behaviour which led to the making of the anti-social behaviour order;
  - (b) that the defendant is not already subject to an individual support order; and
  - (c) that the court has been notified by the Secretary of State that arrangements for implementing individual support orders are available in the area in which it appears to it that the defendant resides or will reside and the notice has not been withdrawn.
- (4) If the court is not satisfied that the individual support conditions are fulfilled, it shall state in open court that it is not so satisfied and why it is not.
- (5) The requirements that may be specified under subsection (2)(a) above are those that the court considers desirable in the interests of preventing any repetition of the kind of behaviour which led to the making of the anti-social behaviour order.
- (6) Requirements included in an individual support order, or directions given under such an order by a responsible officer, may require the defendant to do all or any of the following things—
  - (a) to participate in activities specified in the requirements or directions at a time or times so specified;
  - (b) to present himself to a person or persons so specified at a place or places and at a time or times so specified;
  - (c) to comply with any arrangements for his education so specified.
- (7) But requirements included in, or directions given under, such an order may not require the defendant to attend (whether at the same place or at different places) on more than two days in any week; and “week” here means a period of seven days beginning with a Sunday.
- (8) Requirements included in, and directions given under, an individual support order shall, as far as practicable, be such as to avoid—
  - (a) any conflict with the defendant’s religious beliefs; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (9) Before making an individual support order, the court shall obtain from a social worker of a local authority social services department or a member of a youth offending team any information which it considers necessary in order—
  - (a) to determine whether the individual support conditions are fulfilled, or
  - (b) to determine what requirements should be imposed by an individual support order if made,and shall consider that information.
- (10) In this section and section 1AB below “responsible officer”, in relation to an individual support order, means one of the following who is specified in the order, namely—
  - (a) a social worker of a local authority social services department;

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- (b) a person nominated by [<sup>F20</sup>a person appointed as director of children's services under section 18 of the Children Act 2004 or by] a person appointed as chief education officer under section 532 of the Education Act 1996 (c. 56);
- (c) a member of a youth offending team.]

### Textual Amendments

- F19** Ss. 1AA, 1AB inserted (1.5.2004) by Criminal Justice Act 2003 (c. 44), ss. 322, 336(3); S.I. 2004/829 {art. 3(2)(b)}
- F20** Words s. 1AA(10)(b) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by virtue of Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), Sch. 2 para. 8; S.I. 2007/1792, art. 2

VALID FROM 01/05/2004

### [<sup>F19</sup>1AB Individual support orders: explanation, breach, amendment etc

- (1) Before making an individual support order, the court shall explain to the defendant in ordinary language—
  - (a) the effect of the order and of the requirements proposed to be included in it;
  - (b) the consequences which may follow (under subsection (3) below) if he fails to comply with any of those requirements; and
  - (c) that the court has power (under subsection (6) below) to review the order on the application either of the defendant or of the responsible officer.
- (2) The power of the Secretary of State under section 174(4) of the Criminal Justice Act 2003 includes power by order to—
  - (a) prescribe cases in which subsection (1) above does not apply; and
  - (b) prescribe cases in which the explanation referred to in that subsection may be made in the absence of the defendant, or may be provided in written form.
- (3) If the person in respect of whom an individual support order is made fails without reasonable excuse to comply with any requirement included in the order, he is guilty of an offence and liable on summary conviction to a fine not exceeding—
  - (a) if he is aged 14 or over at the date of his conviction, £1,000;
  - (b) if he is aged under 14 then, £250.
- (4) No referral order under section 16(2) or (3) of the Powers of Criminal Courts (Sentencing) Act 2000 (referral of young offenders to youth offender panels) may be made in respect of an offence under subsection (3) above.
- (5) If the anti-social behaviour order as a result of which an individual support order was made ceases to have effect, the individual support order (if it has not previously ceased to have effect) ceases to have effect when the anti-social behaviour order does.
- (6) On an application made by complaint by—
  - (a) the person subject to an individual support order, or
  - (b) the responsible officer,

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the court which made the individual support order may vary or discharge it by a further order.

- (7) If the anti-social behaviour order as a result of which an individual support order was made is varied, the court varying the anti-social behaviour order may by a further order vary or discharge the individual support order.]

#### Textual Amendments

**F19** Ss. 1AA, 1AB inserted (1.5.2004) by Criminal Justice Act 2003 (c. 44), ss. 322, 336(3); S.I. 2004/829 {art. 3(2)(b)}

### [<sup>F21</sup>1B Orders in county court proceedings

- (1) This section applies to any proceedings in a county court (“the principal proceedings”).
- (2) If a relevant authority—
- (a) is a party to the principal proceedings, and
  - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,
- it may make an application in those proceedings for an order under subsection (4).
- (3) If a relevant authority—
- (a) is not a party to the principal proceedings, and
  - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,
- it may make an application to be joined to those proceedings to enable it to apply for an order under subsection (4) and, if it is so joined, may apply for such an order.
- (4) If, on an application for an order under this subsection, it is proved that the conditions mentioned in section 1(1) are fulfilled as respects that other party, the court may make an order which prohibits him from doing anything described in the order.
- (5) Subject to subsection (6), the party to the principal proceedings against whom an order under this section has been made and the relevant authority on whose application that order was made may apply to the county court which made an order under this section for it to be varied or discharged by a further order.
- (6) Except with the consent of the relevant authority and the person subject to the order, no order under this section shall be discharged before the end of the period of two years beginning with the date of service of the order.
- (7) Subsections (5) to (7) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders made under this section as they apply for the purposes of the making and effect of anti-social behaviour orders.]

#### Textual Amendments

**F21** S. 1B inserted (1.4.2003) by Police Reform Act 2002 (c. 30), ss. 63, 108(2); S.I. 2003/808, art. 2(f)

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## **[<sup>F22</sup>1C Orders on conviction in criminal proceedings**

- (1) This section applies where a person (the “offender”) is convicted of a relevant offence.
  - (2) If the court considers—
    - (a) that the offender has acted, at any time since the commencement date, in an anti-social manner, that is to say in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself, and
    - (b) that an order under this section is necessary to protect persons in any place in England and Wales from further anti-social acts by him,
 it may make an order which prohibits the offender from doing anything described in the order.
  - (3) The court may make an order under this section whether or not an application has been made for such an order.
  - (4) An order under this section shall not be made except—
    - (a) in addition to a sentence imposed in respect of the relevant offence; or
    - (b) in addition to an order discharging him conditionally.
  - (5) An order under this section takes effect on the day on which it is made, but the court may provide in any such order that such requirements of the order as it may specify shall, during any period when the offender is detained in legal custody, be suspended until his release from that custody.
  - (6) An offender subject to an order under this section may apply to the court which made it for it to be varied or discharged.
  - (7) In the case of an order under this section made by a magistrates’ court, the reference in subsection (6) to the court by which the order was made includes a reference to any magistrates’ court acting for the same petty sessions area as that court.
  - (8) No application may be made under subsection (6) for the discharge of an order before the end of the period of two years beginning with the day on which the order takes effect.
  - (9) Subsections (7), (10) and (11) of section 1 apply for the purposes of the making and effect of orders made by virtue of this section as they apply for the purposes of the making and effect of anti-social behaviour orders.
- [ The council for the local government area in which a person in respect of whom an
- <sup>F23</sup>(9A) anti-social behaviour order has been made resides or appears to reside may bring proceedings under section 1(10) (as applied by subsection (9) above) for breach of an order under subsection (2) above.
- (9B) Subsection (9C) applies in relation to proceedings in which an order under subsection (2) is made against a child or young person who is convicted of an offence.
- (9C) In so far as the proceedings relate to the making of the order—
- (a) section 49 of the Children and Young Persons Act 1933 (c. 12) (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 order is made;
  - (b) section 39 of that Act (power to prohibit publication of certain matter) does so apply.]



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(10) In this section—

[<sup>F24</sup>“child” and “young person” have the same meaning as in the Children and Young Persons Act 1933 (c. 12);]

“the commencement date” has the same meaning as in section 1 above;

“the court” in relation to an offender means—

- (a) the court by or before which he is convicted of the relevant offence; or
- (b) if he is committed to the Crown Court to be dealt with for that offence, the Crown Court; and

“relevant offence” means an offence committed after the coming into force of section 64 of the Police Reform Act 2002 (c. 30).]

#### Textual Amendments

**F22** S. 1C inserted (2.12.2002) by [Police Reform Act 2002 \(c. 30\), s. 64](#); S.I. 2002/2750, [art. 2\(a\)\(vii\)](#)

**F23** S. 1C(9A)-(9C) inserted (20.1.2004 in relation to s. 1C(9B)(9C), otherwise 31.3.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), ss. 86\(3\), 93\(1\)](#); S.I. 2003/3300, [art. 2\(f\)\(ii\)](#); S.I. 2004/690 {art. 2(b)(iii)}

**F24** S. 1C(10): definitions of "child" and "young person" inserted (20.1.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), ss. 86\(4\), 93\(1\)](#); S.I. 2003/3300, [art. 2\(f\)\(ii\)](#)

VALID FROM 01/07/2005

#### [<sup>F25</sup>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—

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- (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.]

#### Textual Amendments

**F25** S. 1CA inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 140\(4\), 178\(8\); S.I. 2005/1521, art. 3\(1\)\(s\)](#)

### [<sup>F26</sup>1D Interim orders

- (1) The applications to which this section applies are—
  - (a) an application for an anti-social behaviour order; and
  - (b) an application for an order under section 1B.
- (2) If, before determining an application to which this section applies, the court considers that it is just to make an order under this section pending the determination of that application (“the main application”), it may make such an order.
- (3) An order under this section is an order which prohibits the defendant from doing anything described in the order.
- (4) An order under this section—
  - (a) shall be for a fixed period;
  - (b) may be varied, renewed or discharged;
  - (c) shall, if it has not previously ceased to have effect, cease to have effect on the determination of the main application.
- (5) Subsections (6), (8) 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.]

#### Textual Amendments

**F26** S. 1D inserted (2.12.2002 in relation to s. 1D(1)(a)(2)-(5), otherwise 1.4.2003) by [Police Reform Act 2002 \(c. 30\), ss. 65\(1\), 108\(2\); S.I. 2002/2750, art. 2\(a\)\(vii\); S.I. 2003/808, art. 2\(f\)](#)

### [<sup>F27</sup>1E Consultation requirements

- (1) This section applies to—
  - (a) applications for an anti-social behaviour order; and
  - (b) applications for an order under section 1B.
- (2) Before making an application to which this section applies, the council for a local government area shall consult the chief officer of police of the police force maintained for the police area within which that local government area lies.
- (3) Before making an application to which this section applies, a chief officer of police shall consult the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside.

**Status:** Point in time view as at 27/02/2004. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Crime and Disorder Act 1998, Part I is up to date with all changes known to be in force on or before 25 April 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)

- (4) Before making an application to which this section applies, a relevant authority other than a council for a local government area or a chief officer of police shall consult—
- (a) the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside; and
  - (b) the chief officer of police of the police force maintained for the police area within which that local government area lies.

[ Subsection (4)(a) does not apply if the relevant authority is a county council for a <sup>F28</sup>(5) county in which there are no districts.]]

#### Textual Amendments

- F27** S. 1E inserted (2.12.2002 in relation to s. 1E(1)(a)(2)-(4), otherwise 1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), [s. 66](#); [S.I. 2002/2750](#), [art. 2\(a\)\(vii\)](#); [S.I. 2003/808](#), [art. 2\(f\)](#)
- F28** S. 1E(5) inserted (20.1.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 85\(7\)](#), [93\(1\)](#); [S.I. 2003/3300](#), [art. 2\(f\)\(i\)](#)

VALID FROM 01/07/2005

#### [<sup>F29</sup>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;

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- (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 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.]

#### Textual Amendments

**F29** S. 1F inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 142\(1\), 178\(8\)](#); [S.I. 2005/1521](#), [art. 3\(1\)\(s\)](#)

VALID FROM 01/10/2006

#### [<sup>F30</sup>1G Intervention orders

- (1) This section applies if, in relation to a person who has attained the age of 18, a relevant authority—

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- (a) makes an application for an anti-social behaviour order or an order under section 1B above (the behaviour order),
  - (b) has obtained from an appropriately qualified person a report relating to the effect on the person's behaviour of the misuse of controlled drugs or of such other factors as the Secretary of State by order prescribes, and
  - (c) has engaged in consultation with such persons as the Secretary of State by order prescribes for the purpose of ascertaining that, if the report recommends that an order under this section is made, appropriate activities will be available.
- (2) The relevant authority may make an application to the court which is considering the application for the behaviour order for an order under this section (an intervention order).
- (3) If the court—
  - (a) makes the behaviour order, and
  - (b) is satisfied that the relevant conditions are met,it may also make an intervention order.
- (4) The relevant conditions are—
  - (a) that an intervention order is desirable in the interests of preventing a repetition of the behaviour which led to the behaviour order being made (trigger behaviour);
  - (b) that appropriate activities relating to the trigger behaviour or its cause are available for the defendant;
  - (c) that the defendant is not (at the time the intervention order is made) subject to another intervention order or to any other treatment relating to the trigger behaviour or its cause (whether on a voluntary basis or by virtue of a requirement imposed in pursuance of any enactment);
  - (d) that the court has been notified by the Secretary of State that arrangements for implementing intervention orders are available in the area in which it appears that the defendant resides or will reside and the notice has not been withdrawn.
- (5) An intervention order is an order which—
  - (a) requires the defendant to comply, for a period not exceeding six months, with such requirements as are specified in the order, and
  - (b) requires the defendant to comply with any directions given by a person authorised to do so under the order with a view to the implementation of the requirements under paragraph (a) above.
- (6) An intervention order or directions given under the order may require the defendant—
  - (a) to participate in the activities specified in the requirement or directions at a time or times so specified;
  - (b) to present himself to a person or persons so specified at a time or times so specified.
- (7) Requirements included in, or directions given under, an intervention order must, as far as practicable, be such as to avoid—
  - (a) any conflict with the defendant's religious beliefs, and

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- (b) any interference with the times (if any) at which he normally works or attends an educational establishment.
- (8) If the defendant fails to comply with a requirement included in or a direction given under an intervention order, the person responsible for the provision or supervision of appropriate activities under the order must inform the relevant authority of that fact.
- (9) The person responsible for the provision or supervision of appropriate activities is a person of such description as is prescribed by order made by the Secretary of State.
- (10) In this section—  
     “appropriate activities” means such activities, or activities of such a description, as are prescribed by order made by the Secretary of State for the purposes of this section;  
     “appropriately qualified person” means a person who has such qualifications or experience as the Secretary of State by order prescribes;  
     “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971;  
     “relevant authority” means a relevant authority for the purposes of section 1 above.
- (11) An order under this section made by the Secretary of State may make different provision for different purposes.
- (12) This section and section 1H below apply to a person in respect of whom a behaviour order has been made subject to the following modifications—  
     (a) in subsection (1) above paragraph (a) must be ignored;  
     (b) in subsection (2) above, for “is considering the application for” substitute made;  
     (c) in subsection (3) above paragraph (a), the word “and” following it and the word “also” must be ignored.

#### Textual Amendments

**F30** Ss. 1G, 1H inserted (1.10.2006) by [Drugs Act 2005 \(c. 17\)](#), ss. **20(1)**, 24(3), S.I. 2006/2136, {art. 2}

VALID FROM 01/10/2006

#### **1H Intervention orders: explanation, breach, amendment etc.**

- (1) Before making an intervention order the court must explain to the defendant in ordinary language—  
     (a) the effect of the order and of the requirements proposed to be included in it,  
     (b) the consequences which may follow (under subsection (3) below) if he fails to comply with any of those requirements, and  
     (c) that the court has power (under subsection (5) below) to review the order on the application either of the defendant or of the relevant authority.
- (2) The power of the Secretary of State under section 174(4) of the Criminal Justice Act 2003 includes power by order to—

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- (a) prescribe cases in which subsection (1) does not apply, and
  - (b) prescribe cases in which the explanation referred to in that subsection may be made in the absence of the defendant, or may be provided in written form.
- (3) If a person in respect of whom an intervention order is made fails without reasonable excuse to comply with any requirement included in the order he is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) If the behaviour order as a result of which an intervention order is made ceases to have effect, the intervention order (if it has not previously ceased to have effect) ceases to have effect when the behaviour order does.
- (5) On an application made by—
- (a) a person subject to an intervention order, or
  - (b) the relevant authority,
- the court which made the intervention order may vary or discharge it by a further order.
- (6) An application under subsection (5) made to a magistrates' court must be made by complaint.
- (7) If the behaviour order as a result of which an intervention order was made is varied, the court varying the behaviour order may by a further order vary or discharge the intervention order.
- (8) Expressions used in this section and in section 1G have the same meaning in this section as in that section.]

#### Textual Amendments

**F30** Ss. 1G, 1H inserted (1.10.2006) by [Drugs Act 2005 \(c. 17\)](#), [ss. 20\(1\), 24\(3\)](#), [S.I. 2006/2136](#), {art. 2}

VALID FROM 01/07/2005

#### [<sup>F31</sup>II 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

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- (b) any other necessary modifications.
- (3) The provisions are—
  - (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.]

#### Textual Amendments

**F31** S. 11 inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 143, 178\(8\)](#); [S.I. 2005/1521](#), [art. 3\(1\)\(s\)](#)

VALID FROM 01/02/2009

#### [<sup>F32</sup>1J **Review of orders under sections 1, 1B and 1C**

- (1) This section applies where—
  - (a) an anti-social behaviour order,
  - (b) an order under section 1B, or
  - (c) an order under section 1C,
 has been made in respect of a person under the age of 17.
- (2) If—
  - (a) the person subject to the order will be under the age of 18 at the end of a period specified in subsection (3) (a “review period”), and
  - (b) the term of the order runs until the end of that period or beyond,
 then before the end of that period a review of the operation of the order shall be carried out.
- (3) The review periods are—
  - (a) the period of 12 months beginning with—
    - (i) the day on which the order was made, or
    - (ii) if during that period there is a supplemental order (or more than one), the date of the supplemental order (or the last of them);
  - (b) a period of 12 months beginning with—



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- (i) the day after the end of the previous review period, or
  - (ii) if during that period there is a supplemental order (or more than one), the date of the supplemental order (or the last of them).
- (4) In subsection (3) “supplemental order” means—
- (a) a further order varying the order in question;
  - (b) an individual support order made in relation to the order in question on an application under section 1AA(1A).
- (5) Subsection (2) does not apply in relation to any review period if the order is discharged before the end of that period.
- (6) A review under this section shall include consideration of—
- (a) the extent to which the person subject to the order has complied with it;
  - (b) the adequacy of any support available to the person to help him comply with it;
  - (c) any matters relevant to the question whether an application should be made for the order to be varied or discharged.
- (7) Those carrying out or participating in a review under this section shall have regard to any guidance issued by the Secretary of State when considering—
- (a) how the review should be carried out;
  - (b) what particular matters should be dealt with by the review;
  - (c) what action (if any) it would be appropriate to take in consequence of the findings of the review.

#### Textual Amendments

**F32** Ss. 1J, 1K inserted (1.2.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 123(1), 153(7) (with Sch. 27 para. 33); S.I. 2009/140, art. 2(b)

VALID FROM 01/02/2009

#### **1K Responsibility for, and participation in, reviews under section 1J**

- (1) A review under section 1J of an anti-social behaviour order or an order under section 1B shall be carried out by the relevant authority that applied for the order.
- (2) A review under section 1J of an order under section 1C shall be carried out—
  - (a) (except where paragraph (b) applies) by the appropriate chief officer of police;
  - (b) where a relevant authority is specified under section 1C(9ZA), by that authority.
- (3) A local authority, in carrying out a review under section 1J, shall act in co-operation with the appropriate chief officer of police; and it shall be the duty of that chief officer to co-operate in the carrying out of the review.

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- (4) The chief officer of police of a police force, in carrying out a review under section 1J, shall act in co-operation with the appropriate local authority; and it shall be the duty of that local authority to co-operate in the carrying out of the review.
- (5) A relevant authority other than a local authority or chief officer of police, in carrying out a review under section 1J, shall act in co-operation with—
- (a) the appropriate local authority, and
  - (b) the appropriate chief officer of police;
- and it shall be the duty of that local authority and that chief officer to co-operate in the carrying out of the review.
- (6) A chief officer of police or other relevant authority carrying out a review under section 1J may invite the participation in the review of a person or body not required by subsection (3), (4) or (5) to co-operate in the carrying out of the review.
- (7) In this section—
- “the appropriate chief officer of police” means the chief officer of police of the police force maintained for the police area in which the person subject to the order resides or appears to reside;
- “the appropriate local authority” means the council for the local government area (within the meaning given in section 1(12)) in which the person subject to the order resides or appears to reside.]

#### Textual Amendments

- F32** Ss. 1J, 1K inserted (1.2.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 123\(1\), 153\(7\)](#) (with [Sch. 27 para. 33](#)); [S.I. 2009/140](#), [art. 2\(b\)](#)

## 2 Sex offender orders.

- (1) If it appears to a chief officer of police that the following conditions are fulfilled with respect to any person [<sup>F33</sup>who he believes is in, or is intending to come to, his police area] , namely—
- (a) that the person is a sex offender; and
  - (b) that the person has acted, since the relevant date, in such a way as to give reasonable cause to believe that an order under this section is necessary to protect [<sup>F34</sup>the public in the United Kingdom, or any particular members of that public,] from serious harm from him,
- the chief officer may apply for an order under this section to be made in respect of the person.
- (2) Such an application shall be made by complaint to <sup>F35</sup>
- <sup>F36</sup>(a) any magistrates’ court]
  - <sup>F37</sup>; or]
  - <sup>F38</sup>(b) any magistrates’ court whose commission area includes any part of the applicant’s police area.]
- whose commission area includes any place where it is alleged that the defendant acted in such a way as is mentioned in subsection (1)(b) above.

*Status:* Point in time view as at 27/02/2004. This version of this part contains provisions that are not valid for this point in time.

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- (3) If, on such an application, it is proved that the conditions mentioned in subsection (1) above are fulfilled, the magistrates' court may make an order under this section (a "sex offender order") which prohibits the defendant from doing anything described in the order.
- (4) The prohibitions that may be imposed by a sex offender order are those necessary for the purpose of protecting [<sup>F39</sup>the public in the United Kingdom, or any particular members of that public,] from serious harm from the defendant.
- (5) A sex offender order shall have effect for a period (not less than five years) specified in the order or until further order; and while such an order has effect, Part I of the <sup>M1</sup>Sex Offenders Act 1997 shall have effect as if—
  - (a) the defendant were subject to the notification requirements of that Part; and
  - (b) in relation to the defendant, the relevant date (within the meaning of that Part) were the date of service of the order.
- (6) Subject to subsection (7) below, the applicant [<sup>F40</sup>, any other relevant chief officer of police] or the defendant may apply by complaint to [<sup>F41</sup>the appropriate court for the sex offender order] to be varied or discharged by a further order.

[<sup>F42</sup>(6A) In subsection (6) above—

“the appropriate court” means—

- (a) the court which made the sex offender order; or
- (b) any magistrates' court whose commission area includes any part of the police area of the applicant or of any other relevant chief officer of police;

“relevant chief officer of police” means a chief officer of police who believes that the defendant is in, or is intending to come to, his police area.]

- (7) Except with the consent of both parties [<sup>F43</sup>and subject to subsection (7A) below] , no sex offender order shall be discharged before the end of the period of five years beginning with the date of service of the order.

[<sup>F44</sup>(7A) Where any magistrates' court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.]

- (8) If without reasonable excuse a person does anything which he is prohibited from doing by a sex offender order, he [<sup>F45</sup>is guilty of an offence and] liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (9) Where a person is convicted of an offence under subsection (8) above, it shall not be open to the court by or before which he is so convicted to make an order under subsection (1)(b) (conditional discharge) of [<sup>F46</sup>section 12 of the Powers of Criminal Courts (Sentencing) Act 2000] in respect of the offence.

#### Textual Amendments

- F33** Words in s. 2(1) substituted (2.12.2002) by [Police Reform Act 2002 \(c. 30\), s. 67\(2\)\(a\)](#); S.I. 2002/2750, [art. 2\(a\)\(viii\)](#)

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- F34** Words in s. 2(1) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 67(2)(b); S.I. 2002/2750, art. 2(a)(viii)
- F35** S. 2(2)(a) and preceding word substituted (2.12.2002) for words in s. 2(2) by Police Reform Act 2002 (c. 30), s. 67(3)(a); S.I. 2002/2750, art. 2(a)(viii)
- F36** S. 2(2)(a) and preceding word substituted (2.12.2002) for words in s. 2(2) by Police Reform Act 2002 (c. 30), s. 67(3)(a); S.I. 2002/2750, art. 2(a)(viii)
- F37** S. 2(2)(b) and preceding word inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 67(3)(b); S.I. 2002/2750, art. 2(a)(viii)
- F38** S. 2(2)(b) and preceding word inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 67(3)(b); S.I. 2002/2750, art. 2(a)(viii)
- F39** Words in s. 2(4) substituted (2.12.2002 with application as mentioned in s. 67(10) of the amending Act) by Police Reform Act 2002 (c. 30), s. 67(4)(10); S.I. 2002/2750, art. 2(a)(viii)
- F40** Words in s. 2(6) inserted (2.12.2002 with application as mentioned in s. 67(10) of the amending Act) by Police Reform Act 2002 (c. 30), s. 67(5)(a)(10); S.I. 2002/2750, art. 2(a)(viii)
- F41** Words in s. 2(6) substituted (2.12.2002 with application as mentioned in s. 67(10) of the amending Act) by Police Reform Act 2002 (c. 30), s. 67(5)(b)(10); S.I. 2002/2750, art. 2(a)(viii)
- F42** S. 2(6A) inserted (2.12.2002 with application as mentioned in s. 67(10) of the amending Act) by Police Reform Act 2002 (c. 30), s. 67(6)(10); S.I. 2002/2750, art. 2(a)(viii)
- F43** Words in s. 2(7) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 67(7); S.I. 2002/2750, art. 2(a)(viii)
- F44** S. 2(7A) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 67(8); S.I. 2002/2750, art. 2(a)(viii)
- F45** Words in s. 2(8) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 67(9); S.I. 2002/2750, art. 2(a)(viii)
- F46** Words in s. 2(9) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 193

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**Modifications etc. (not altering text)**

- C2** S. 2(9) modified (30.9.1998) by 1991 c. 53, Sch. 2 para. 8A(10) (as added (30.9.1998) by 1998 c. 37, s. 106, Sch. 7 para. 46(11); S.I. 1998/2327, art. 2(1)(w)(with savings in arts. 5-8))

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**Marginal Citations**

- M1** 1997 c.51.

**[<sup>F47</sup>2A Interim orders: sex offenders**

- (1) This section applies where an application for a sex offender order (“the main application”) to a magistrates’ court has not been determined.
- (2) The applicant may apply by complaint to the court for an interim order, pending the determination of the main application.
- (3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.
- (4) An interim order—
  - (a) shall have effect for the period specified in the order;
  - (b) shall (if still in force) cease to have effect on the determination of the main application.
- (5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if—
  - (a) the defendant were subject to the notification requirements of that Part; and

*Status:* Point in time view as at 27/02/2004. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Crime and Disorder Act 1998, Part I is up to date with all changes known to be in force on or before 25 April 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)

- (b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.
- (6) The applicant or the defendant may apply by complaint to the court which made the interim order for it to be varied or discharged by a further order.
- (7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.
- (8) A person guilty of an offence under subsection (7) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (9) Where a person is convicted of an offence under subsection (7) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b)(conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) in respect of the offence.]

#### Textual Amendments

**F47** S. 2A inserted (2.12.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 68(1); S.I. 2002/2750, art. 2(a)(viii)

### [<sup>F48</sup>2B Sex offender orders made in Scotland or Northern Ireland

- (1) If without reasonable excuse a person does anything in England and Wales which he is prohibited from doing there by—
  - (a) an order under section 20(4) below; or
  - (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),he is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) Where a person is convicted of an offence under subsection (1) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of the offence.]

#### Textual Amendments

**F48** S. 2B inserted (2.12.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 69; S.I. 2002/2750, art. 2(a)(viii)

### 3 Sex offender orders: supplemental.

- (1) In section 2 above and this section “sex offender” means a person who—

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- (a) has been convicted of a sexual offence to which Part I of the <sup>M2</sup>Sex Offenders Act 1997 applies;
  - (b) has been found not guilty of such an offence by reason of insanity, or found to be under a disability and to have done the act charged against him in respect of such an offence;
  - (c) has been cautioned by a constable, in England and Wales or Northern Ireland, in respect of such an offence which, at the time when the caution was given, he had admitted; or
  - (d) has been punished under the law in force in a country or territory outside the United Kingdom for an act which—
    - (i) constituted an offence under that law; and
    - (ii) would have constituted a sexual offence to which that Part applies if it had been done in any part of the United Kingdom.
- (2) In subsection (1) of section 2 above “the relevant date”, in relation to a sex offender, means—
- (a) the date or, as the case may be, the latest date on which he has been convicted, found, cautioned or punished as mentioned in subsection (1) above; or
  - (b) if later, the date of the commencement of that section.
- (3) Subsections (2) and (3) of section 6 of the <sup>M3</sup>Sex Offenders Act 1997 apply for the construction of references in subsections (1) and (2) above as they apply for the construction of references in Part I of that Act.
- (4) In subsections (1) and (2) above, any reference to a person having been cautioned shall be construed as including a reference to his having been reprimanded or warned (under section 65 below) as a child or young person.
- (5) An act punishable under the law in force in any country or territory outside the United Kingdom constitutes an offence under that law for the purposes of subsection (1) above, however it is described in that law.
- (6) Subject to subsection (7) below, the condition in subsection (1)(d)(i) above shall be taken to be satisfied unless, not later than rules of court may provide, the defendant serves on the applicant a notice—
- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in his opinion satisfied;
  - (b) showing his grounds for that opinion; and
  - (c) requiring the applicant to show that it is satisfied.
- (7) The court, if it thinks fit, may permit the defendant to require the applicant to show that the condition is satisfied without the prior service of a notice under subsection (6) above.

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**Marginal Citations**

**M2** 1997 c.51.

**M3** 1997 c.51.

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#### 4 Appeals against orders.

- (1) An appeal shall lie to the Crown Court against the making by a magistrates' court of an anti-social behaviour order [<sup>F49</sup>, an order under section 1D above,]<sup>F50</sup>, a sex offender order or an order under section 2A above].
- (2) On such an appeal the Crown Court—
  - (a) may make such orders as may be necessary to give effect to its determination of the appeal; and
  - (b) may also make such incidental or consequential orders as appear to it to be just.
- (3) Any order of the Crown Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of section 1(8) or 2(6) above, be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the Crown Court.

##### Textual Amendments

**F49** Words in s. 4(1) inserted (2.12.2002) by [Police Reform Act 2002 \(c. 30\), s. 65\(2\)](#); [S.I. 2002/2750, art. 2\(a\)\(vii\)](#)

**F50** Words in s. 4(1) substituted (2.12.2002) by [Police Reform Act 2002 \(c. 30\), s. 68\(2\)](#); [S.I. 2002/2750, art. 2\(a\)\(viii\)](#)

##### Commencement Information

**I1** S. 4 wholly in force at 1.4.1999; S. 4 not in force at Royal Assent, see s. 121; s. 4 in force so far as relating to a sex offender order by [S.I. 1998/2327, art. 4\(1\)](#); S. 4 in force at 1.4.1999 to the extent that it is not already in force by [S.I. 1998/3263, art. 5](#)

### Crime and disorder strategies

#### 5 Authorities responsible for strategies.

- (1) Subject to the provisions of this section, the functions conferred by section 6 below shall be exercisable in relation to each local government area by the responsible authorities, that is to say—
  - (a) the council for the area and, where the area is a district and the council is not a unitary authority, the council for the county which includes the district; and
  - (b) every chief officer of police any part of whose police area lies within the area.<sup>F51</sup>(c) every police authority any part of whose police area so lies;
- (d) every fire authority any part of whose area so lies;
- (e) if the local government area is in England, every Primary Care Trust the whole or any part of whose area so lies; and
- (f) if the local government area is in Wales, every health authority the whole or any part of whose area so lies.]

<sup>F52</sup>(1A) The Secretary of State may by order provide in relation to any two or more local government areas in England—

- (a) that the functions conferred by sections 6 to 7 below are to be carried out in relation to those areas taken together as if they constituted only one area; and

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- (b) that the persons who for the purposes of this Chapter are to be taken to be responsible authorities in relation to the combined area are the persons who comprise every person who (apart from the order) would be a responsible authority in relation to any one or more of the areas included in the combined area.
- (1B) The Secretary of State shall not make an order under subsection (1A) above unless—
- (a) an application for the order has been made jointly by all the persons who would be the responsible authorities in relation to the combined area or the Secretary of State has first consulted those persons; and
  - (b) he considers it would be in the interests of reducing crime and disorder, or of combatting the misuse of drugs, to make the order.]
- (2) In exercising those functions, the responsible authorities shall act in co-operation with the following persons and bodies, namely—
- [<sup>F53</sup>(b) every local probation board any part of whose area lies within the area;]
  - (c) every person or body of a description which is for the time being prescribed by order of the Secretary of State under this subsection
- [<sup>F54</sup>, and
- (d) where they are acting in relation to an area in Wales, every person or body which is of a description which is for the time being prescribed by an order under this subsection of the National Assembly for Wales;]
- and it shall be the duty of those persons and bodies to co-operate in the exercise by the responsible authorities of those functions.
- (3) The responsible authorities shall also invite the participation in their exercise of those functions of at least one person or body of each description which is for the time being prescribed by order of the Secretary of State under this subsection [<sup>F55</sup>and, in the case of the responsible authorities for an area in Wales, of any person or body of a description for the time being prescribed by an order under this subsection of the National Assembly for Wales.]
- (4) In this section and sections 6 and 7 below “local government area” means—
- (a) in relation to England, each district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
  - (b) in relation to Wales, each county or county borough.
- [<sup>F56</sup>(5) In this section—
- “fire authority” means—
  - (a) any fire authority constituted by a combination scheme under the Fire Services Act 1947 (c. 41);
  - (b) any metropolitan county fire and civil defence authority; or
  - (c) the London Fire and Emergency Planning Authority; and
  - “police authority” means—
  - (a) any police authority established under section 3 of the Police Act 1996 (c. 16); or
  - (b) the Metropolitan Police Authority.]



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### Textual Amendments

- F51** S. 5(1)(c)-(f) inserted (1.4.2003 for W., 1.4.2003 for E. in relation to s. 5(1)(c)(d), and 30.4.2004 for E. otherwise) by [Police Reform Act 2002 \(c. 30\)](#), [ss. 97\(2\)](#), [108\(2\)\(4\)](#); [S.I. 2003/525](#), [art. 2](#); [S.I. 2003/808](#), [art. 2\(j\)](#); [S.I. 2004/913](#), [art. 3\(a\)](#)
- F52** S. 5(1A)(1B) inserted (1.10.2002 for E. and 1.4.2003 for W.) by [Police Reform Act 2002 \(c. 30\)](#), [ss. 97\(3\)](#), [108\(2\)\(4\)](#); [S.I. 2002/2306](#), [art. 3\(a\)](#); [S.I. 2003/525](#), [art. 2](#)
- F53** S. 5(2)(b) substituted for s. 5(2)(a)(b) (1.10.2002 for E. and 1.4.2003 for W.) by [Police Reform Act 2002 \(c. 30\)](#), [s. 97\(4\)\(a\)](#); [S.I. 2002/2306](#), [art. 3\(a\)](#); [S.I. 2003/525](#), [art. 2](#)
- F54** S. 5(2)(d) and preceding word inserted (1.10.2002 for E. and 1.4.2003 for W.) by [Police Reform Act 2002 \(c. 30\)](#), [s. 97\(4\)\(b\)](#); [S.I. 2002/2306](#), [art. 3\(a\)](#); [S.I. 2003/525](#), [art. 2](#)
- F55** Words in s. 5(3) inserted (1.4.2003 for W. and 23.2.2004 for E.) by [Police Reform Act 2002 \(c. 30\)](#), [ss. 97\(5\)](#), [108\(2\)\(4\)](#); [S.I. 2003/525](#), [art. 2](#); [S.I. 2004/119](#), [art. 2](#)
- F56** S. 5(5) inserted (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), [ss. 97\(6\)](#), [108\(2\)\(4\)](#); [S.I. 2003/525](#), [art. 2](#); [S.I. 2003/808](#), [art. 2\(j\)](#)

### Modifications etc. (not altering text)

- C3** S. 5: functions of local authority not to be the sole responsibility of the executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 4\(1\)](#), [Sch. 3](#)
- C4** S. 5(1) modified (1.4.2003 for W. and 30.4.2004 for E.) by [Police Reform Act 2002 \(c. 30\)](#), [ss. {s. 97\(15\)}](#); [108\(2\)\(4\)](#); [S.I. 2003/525](#), [art. 2](#); [S.I. 2004/913](#), [art. 3\(a\)](#)

### Commencement Information

- I2** S. 5 wholly in force; S. 5 not in force at Royal Assent see s. 121. In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

VALID FROM 16/01/2012

### <sup>F57</sup>5A Combination agreements: further provision

- (1) A combination agreement for a combined area may be made only if every responsible authority in relation to that area is a party to the agreement.
- (2) The relevant local policing body for a combined area may enter into a combination agreement for that area only if it considers that it would be in the interests of one or more of the following to do so—
  - (a) reducing crime and disorder;
  - (b) reducing re-offending;
  - (c) combating the misuse of drugs, alcohol and other substances.
- (3) Subsections (4) to (6) apply if a combined area in relation to a combination agreement includes (wholly or partly) the area of more than one police area.
- (4) The combination agreement must include arrangements for securing effective and efficient co-operation—
  - (a) between each of the relevant local policing bodies in relation to the combined area, and
  - (b) between the responsible authorities for the area and those relevant local policing bodies.

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- (5) The Secretary of State must be a party to the agreement (if not already a party by virtue of being a relevant local policing body in relation to the combined area).
- (6) The Secretary of State may enter into the agreement only if the Secretary of State—
  - (a) considers that it would be in the interests of one or more of the matters mentioned in subsection (2), and
  - (b) is satisfied that the arrangements mentioned in subsection (4) are adequate for the purposes of securing effective and efficient co-operation in the carrying out of functions under section 6.
- (7) A combination agreement—
  - (a) must be in writing, and
  - (b) may be varied by a further combination agreement.
- (8) A combination agreement may be terminated by agreement in writing between the parties to it; and subsection (2), and (as the case may be) (6)(a), applies to an agreement under this subsection.
- (9) In this section “combination agreement”, “combined area” and “relevant local policing body” have the same meanings as in section 5.]

#### Textual Amendments

**F57** S. 5A inserted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), ss. 88, 157(1), [Sch. 11 para. 3](#); S.I. 2011/3019, [art. 3](#), [Sch. 1 para. \(iii\)](#) (as amended by S.I. 2012/75, [art. 2\(2\)\(d\)](#))

## 6 Formulation and implementation of strategies.

- (1) The responsible authorities for a local government area shall, in accordance with the provisions of section 5 above and this section, formulate and implement, for each relevant period,
  - [<sup>F58</sup>(a) in the case of an area in England—
    - (i) a strategy for the reduction of crime and disorder in the area; and
    - (ii) a strategy for combatting the misuse of drugs in the area;
 and
  - (b) in the case of an area in Wales—
    - (i) a strategy for the reduction of crime and disorder in the area; and
    - (ii) a strategy for combatting substance misuse in the area.]
- [<sup>F59</sup>(1A) In determining what matters to include or not to include in their strategy for combatting substance misuse, the responsible authorities for an area in Wales shall have regard to any guidance issued for the purposes of this section by the National Assembly for Wales.]
- (2) Before formulating a strategy, the responsible authorities shall—
  - [<sup>F60</sup>(a) carry out, taking due account of the knowledge and experience of persons in the area, a review—

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- (i) in the case of an area in England, of the levels and patterns of crime and disorder in the area and of the level and patterns of the misuse of drugs in the area; and
    - (ii) in the case of an area in Wales, of the levels and patterns of crime and disorder in the area and of the level and patterns of substance misuse in the area;]
  - (b) prepare an analysis of the results of that review;
  - (c) publish in the area a report of that analysis; and
  - (d) obtain the views on that report of persons or bodies in the area (including those of a description prescribed by order under section 5(3) above), whether by holding public meetings or otherwise.
- (3) In formulating a strategy, the responsible authorities shall have regard to the analysis prepared under subsection (2)(b) above and the views obtained under subsection (2)(d) above.
- (4) A strategy shall include—
  - (a) objectives to be pursued by the responsible authorities, by co-operating persons or bodies or, under agreements with the responsible authorities, by other persons or bodies; and
  - (b) long-term and short-term performance targets for measuring the extent to which such objectives are achieved.
- (5) After formulating a strategy, the responsible authorities shall publish in the area a document which includes details of—
  - (a) co-operating persons and bodies;
  - (b) the review carried out under subsection (2)(a) above;
  - (c) the report published under subsection (2)(c) above; and
  - (d) the strategy, including in particular—
    - (i) the objectives mentioned in subsection (4)(a) above and, in each case, the authorities, persons or bodies by whom they are to be pursued; and
    - (ii) the performance targets mentioned in subsection (4)(b) above.
- (6) While implementing a strategy, the responsible authorities shall keep it under review with a view to monitoring its effectiveness and making any changes to it that appear necessary or expedient.
- [<sup>F61</sup>(6A) Within one month of the end of each reporting period, the responsible authorities shall submit a report on the implementation of their strategies during that period—
  - (a) in the case of a report relating to the strategies for an area in England, to the Secretary of State; and
  - (b) in the case of a report relating to the strategies for an area in Wales, to the Secretary of State and to the National Assembly for Wales.]
- (7) In this section—
  - “co-operating persons or bodies” means persons or bodies co-operating in the exercise of the responsible authorities’ functions under this section;
  - “relevant period” means—
    - (a) the period of three years beginning with such day as the Secretary of State may by order appoint; and
    - (b) each subsequent period of three years.

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[<sup>F62cc</sup>“reporting period” means every period of one year which falls within a relevant period and which begins—

- (a) in the case of the first reporting period in the relevant period, with the day on which the relevant period begins; and
- (b) in any other case, with the day after the day on which the previous reporting period ends;

“substance misuse” includes the misuse of drugs or alcohol.]

#### Subordinate Legislation Made

**P1** S. 6: 1.4.1999 appointed day for the purposes of s. 6 by S.I. 1998/3263, **art. 7**

#### Textual Amendments

**F58** S. 6(1)(a)(b) substituted for words in s. 6(1) (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(7), 108(2)(4)**; S.I. 2002/2306, **art. 3(a)**; S.I. 2003/525, **art. 2**

**F59** S. 6(1A) inserted (1.4.2003 for W. and 23.2.2004 for E.) by Police Reform Act 2002 (c. 30), **ss. 97(8), 108(2)(4)**; S.I. 2003/525, **art. 2**; S.I. 2004/119, **art. 2**

**F60** S. 6(2)(a) substituted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(9), 108(2)(4)**; S.I. 2002/2306, **art. 3(a)**; S.I. 2003/525, **art. 2**

**F61** S. 6(6A) inserted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(10), 108(2)(4)**; S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**

**F62** S. 6(7): definitions of "reporting period" and "substance misuse" inserted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(11), 108(2)(4)**; S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**

#### Modifications etc. (not altering text)

**C5** S. 6: functions of local authority not to be the sole responsibility of the executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**

#### Commencement Information

**I3** S. 6 wholly in force; S. 6 not in force at Royal Assent see s. 121; s. 6 in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

### [<sup>F63</sup>6A Powers of the Secretary of State and National Assembly for Wales

- (1) The Secretary of State may, by order, require—
  - (a) the responsible authorities for local government areas to formulate any section 6 strategy of theirs for the reduction of crime and disorder so as to include, in particular, provision for the reduction of—
    - (i) crime of a description specified in the order; or
    - (ii) disorder of a description so specified.
  - (b) the responsible authorities for local government areas in England to prepare any section 6 strategy of theirs for combatting the misuse of drugs so as to include in it a strategy for combatting, in the area in question, such other forms of substance misuse as may be specified or described in the order.
- (2) After formulating any section 6 strategy (whether in a case in which there has been an order under subsection or in any other case), the responsible authorities for a local government area shall send both—
  - (a) a copy of the strategy, and

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- (b) a copy of the document which they propose to publish under section 6(5), to the Secretary of State.
- (3) It shall be the duty of the responsible authorities, when preparing any document to be published under section 6(5), to have regard to any guidance issued by the Secretary of State as to the form and content of the documents to be so published.
- (4) If the responsible authorities for a local government area propose to make any changes to a section 6 strategy of theirs, they shall send copies of the proposed changes to the Secretary of State.
- (5) In subsections (2) to (4)—
- (a) references to the Secretary of State, in relation to responsible authorities for local government areas in Wales shall have effect as references to the Secretary of State and the National Assembly for Wales; and
- (b) accordingly, guidance issued for the purposes of subsection (3) in relation to local government areas in Wales must be issued by the Secretary of State and that Assembly acting jointly.
- (6) In this section—
- “responsible authorities” and “local government area” have same meanings as in sections 5 and 6;
- “section 6 strategy” means a strategy required to be formulated under section 6(1); and
- “substance misuse” has the same meaning as in section 6.]

#### Textual Amendments

**F63** S. 6A inserted (1.10.2002 for E. and 1.4.2003 for W.) by [Police Reform Act 2002 \(c. 30\)](#), [ss. 98, 108\(2\)\(4\)](#); [S.I. 2002/2306](#), [art. 3\(b\)](#); [S.I. 2003/525](#), [art. 2](#)

## 7 Supplemental.

- (1) The responsible authorities for a local government area shall, whenever so required by the Secretary of State, submit to the Secretary of State a report on such matters connected with the exercise of their functions under section 6 above as may be specified in the requirement.
- (2) A requirement under subsection (1) above may specify the form in which a report is to be given.
- (3) The Secretary of State may arrange, or require the responsible authorities to arrange, for a report under subsection (1) above to be published in such manner as appears to him to be appropriate.

#### Commencement Information

**I4** S. 7 wholly in force; S. 7 not in force at Royal Assent see [s. 121](#). In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

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*Status: Point in time view as at 27/02/2004. This version of this part contains provisions that are not valid for this point in time.*

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## *Youth crime and disorder*

### **8 Parenting orders.**

- (1) This section applies where, in any court proceedings—
  - (a) a child safety order is made in respect of a child;
  - (b) an anti-social behaviour order or sex offender order is made in respect of a child or young person;
  - (c) a child or young person is convicted of an offence; or
  - (d) a person is convicted of an offence under section 443 (failure to comply with school attendance order) or section 444 (failure to secure regular attendance at school of registered pupil) of the <sup>M4</sup>Education Act 1996.
- (2) Subject to subsection (3) and section 9(1) below <sup>F64</sup>. . . , if in the proceedings the court is satisfied that the relevant condition is fulfilled, it may make a parenting order in respect of a person who is a parent or guardian of the child or young person or, as the case may be, the person convicted of the offence under section 443 or 444 (“the parent”).
- (3) A court shall not make a parenting order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area in which it appears to the court that the parent resides or will reside and the notice has not been withdrawn.
- <sup>F65</sup>(4) A parenting order is an order which requires the parent—
  - (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and
  - (b) subject to subsection (5) below, to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (5) A parenting order may, but need not, include such a requirement as is mentioned in subsection (4)(b) above in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.]
- (6) The relevant condition is that the parenting order would be desirable in the interests of preventing—
  - (a) in a case falling within paragraph (a) or (b) of subsection (1) above, any repetition of the kind of behaviour which led to the child safety order, anti-social behaviour order or sex offender order being made;
  - (b) in a case falling within paragraph (c) of that subsection, the commission of any further offence by the child or young person;
  - (c) in a case falling within paragraph (d) of that subsection, the commission of any further offence under section 443 or 444 of the <sup>M5</sup>Education Act 1996.
- (7) The requirements that may be specified under subsection (4)(a) above are those which the court considers desirable in the interests of preventing any such repetition or, as the case may be, the commission of any such further offence.
- <sup>F66</sup>(7A) A counselling or guidance programme which a parent is required to attend by virtue of subsection (4)(b) above may be or include a residential course but only if the court is satisfied—

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- (a) that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing any such repetition or, as the case may be, the commission of any such further offence, and
  - (b) that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.]
- (8) In this section and section 9 below “responsible officer”, in relation to a parenting order, means one of the following who is specified in the order, namely—
- (a) [<sup>F67</sup>an officer of a local probation board] ;
  - (b) a social worker of a local authority social services department; and
  - [<sup>F68</sup>(bb) a person nominated by a person appointed as chief education officer under section 532 of the <sup>M6</sup>Education Act 1996]
  - (c) a member of a youth offending team.

#### Textual Amendments

- F64** Words in s. 8(2) omitted (27.2.2004) by virtue of [Criminal Justice Act 2003 \(c. 44\)](#), ss. 324, 336(3), Sch. 34 para. 1; S.I. 2004/81, [art. 5\(2\)\(d\)](#) (and those same words repealed (15.12.2004) by Pt. 12 of Sch. 37 to that Act; S.I. 2004/3033, [art. 3\(2\)\(e\)\(ii\)\(cc\)](#))
- F65** S. 8(4)(5) substituted (27.2.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 18\(2\)](#), 93(1); S.I. 2003/3300, [art. 3\(a\)\(i\)](#)
- F66** S. 8(7A) inserted (27.2.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 18\(3\)](#), 93(1); S.I. 2003/3300, [art. 3\(a\)\(i\)](#)
- F67** Words in s. 8(8)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, [Sch. 7 Pt. I para. 4\(1\)\(a\)\(2\)](#); S.I. 2001/919, [art. 2\(f\)\(i\)](#)
- F68** S. 8(8)(bb) inserted (1.4.2001) by 2000 c. 43, s. 73; S.I. 2001/919, [art. 2\(d\)](#)

#### Modifications etc. (not altering text)

- C6** S. 8 restricted (26.6.2000) by 1999 c. 23, [ss. 4\(5\)\(6\)](#), (with Sch. 7 paras. 3(3), 5(2)); S.I. 2000/1587, [art. 2](#); which s. 4 of that 1999 Act was repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

#### Commencement Information

- I5** S. 8 wholly in force; S. 8 not in force at Royal Assent see [s. 121](#). In force at 30.9.1998 by S.I. 1998/2327, [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

#### Marginal Citations

- M4** 1996 c.56.  
**M5** 1996 c.56.  
**M6** 1996 c. 56.

## 9 Parenting orders: supplemental.

- (1) Where a person under the age of 16 is convicted of an offence, the court by or before which he is so convicted—
- (a) if it is satisfied that the relevant condition is fulfilled, shall make a parenting order; and
  - (b) if it is not so satisfied, shall state in open court that it is not and why it is not.

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[<sup>F69</sup>(1A) The requirements of subsection (1) do not apply where the court makes a referral order in respect of the offence.]

[<sup>F70</sup>(1B) If an anti-social behaviour order is made in respect of a person under the age of 16 the court which makes the order—

- (a) must make a parenting order if it is satisfied that the relevant condition is fulfilled;
- (b) if it is not so satisfied, must state in open court that it is not and why it is not.]

(2) Before making a parenting order—

- (a) in a case falling within paragraph (a) of subsection (1) of section 8 above;
- (b) in a case falling within paragraph (b) or (c) of that subsection, where the person concerned is under the age of 16; or
- (c) in a case falling within paragraph (d) of that subsection, where the person to whom the offence related is under that age,

a court shall obtain and consider information about the person’s family circumstances and the likely effect of the order on those circumstances.

[<sup>F71</sup>(2A) In a case where a court proposes to make both a referral order in respect of a child or young person convicted of an offence and a parenting order, before making the parenting order the court shall obtain and consider a report by an appropriate officer—

- (a) indicating the requirements proposed by that officer to be included in the parenting order;
- (b) indicating the reasons why he considers those requirements would be desirable in the interests of preventing the commission of any further offence by the child or young person; and
- (c) if the child or young person is aged under 16, containing the information required by subsection (2) above.

(2B) In subsection (2A) above “an appropriate officer” means—

- (a) an officer of a local probation board;
- (b) a social worker of a local authority social services department; or
- (c) a member of a youth offending team.]

(3) Before making a parenting order, a court shall explain to the parent in ordinary language—

- (a) the effect of the order and of the requirements proposed to be included in it;
- (b) the consequences which may follow (under subsection (7) below) if he fails to comply with any of those requirements; and
- (c) that the court has power (under subsection (5) below) to review the order on the application either of the parent or of the responsible officer.

(4) Requirements specified in, and directions given under, a parenting order shall, as far as practicable, be such as to avoid—

- (a) any conflict with the parent’s religious beliefs; and
- (b) any interference with the times, if any, at which he normally works or attends an educational establishment.

(5) If while a parenting order is in force it appears to the court which made it, on the application of the responsible officer or the parent, that it is appropriate to make an order under this subsection, the court may make an order discharging the parenting order or varying it—



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- (a) by cancelling any provision included in it; or
  - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (6) Where an application under subsection (5) above for the discharge of a parenting order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.
- (7) If while a parenting order is in force the parent without reasonable excuse fails to comply with any requirement included in the order, or specified in directions given by the responsible officer, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- [<sup>F72</sup>(7A) In this section “referral order” means an order under section 16(2) or (3) of the Powers of Criminal Courts (Sentencing) Act 2000 (referral of offender to youth offender panel).]

#### Textual Amendments

- F69** S. 9(1A) substituted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 2(2)**; S.I. 2004/81, **art. 5(2)(d)**
- F70** S. 9(1B) inserted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 85(8), 93(1)** (with s. 84); S.I. 2003/3300, **art. 3(c)**
- F71** S. 9(2A)(2B) inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 2(3)**; S.I. 2004/81, **art. 5(2)(d)**
- F72** S. 9(7A) inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 2(4)**; S.I. 2004/81, **art. 5(2)(d)**

#### Modifications etc. (not altering text)

- C7** S. 9(3)-(7) applied (27.2.2004 for E. and 11.5.2006 for W.) by Anti-social Behaviour Act 2003 (c. 38), **ss. 21(3), 93(1)**; S.I. 2003/3300, **art. 4(c)**; S.I. 2006/1278, **art. 2**
- C8** S. 9(3)-(7) applied (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 27(3), 93(1)**; S.I. 2003/3300, **art. 3(a)(iii)**

#### Commencement Information

- I6** S. 9 wholly in force; S. 9 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

## 10 Appeals against parenting orders.

- (1) An appeal shall lie—
- (a) to the High Court against the making of a parenting order by virtue of paragraph (a) of subsection (1) of section 8 above; and
  - (b) to the Crown Court against the making of a parenting order by virtue of paragraph (b) of that subsection.
- (2) On an appeal under subsection (1) above the High Court or the Crown Court—
- (a) may make such orders as may be necessary to give effect to its determination of the appeal; and
  - (b) may also make such incidental or consequential orders as appear to it to be just.

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- (3) Any order of the High Court or the Crown Court made on an appeal under subsection (1) above (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of subsections (5) to (7) of section 9 above, be treated as if it were an order of the court from which the appeal was brought and not an order of the High Court or the Crown Court.
- (4) A person in respect of whom a parenting order is made by virtue of section 8(1)(c) above shall have the same right of appeal against the making of the order as if—
  - (a) the offence that led to the making of the order were an offence committed by him; and
  - (b) the order were a sentence passed on him for the offence.
- (5) A person in respect of whom a parenting order is made by virtue of section 8(1)(d) above shall have the same right of appeal against the making of the order as if the order were a sentence passed on him for the offence that led to the making of the order.
- (6) The Lord Chancellor may by order make provision as to the circumstances in which appeals under subsection (1)(a) above may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11 (jurisdiction) to the <sup>M7</sup>Children Act 1989 (“the 1989 Act”).
- (7) Except to the extent provided for in any order made under subsection (6) above, no appeal may be made against any decision of a kind mentioned in that subsection.

**Modifications etc. (not altering text)**

- C9** S. 10(2)(3) applied (27.2.2004 for E. and 11.5.2006 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 22\(2\)](#), 93(1); S.I. 2003/3300, [art. 4\(d\)](#); S.I. 2006/1278 {art. 2}
- C10** S. 10(2)(3) applied (27.2.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 28\(2\)](#), 93(1); S.I. 2003/3300, [art. 3\(a\)\(iii\)](#)

**Commencement Information**

- I7** S. 10 wholly in force at 1.6.2000; S. 10 not in force at Royal Assent see s. 121; S. 10(1)-(5) in force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); s. 10(6)(7) in force at 1.6.2000 by [S.I. 2000/924](#), [art. 5](#)

**Marginal Citations**

- M7** 1989 c.41.

## 11 Child safety orders.

- (1) Subject to subsection (2) below, if a magistrates' court, on the application of a local authority, is satisfied that one or more of the conditions specified in subsection (3) below are fulfilled with respect to a child under the age of 10, it may make an order (a “child safety order”) which—
  - (a) places the child, for a period (not exceeding the permitted maximum) specified in the order, under the supervision of the responsible officer; and
  - (b) requires the child to comply with such requirements as are so specified.
- (2) A court shall not make a child safety order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area

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in which it appears that the child resides or will reside and the notice has not been withdrawn.

- (3) The conditions are—
- (a) that the child has committed an act which, if he had been aged 10 or over, would have constituted an offence;
  - (b) that a child safety order is necessary for the purpose of preventing the commission by the child of such an act as is mentioned in paragraph (a) above;
  - (c) that the child has contravened a ban imposed by a curfew notice; and
  - (d) that the child has acted in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.
- (4) The maximum period permitted for the purposes of subsection (1)(a) above is three months or, where the court is satisfied that the circumstances of the case are exceptional, 12 months.
- (5) The requirements that may be specified under subsection (1)(b) above are those which the court considers desirable in the interests of—
- (a) securing that the child receives appropriate care, protection and support and is subject to proper control; or
  - (b) preventing any repetition of the kind of behaviour which led to the child safety order being made.
- (6) Proceedings under this section or section 12 below shall be family proceedings for the purposes of the 1989 Act or section 65 of the <sup>M8</sup>Magistrates' Courts Act 1980 ("the 1980 Act"); and the standard of proof applicable to such proceedings shall be that applicable to civil proceedings.
- (7) In this section "local authority" has the same meaning as in the 1989 Act.
- (8) In this section and section 12 below, "responsible officer", in relation to a child safety order, means one of the following who is specified in the order, namely—
- (a) a social worker of a local authority social services department; and
  - (b) a member of a youth offending team.

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**Commencement Information**

**I8** S. 11 wholly in force; S. 11 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

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**Marginal Citations**

**M8** 1980 c.43.

## 12 Child safety orders: supplemental.

- (1) Before making a child safety order, a magistrates' court shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.
- (2) Before making a child safety order, a magistrates' court shall explain to the parent or guardian of the child in ordinary language—
- (a) the effect of the order and of the requirements proposed to be included in it;

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- (b) the consequences which may follow (under subsection (6) below) if the child fails to comply with any of those requirements; and
  - (c) that the court has power (under subsection (4) below) to review the order on the application either of the parent or guardian or of the responsible officer.
- (3) Requirements included in a child safety order shall, as far as practicable, be such as to avoid—
- (a) any conflict with the parent’s religious beliefs; and
  - (b) any interference with the times, if any, at which the child normally attends school.
- (4) If while a child safety order is in force in respect of a child it appears to the court which made it, on the application of the responsible officer or a parent or guardian of the child, that it is appropriate to make an order under this subsection, the court may make an order discharging the child safety order or varying it—
- (a) by cancelling any provision included in it; or
  - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (5) Where an application under subsection (4) above for the discharge of a child safety order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.
- (6) Where a child safety order is in force and it is proved to the satisfaction of the court which made it or another magistrates’ court acting for the same petty sessions area, on the application of the responsible officer, that the child has failed to comply with any requirement included in the order, the court—
- (a) may discharge the order and make in respect of him a care order under subsection (1)(a) of section 31 of the 1989 Act; or
  - (b) may make an order varying the order—
    - (i) by cancelling any provision included in it; or
    - (ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (7) Subsection (6)(a) above applies whether or not the court is satisfied that the conditions mentioned in section 31(2) of the 1989 Act are fulfilled.

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**Commencement Information**

**19** S. 12 wholly in force; S. 12 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

**13 Appeals against child safety orders.**

- (1) An appeal shall lie to the High Court against the making by a magistrates’ court of a child safety order; and on such an appeal the High Court—
- (a) may make such orders as may be necessary to give effect to its determination of the appeal; and

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- (b) may also make such incidental or consequential orders as appear to it to be just.
- (2) Any order of the High Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of subsections (4) to (6) of section 12 above, be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the High Court.
- (3) Subsections (6) and (7) of section 10 above shall apply for the purposes of subsection (1) above as they apply for the purposes of subsection (1)(a) of that section.

#### Commencement Information

**110** S. 13 wholly in force at 1.6.2000; S. 13 not in force at Royal Assent see s. 121; S. 13(1)(2) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); s. 13(3) in force at 1.6.2000 by S.I. 2000/924, art. 5

VALID FROM 20/07/2006

#### [<sup>F73</sup>13A Parental compensation orders

- (1) A magistrates' court may make an order under this section (a “parental compensation order”) if on the application of a local authority it is satisfied, on the civil standard of proof—
  - (a) that the condition mentioned in subsection (2) below is fulfilled with respect to a child under the age of 10; and
  - (b) that it would be desirable to make the order in the interests of preventing a repetition of the behaviour in question.
- (2) The condition is that the child has taken, or caused loss of or damage to, property in the course of—
  - (a) committing an act which, if he had been aged 10 or over, would have constituted an offence; or
  - (b) acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.
- (3) A parental compensation order is an order which requires any person specified in the order who is a parent or guardian of the child (other than a local authority) to pay compensation of an amount specified in the order to any person or persons specified in the order who is, or are, affected by the taking of the property or its loss or damage.
- (4) The amount of compensation specified may not exceed £5,000 in all.
- (5) The Secretary of State may by order amend subsection (4) above so as to substitute a different amount.
- (6) For the purposes of collection and enforcement, a parental compensation order is to be treated as if it were a sum adjudged to be paid on the conviction by the magistrates' court which made the order of the person or persons specified in the order as liable to pay the compensation.

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(7) In this section and sections 13B and 13C below, “local authority” has the same meaning as in the 1989 Act.

#### Textual Amendments

**F73** Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 2](#); S.I. 2006/1871, [art. 2](#), [Sch.](#) (as amended by S.I. 2006/2182, [art. 3](#))

VALID FROM 20/07/2006

### 13B Parental compensation orders: the compensation

- (1) When specifying the amount of compensation for the purposes of section 13A(3) above, the magistrates' court shall take into account—
- (a) the value of the property taken or damaged, or whose loss was caused, by the child;
  - (b) any further loss which flowed from the taking of or damage to the property, or from its loss;
  - (c) whether the child, or any parent or guardian of his, has already paid any compensation for the property (and if so, how much);
  - (d) whether the child, or any parent or guardian of his, has already made any reparation (and if so, what it consisted of);
  - (e) the means of those to be specified in the order as liable to pay the compensation, so far as the court can ascertain them;
  - (f) whether there was any lack of care on the part of the person affected by the taking of the property or its loss or damage which made it easier for the child to take or damage the property or to cause its loss.
- (2) If property taken is recovered before compensation is ordered to be paid in respect of it—
- (a) the court shall not order any such compensation to be payable in respect of it if it is not damaged;
  - (b) if it is damaged, the damage shall be treated for the purposes of making a parental compensation order as having been caused by the child, regardless of how it was caused and who caused it.
- (3) The court shall specify in the order how and by when the compensation is to be paid (for example, it may specify that the compensation is to be paid by instalments, and specify the date by which each instalment must be paid).
- (4) For the purpose of ascertaining the means of the parent or guardian, the court may, before specifying the amount of compensation, order him to provide the court, within such period as it may specify in the order, such a statement of his financial circumstances as the court may require.
- (5) A person who without reasonable excuse fails to comply with an order under subsection (4) above is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

*Status: Point in time view as at 27/02/2004. This version of this part contains provisions that are not valid for this point in time.*

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- (6) If, in providing a statement of his financial circumstances pursuant to an order under subsection (4) above, a person—
- (a) makes a statement which he knows to be false in a material particular;
  - (b) recklessly provides a statement which is false in a material particular; or
  - (c) knowingly fails to disclose any material fact,
- he is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) Proceedings in respect of an offence under subsection (6) above may, despite anything in section 127(1) of the 1980 Act (limitation of time), be commenced at any time within two years from the date of the commission of the offence or within six months of its first discovery by the local authority, whichever period expires earlier.

#### Textual Amendments

**F73** Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 2](#); [S.I. 2006/1871](#), [art. 2](#), [Sch.](#) (as amended by [S.I. 2006/2182](#), [art. 3](#))

VALID FROM 20/07/2006

### 13C Parental compensation orders: supplemental

- (1) Before deciding whether or not to make a parental compensation order in favour of any person, the magistrates' court shall take into account the views of that person about whether a parental compensation order should be made in his favour.
- (2) Before making a parental compensation order, the magistrates' court shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.
- (3) Before making a parental compensation order, a magistrates' court shall explain to the parent or guardian of the child in ordinary language—
- (a) the effect of the order and of the requirements proposed to be included in it;
  - (b) the consequences which may follow (under subsection (4)(b) below) as a result of failure to comply with any of those requirements;
  - (c) that the court has power (under subsection (4)(a) below) to review the order on the application either of the parent or guardian or of the local authority.
- (4) A magistrates' court which has made a parental compensation order may make an order under subsection (5) below if while the order is in force—
- (a) it appears to the court, on the application of the local authority, or the parent or guardian subject to the order, that it is appropriate to make an order under subsection (5); or
  - (b) it is proved to the satisfaction of the court, on the application of the local authority, that the parent or guardian subject to it has failed to comply with any requirement included in the order.
- (5) An order under this subsection is an order discharging the parental compensation order or varying it—

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*Changes to legislation: Crime and Disorder Act 1998, Part I is up to date with all changes known to be in force on or before 25 April 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)*

- (a) by cancelling any provision included in it; or
  - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (6) Where an application under subsection (4) above for the discharge of a parental compensation order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.
- (7) References in this section to the magistrates' court which made a parental compensation order include any magistrates' court acting in the same local justice area as that court.

#### Textual Amendments

**F73** Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 2](#); S.I. 2006/1871, [art. 2](#), [Sch.](#) (as amended by S.I. 2006/2182, [art. 3](#))

VALID FROM 20/07/2006

### 13D Parental compensation orders: appeal

- (1) If a magistrates' court makes a parental compensation order, the parent or guardian may appeal against the making of the order, or against the amount of compensation specified in the order.
- (2) The appeal lies to the Crown Court.
- (3) On the appeal the Crown Court—
  - (a) may make such orders as may be necessary to give effect to its determination of the appeal;
  - (b) may also make such incidental or consequential orders as appear to it to be just.
- (4) Any order of the Crown Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of section 13C above, be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the Crown Court.
- (5) A person in whose favour a parental compensation order is made shall not be entitled to receive any compensation under it until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.



**Status:** Point in time view as at 27/02/2004. This version of this part contains provisions that are not valid for this point in time.  
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### Textual Amendments

**F73** Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 2](#); S.I. 2006/1871, [art. 2](#), Sch. (as amended by S.I. 2006/2182, art. 3)

VALID FROM 20/07/2006

### 13E Effect of parental compensation order on subsequent award of damages in civil proceedings

- (1) This section has effect where—
  - (a) a parental compensation order has been made in favour of any person in respect of any taking or loss of property or damage to it; and
  - (b) a claim by him in civil proceedings for damages in respect of the taking, loss or damage is then to be determined.
- (2) The damages in the civil proceedings shall be assessed without regard to the parental compensation order, but the claimant may recover only an amount equal to the aggregate of the following—
  - (a) any amount by which they exceed the compensation; and
  - (b) a sum equal to any portion of the compensation which he fails to recover.
- (3) The claimant may not enforce the judgment, so far as it relates to such a sum as is mentioned in subsection (2)(b) above, without the permission of the court.]

### Textual Amendments

**F73** Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 2](#); S.I. 2006/1871, [art. 2](#), Sch. (as amended by S.I. 2006/2182, art. 3)

## 14 Local child curfew schemes.

- (1) A local authority [<sup>F74</sup>or a chief officer of police] may make a scheme (a “local child curfew scheme”) for enabling the authority [<sup>F75</sup>or (as the case may be) the officer]—
  - (a) subject to and in accordance with the provisions of the scheme; and
  - (b) if, after such consultation as is required by the scheme, the authority [<sup>F75</sup>or (as the case may be) the officer] considers it necessary to do so for the purpose of maintaining order,  
to give a notice imposing, for a specified period (not exceeding 90 days), a ban to which subsection (2) below applies.
- (2) This subsection applies to a ban on children of specified ages ([<sup>F76</sup>under 16]) being in a public place within a specified area—
  - (a) during specified hours (between 9 pm and 6 am); and
  - (b) otherwise than under the effective control of a parent or a responsible person aged 18 or over.

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- (3) Before making a local child curfew scheme, a local authority shall consult—
- (a) every chief officer of police any part of whose police area lies within its area; and
  - (b) such other persons or bodies as it considers appropriate.

- [<sup>F77</sup>(3A) Before making a local child curfew scheme, a chief officer of police shall consult—
- (a) every local authority any part of whose area lies within the area to be specified; and
  - (b) such other persons or bodies as he considers appropriate.]

- [<sup>F78</sup>(4) A local child curfew scheme shall, if made by a local authority, be made under the common seal of the authority.

- (4A) A local child curfew scheme shall not have effect until it is confirmed by the Secretary of State.]

- (5) The Secretary of State—
- (a) may confirm, or refuse to confirm, a local child curfew scheme submitted under this section for confirmation; and
  - (b) may fix the date on which such a scheme is to come into operation; and if no date is so fixed, the scheme shall come into operation at the end of the period of one month beginning with the date of its confirmation.

- (6) A notice given under a local child curfew scheme (a “curfew notice”) may specify different hours in relation to children of different ages.

- (7) A curfew notice shall be given—
- (a) by posting the notice in some conspicuous place or places within the specified area; and
  - (b) in such other manner, if any, as appears to the local authority [<sup>F79</sup>or (as the case may be) the chief officer of police] to be desirable for giving publicity to the notice.

- (8) In this section—
- “local authority” means—
- (a) in relation to England, the council of a district or London borough, the Common Council of the City of London, the Council of the Isle of Wight and the Council of the Isles of Scilly;
  - (b) in relation to Wales, the council of a county or county borough;
- “public place” has the same meaning as in Part II of the <sup>M9</sup>Public Order Act 1986.

#### Textual Amendments

**F74** Words in s. 14(1) inserted (1.8.2001) by 2001 c. 16, s. 49(2)(a); S.I. 2001/2223, art. 3

**F75** Words in s. 14(1) inserted (1.8.2001) by 2001 c. 16, s. 49(2)(b); S.I. 2001/2223, art. 3

**F76** Words in s. 14(2) substituted (1.8.2001) by 2001 c. 16, s. 48; S.I. 2001/2223, art. 3

**F77** S. 14(3A) inserted (1.8.2001) by 2001 c. 16, s. 49(3); S.I. 2001/2223, art. 3

**F78** S. 14(4)(4A) substituted (1.8.2001) for s. 14(4) by 2001 c. 16, s. 49(4); S.I. 2001/2223, art. 3

**F79** Words in s. 14(7)(b) inserted (1.8.2001) by 2001 c. 16, s. 49(5); S.I. 2001/2223, art. 3

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#### Commencement Information

**I11** S. 14 wholly in force; S. 14 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### Marginal Citations

**M9** 1986 c.64.

### 15 Contravention of curfew notices.

- (1) Subsections (2) and (3) below apply where a constable has reasonable cause to believe that a child is in contravention of a ban imposed by a curfew notice.
- (2) The constable shall, as soon as practicable, inform the local authority for the area that the child has contravened the ban.
- (3) The constable may remove the child to the child's place of residence unless he has reasonable cause to believe that the child would, if removed to that place, be likely to suffer significant harm.
- (4) In subsection (1) of section 47 of the 1989 Act (local authority's duty to investigate)—
  - (a) in paragraph (a), after sub-paragraph (ii) there shall be inserted the following sub-paragraph—

“(iii) has contravened a ban imposed by a curfew notice within the meaning of Chapter I of Part I of the Crime and Disorder Act 1998; or”;

and
  - (b) at the end there shall be inserted the following paragraph— “ In the case of a child falling within paragraph (a)(iii) above, the enquiries shall be commenced as soon as practicable and, in any event, within 48 hours of the authority receiving the information. ”

#### Modifications etc. (not altering text)

**C11** S. 15(1)-(3) applied (with modifications) (20.1.2004) by Police Reform Act 2002 (c. 30), Sch. 4 para. 4B (as inserted by Anti-social Behaviour Act 2003 (c. 38), ss. 33(3), 93(1); S.I. 2003/3300, art. 2(b))

#### Commencement Information

**I12** S. 15 wholly in force; S. 15 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

### 16 Removal of truants to designated premises etc.

- (1) This section applies where a local authority—
  - (a) designates premises in a police area (“designated premises”) as premises to which children and young persons of compulsory school age may be removed under this section; and
  - (b) notifies the chief officer of police for that area of the designation.
- (2) A police officer of or above the rank of superintendent may direct that the powers conferred on a constable by subsection (3) below—
  - (a) shall be exercisable as respects any area falling within the police area and specified in the direction; and

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- (b) shall be so exercisable during a period so specified;  
 and references in that subsection to a specified area and a specified period shall be construed accordingly.
- (3) If a constable has reasonable cause to believe that a child or young person found by him in a public place in a specified area during a specified period—
- (a) is of compulsory school age; and
  - (b) is absent from a school without lawful authority,
- the constable may remove the child or young person to designated premises, or to the school from which he is so absent.
- [<sup>F80</sup>(3A) The power of a police officer of or above the rank of superintendent under subsection (2) to specify any area falling within a police area shall be exercisable by such an officer who is a member of the British Transport Police as if the reference in that subsection to an area in the police area were a reference to—
- (a) any area in or in the vicinity of any policed premises; or
  - (b) the whole or any part of any such premises;
- and references in subsection (3) to the specified area shall have effect accordingly.]
- (4) A child's or young person's absence from a school shall be taken to be without lawful authority unless it falls within subsection (3) (leave, sickness, unavoidable cause or day set apart for religious observance) of section 444 of the <sup>M10</sup>Education Act 1996.
- (5) In this section—
- [<sup>F81</sup>“British Transport Police” means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);]  
 “local authority” means—
- (a) in relation to England, a county council, a district council whose district does not form part of an area that has a county council, a London borough council or the Common Council of the City of London;
  - (b) in relation to Wales, a county council or a county borough council;
- [<sup>F82</sup>“policed premises” has the meaning given by section 53(3) of the British Transport Commission Act 1949;]  
 “public place” has the same meaning as in section 14 above;  
 “school” has the same meaning as in the <sup>M11</sup>Education Act 1996.

#### Textual Amendments

- F80** S. 16(3A) inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 75\(1\)](#); S.I. 2002/2306, [art. 2\(d\)\(vii\)](#)
- F81** S. 16(5): definition of "British Transport Police" inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 75\(2\)\(a\)](#); S.I. 2002/2306, [art. 2\(d\)\(vii\)](#); and that definition ceased to have effect (1.7.2004) by virtue of [Railways and Transport Safety Act 2003 \(c. 20\), ss. 73, 120\(1\), Sch. 5 para. 4\(1\)\(b\)\(2\)\(j\)](#); S.I. 2004/1572, [art. 3\(jjj\)](#)
- F82** S. 16(5): definition of "policed premises" inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 75\(2\)\(b\)](#); S.I. 2002/2306 {[art. 2\(d\)\(vii\)](#)}

#### Marginal Citations

- M10** 1996 c.56.  
**M11** 1996 c.56.

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### Miscellaneous and supplemental

#### 17 Duty to consider crime and disorder implications.

- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- (2) This section applies to a local authority, a joint authority, [<sup>F83</sup>the London Fire and Emergency Planning Authority,]<sup>F84</sup>a fire authority constituted by a combination scheme under the Fire Services Act 1947 (c. 41), a police authority, a National Park authority and the Broads Authority.
- (3) In this section—
  - “local authority” means a local authority within the meaning given by section 270(1) of the <sup>M12</sup>Local Government Act 1972 or the Common Council of the City of London;
  - “joint authority” has the same meaning as in the <sup>M13</sup>Local Government Act 1985;
  - “National Park authority” means an authority established under section 63 of the <sup>M14</sup>Environment Act 1995.

#### Textual Amendments

- F83** Words in s. 17(2) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 63** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4**
- F84** Words in s. 17(2) inserted (1.4.2003) by Police Reform Act 2002 (c. 30), **ss. 97(12), 108(2)(4)**; S.I. 2003/525, **art. 2**; S.I. 2003/808, **art. 2(j)**

#### Commencement Information

- I13** S. 17 wholly in force; S. 17 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

#### Marginal Citations

- M12** 1972 c.70.  
**M13** 1985 c.51.  
**M14** 1995 c.25.

VALID FROM 01/08/2007

#### <sup>F85</sup>17A Sharing of information

- (1) A relevant authority is under a duty to disclose to all other relevant authorities any information held by the authority which is of a prescribed description, at such intervals and in such form as may be prescribed.
- (2) In subsection (1) “prescribed” means prescribed in regulations made by the Secretary of State.

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- (3) The Secretary of State may only prescribe descriptions of information which appears to him to be of potential relevance in relation to the reduction of crime and disorder in any area of England and Wales (including anti-social or other behaviour adversely affecting the local environment in that area).
- (4) Nothing in this section requires a relevant authority to disclose any personal data (within the meaning of the Data Protection Act 1998).
- (5) In this section “relevant authority” means an authority in England and Wales which is for the time being a relevant authority for the purposes of section 115.]

#### Textual Amendments

**F85** S. 17A inserted (1.8.2007 for E. and 19.11.2007 for W.) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 22, 53(1)(a), [Sch. 9 para. 5](#); S.I. 2007/1614, [art 3\(b\)](#); S.I. 2007/3073, [art. 2\(a\)](#)

## 18 Interpretation etc. of Chapter I.

- (1) In this Chapter—
  - “anti-social behaviour order” has the meaning given by section 1(4) above;
  - “chief officer of police” has the meaning given by section 101(1) of the <sup>M15</sup>Police Act 1996;
  - “child safety order” has the meaning given by section 11(1) above;
  - “curfew notice” has the meaning given by section 14(6) above;
  - “local child curfew scheme” has the meaning given by section 14(1) above;
  - “parenting order” has the meaning given by section 8(4) above;
  - “police area” has the meaning given by section 1(2) of the <sup>M16</sup>Police Act 1996;
  - “police authority” has the meaning given by section 101(1) of that Act;
  - “responsible officer”—
    - (a) in relation to a parenting order, has the meaning given by section 8(8) above;
    - (b) in relation to a child safety order, has the meaning given by section 11(8) above;
  - “sex offender order” has the meaning given by section 2(3) above.
- <sup>F86</sup>(2) In this Chapter, “protecting the public from serious harm” shall be construed in accordance with section 161(4) of the Powers of Criminal Courts (Sentencing) Act 2000.]
- (3) Where directions under a parenting order are to be given by <sup>F87</sup>an officer of a local probation board], <sup>F87</sup>the officer of a local probation board] shall be an officer appointed for or assigned to the petty sessions area within which it appears to the court that the child or, as the case may be, the parent resides or will reside.
- (4) Where the supervision under a child safety order is to be provided, or directions under a parenting order are to be given, by—
  - (a) a social worker of a local authority social services department; or
  - (b) a member of a youth offending team,

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the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that the child or, as the case may be, the parent resides or will reside.

- (5) For the purposes of this Chapter the Inner Temple and the Middle Temple form part of the City of London.

#### Textual Amendments

- F86** S. 18(2) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 196**  
**F87** Words in s. 18(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4**; S.I. 2001/919, **art. 2(f)(i)**

#### Modifications etc. (not altering text)

- C12** S. 18(3)(4) applied (27.2.2004) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), **Sch. 1 para. 9D(7)** (as inserted by Crime and Disorder Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**)

#### Commencement Information

- I14** S. 18 wholly in force; s. 18 not in force at Royal Assent see s. 121; In force at 30.9.1998 by 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

#### Marginal Citations

- M15** 1996 c.16.  
**M16** 1996 c.16.

## CHAPTER II

### SCOTLAND

#### 19 Anti-social behaviour orders.

- (1) A [<sup>F88</sup>relevant] authority may make an application for an order under this section if it appears to the authority that the following conditions are fulfilled with respect to any person of or over the age of 16, namely—
- (a) that the person has—
    - (i) acted in an anti-social manner, that is to say, in a manner that caused or was likely to cause alarm or distress; or
    - (ii) pursued a course of anti-social conduct, that is to say, pursued a course of conduct that caused or was likely to cause alarm or distress, to one or more persons not of the same household as himself <sup>F89</sup>. . . (and in this section “anti-social acts” and “anti-social conduct” shall be construed accordingly); and
  - (b) that such an order is necessary to protect [<sup>F90</sup>relevant persons] from further anti-social acts or conduct by him.
- (2) An application under subsection (1) above shall be made by summary application to the sheriff within whose sheriffdom the alarm or distress was alleged to have been caused or to have been likely to be caused.

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[<sup>F91</sup>(2A) On an application made under subsection (1) above, being an application of which the person in respect of whom it is made has received intimation, the sheriff may, pending its determination, make such interim order as the sheriff considers appropriate provided that he is satisfied—

- (a) that were the actings or conduct complained of in the application established, the condition mentioned in paragraph (a) of that subsection would be fulfilled; and
- (b) that such an interim order is necessary for the purpose mentioned in paragraph (b) of that subsection.]

(3) On an application under subsection (1) above, the sheriff may, if he is satisfied that the conditions mentioned in that subsection are fulfilled, make an order under this section (an “anti-social behaviour order”) which, for the purpose of protecting [<sup>F92</sup>relevant persons] from further anti-social acts or conduct by the person against whom the order is sought, prohibits him from doing anything described in the order.

(4) For the purpose of determining whether the condition mentioned in subsection (1)(a) is fulfilled, the sheriff shall disregard any act of the person in respect of whom the application is made which that person shows was reasonable in the circumstances.

(5) This section does not apply in relation to anything done before the commencement of this section.

(6) Nothing in this section shall prevent a [<sup>F93</sup>relevant] authority from instituting any legal proceedings otherwise than under this section against any person in relation to any anti-social act or conduct.

(7) In this section “conduct” includes speech and a course of conduct must involve conduct on at least two occasions.

[<sup>F94</sup>(8) In this section and section 21 below—

“relevant authority” means—

- (a) a local authority (that is to say, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)); or
- (b) a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10) (the register of social landlords);

“relevant person” means, in relation to an application by—

- (a) a local authority, a person in the area of that authority;
- (b) a registered social landlord—
  - (i) a person residing in, or otherwise on or likely to be on, premises provided or managed by that landlord; or
  - (ii) a person in, or likely to be in, the vicinity of such premises;

and any reference to the area of a local authority is a reference to the local government area (within the meaning of the said Act of 1994) for which that authority is constituted.]

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#### Textual Amendments

**F88** Word in s. 19(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 45(2)(a)(i)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.

**F89** Words in s. 19(1)(a) repealed (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 45(2)(a)(ii)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.



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- F90** Words in s. 19(1)(b) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 45(2)(a)(iii)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F91** S. 19(2A) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 44(1)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F92** Words in s. 19(3) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 45(2)(b)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F93** Word in s. 19(6) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 45(2)(c)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F94** S. 19(8) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 45(2)(d)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.

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#### Commencement Information

- I15** S. 19 wholly in force at 1.4.1999; S. 19 not in force at Royal assent, see s. 121; S. 19 in force in Scotland at 1.4.1999 by S.I. 1998/3263, **art. 5**

## 20 Sex offender orders.

- (1) An application for an order under this section may be made by a chief constable if it appears to him that the conditions mentioned in subsection (2) below are fulfilled with respect to any person [<sup>F95</sup>who he believes is in, or is intending to come to, the area of his police force] .
- (2) The conditions are—
  - (a) that the person in respect of whom the application for the order is made is—
    - (i) of or over the age of 16 years; and
    - (ii) a sex offender; and
  - (b) that the person has acted, since the relevant date, in such a way as to give reasonable cause to believe that an order under this section is necessary to protect [<sup>F96</sup>the public in the United Kingdom, or any particular members of that public] from serious harm from him.
- (3) An application under subsection (1) above shall be made by summary application to [<sup>F97</sup>(a)] the sheriff within whose sheriffdom the person is alleged to have acted as mentioned in subsection (2)(b) above.  
[<sup>F98</sup>, or  
(b) the sheriff whose sheriffdom includes any part of the area of the applicant's police force.]
- (4) On an application under subsection (1) above the sheriff may—
  - (a) pending the determination of the application, make any such interim order as he considers appropriate; and
  - (b) if he is satisfied that the conditions mentioned in subsection (2) above are fulfilled, make an order under this section (“a sex offender order”) which prohibits the person in respect of whom it is made from doing anything described in the order.
- (5) The prohibitions that may be imposed by an order made under subsection (4) above are those necessary for the purpose of protecting [<sup>F99</sup>the public in the United Kingdom, or any particular members of that public,] from serious harm from the person in respect of whom the order is made.

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- (6) While a sex offender order has effect, Part I of the <sup>M17</sup>Sex Offenders Act 1997 shall have effect as if—
- (a) the person in respect of whom the order has been obtained were subject to the notification requirements of that Part; and
  - (b) in relation to that person, the relevant date (within the meaning of that Part) were the date on which the copy of the order was given or delivered to that person in accordance with subsections (8) and (9) of section 21 below.
- (7) Section 3 above applies for the purposes of this section as it applies for the purposes of section 2 above with the following modifications—
- (a) any reference in that section to the defendant shall be construed as a reference to the person in respect of whom the order is sought; and
  - (b) in subsection (2) of that section, the reference to subsection (1) of the said section 2 shall be construed as a reference to subsection (2)(b) of this section.
- (8) A constable may arrest without warrant a person whom he reasonably suspects of doing, or having done, anything prohibited by an order under subsection (4)(a) above or a sex offender order.

#### Textual Amendments

- F95** Words in s. 20(1) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 70\(2\)](#); S.I. 2002/420, [art. 2](#)
- F96** Words in s. 20(2)(b) substituted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 70\(3\)](#); S.I. 2002/420, [art. 2](#)
- F97** Words in s. 20(3) inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 70\(4\)\(a\)](#); S.I. 2002/420, [art. 2](#)
- F98** S. 20(3)(b) and preceding word inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 70\(4\)\(b\)](#); S.I. 2002/420, [art. 2](#)
- F99** Words in s. 20(5) substituted (1.10.2002 with application as mentioned in s. 70(9)) by [Police Reform Act 2002 \(c. 30\), s. 70\(5\)\(9\)](#); S.I. 2002/420, [art. 2](#)

#### Marginal Citations

- M17** 1997 c.51.

## 21 Procedural provisions with respect to orders.

- (1) Before making an application under—
- (a) section 19(1) above;
  - (b) subsection (7)(b)(i) below,
- [<sup>F100</sup>a relevant] authority shall consult the relevant chief constable.
- (2) Before making an application under section 20(1) above or subsection (7)(b)(i) below, [<sup>F101</sup>a] chief constable shall consult the local authority within whose area the person in respect of whom [<sup>F102</sup>the application is to be made resides or appears to reside].
- [<sup>F103</sup>(2A) Before making an application under section 19(1) above or subsection (7)(b)(i) below, a registered social landlord shall provide notification of its intention to do so to the local authority within whose area the person in respect of whom the application is to be made resides or appears to reside.]

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- (3) In subsection (1) above “relevant chief constable” means the chief constable of the police force maintained under the <sup>M18</sup>Police (Scotland) Act 1967
- [<sup>F104</sup>(a)] the area of which includes the area of the local authority making the application; [<sup>F105</sup>or
- (b) as the case may be, the place where the person in relation to whom the application is to be made by the registered social landlord resides or appears to reside].
- (4) A failure to comply with subsection (1) or (2) above shall not affect the validity of an order made on any application to which either of those subsections applies.
- (5) A record of evidence shall be kept on any summary application under section 19 or 20 above or subsection (7)(b) below.
- (6) Subsections (7) to (9) below apply to anti-social behaviour orders and sex offender orders and subsections (8) and (9) below apply to an order made under section [<sup>F106</sup>19(2A) or] 20(4)(a) above.
- (7) An order to which this subsection applies—
- (a) shall have effect for a period specified in the order or indefinitely; and
- (b) may at any time be varied or revoked [<sup>F107</sup>(in the case of a sex offender order, by the appropriate court for that order)] on a summary application by—
- (i) the local authority or, as the case may be, chief constable [<sup>F108</sup>or registered social landlord] who obtained the order [<sup>F109</sup>or, in the case of a sex offender order, any other relevant chief constable] ; or
- (ii) the person subject to the order.
- [<sup>F110</sup>(7A) In subsection (7) above—
- “the appropriate court” means—
- (a) the sheriff who made the sex offender order; or
- (b) the sheriff whose sheriffdom includes any part of the area of the applicant’s police force or of the police force of any other relevant chief constable;
- “relevant chief constable” means a chief constable who believes that the accused is in, or is intending to come to, the area of his police force.]
- [<sup>F111</sup>(7B) Where a sheriff makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.]
- (8) The clerk of the court by which an order to which this subsection applies is made or varied shall cause a copy of the order as so made or varied to be—
- (a) given to the person named in the order; or
- (b) sent to the person so named by registered post or by the recorded delivery service.
- (9) An acknowledgement or certificate of delivery of a letter sent under subsection (8)(b) above issued by the Post Office shall be sufficient evidence of the delivery of the letter on the day specified in such acknowledgement or certificate.
- [<sup>F112</sup>(9A) An interlocutor granting or refusing, under section 19(2A) above, an interim order is an appealable interlocutor.

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- (9B) Where an appeal is taken, by virtue of subsection (9A) above, against an interlocutor granting an interim order that order shall, without prejudice to any power of the court to vary or recall it, continue to have effect pending the disposal of the appeal.]
- (10) Where an appeal is lodged against the determination of an application under section 19 or 20 above or subsection (7)(b) above, any order made on the application shall, without prejudice to the determination of an application under subsection (7)(b) above made after the lodging of the appeal, continue to have effect pending the disposal of the appeal.

### Textual Amendments

- F100** Words in s. 21(1) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(3)(a), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F101** Word in s. 21(2) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(3)(b)(i), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F102** Words in s. 21(2) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(3)(b)(ii), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F103** S. 21(2A) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(3)(c), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F104** Words in s. 21(3) renumbered as s. 21(3)(a) (27.6.2003) by virtue of Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(3)(d)(i), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F105** S. 21(3)(b) and preceding word added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(3)(d)(ii), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F106** Words in s. 21(6) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 44(2)(a), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F107** Words in s. 21(7)(b) inserted (1.10.2002 with application as mentioned in s. 70(9)) by Police Reform Act 2002 (c. 30), s. 70(6)(a)(9); S.I. 2002/420, art. 2
- F108** Words in s. 21(7)(b)(i) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(3)(e), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F109** Words in s. 21(7)(b)(i) inserted (1.10.2002 with application as mentioned in s. 70(9)) by Police Reform Act 2002 (c. 30), s. 70(6)(b); S.I. 2002/420, art. 2
- F110** S. 21(7A) inserted (1.10.2002 with application as mentioned in s. 70(9)) by Police Reform Act 2002 (c. 30), s. 70(7)(9); S.I. 2002/420, art. 2
- F111** S. 21(7B) inserted (1.10.2002 with application as mentioned in s. 70(9)) by Police Reform Act 2002 (c. 30), s. 70(8)(9); S.I. 2002/420, art. 2
- F112** S. 21(9A)(9B) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp007), {ss. 44(2)(b)}, 89(2); S.S.I. 2003/288, art. 2, Sch.

### Commencement Information

- I16** S. 21 wholly in force at 1.4.1999; s. 21 not in force at Royal Assent see s. 121; s. 21 in force at 1.12.1998 for the purposes of sex offender orders made under s. 20 and orders made under s. 20(4)(a) by S.I. 1998/2327, art. 4(1); S. 21 in force to the extent that it is not already in force at 1.4.1999 by S.I. 1998/3263, art. 5

### Marginal Citations

- M18** 1967 c.77.

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## [<sup>F113</sup>21A Sex offender orders made in England and Wales or Northern Ireland

- (1) If without reasonable excuse a person does anything in Scotland which he is prohibited from doing there by—
  - (a) an order under section 2(3) or 2A above; or
  - (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),he is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.]

### Textual Amendments

**F113** S. 21A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 71](#); [S.I. 2002/420, art. 2](#)

## 22 Offences in connection with breach of orders.

- (1) Subject to subsection (3) below, if without reasonable excuse a person breaches an anti-social behaviour order [<sup>F114</sup>, or an interim order under section 19(2A) above,] by doing anything which he is prohibited from doing by the order, he shall be guilty of an offence and shall be liable—
  - (a) on summary conviction, to a term of imprisonment not exceeding six months or to a fine not exceeding the statutory maximum or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.
- (2) Subsection (3) applies where—
  - (a) the breach of the <sup>F115</sup> . . . order referred to in subsection (1) above consists in the accused having acted in a manner prohibited by the order which constitutes a separate offence (in this section referred to as the “separate offence”); and
  - (b) the accused has been charged with that separate offence.
- (3) Where this subsection applies, the accused shall not be liable to be proceeded against for an offence under subsection (1) above but, subject to subsection (4) below, the court which sentences him for that separate offence shall, in determining the appropriate sentence or disposal for that offence, have regard to—
  - (a) the fact that the offence was committed by him while subject to [<sup>F116</sup>the order so referred to];
  - (b) the number of such orders to which he was subject at the time of the commission of the offence;
  - (c) any previous conviction of the accused of an offence under subsection (1) above; and
  - (d) the extent to which the sentence or disposal in respect of any such previous conviction of the accused differed, by virtue of this subsection, from that which the court would have imposed but for this subsection.

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- (4) The court shall not, under subsection (3) above, have regard to the fact that the separate offence was committed while the accused was subject to <sup>F117</sup>the order so referred to] unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.
- (5) The fact that the separate offence was committed while the accused was subject to an anti-social behaviour order shall, unless challenged—
- (a) in the case of proceedings on indictment, by giving notice of a preliminary objection under paragraph (b) of section 72 of the <sup>M19</sup>Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) or under that paragraph as applied by section 71(2) of that Act; or
  - (b) in summary proceedings, by preliminary objection before his plea is recorded, be held as admitted.
- (6) Subject to subsection (7) below, subsections (1) to (5) above apply in relation to an order under section 20(4)(a) above and to a sex offender order as they apply in relation to <sup>F118</sup>an order under section 19(2A) above and to] an anti-social behaviour order.
- (7) Subsection (2) above as applied for the purposes of subsection (6) above shall have effect with the substitution of the words “ at the time at which he committed ” for the words “which constitutes”.

#### Textual Amendments

- F114** Words in s. 22(1) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 44(3)(a), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F115** Words in s. 22(2)(a) repealed (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 44(3)(b), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F116** Words in s. 22(3)(a) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 44(3)(c), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F117** Words in s. 22(4) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 44(3)(c), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F118** Words in s. 22(6) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 44(3)(d), 89(2); S.S.I. 2003/288, art. 2, Sch.

#### Commencement Information

- I17** S. 22 wholly in force at 1.4.1999; S. 22 not in force at Royal Assent, see s. 121; S. 22(6)(7) and for the purposes of their application to an order under s. 20(4)(a) and to a sex offender order made under s. 20, s. 22(1)-(5) in force at 1.12.1998 by S.I. 1998/2327, art. 4(1); S. 22 in force to the extent that it is not already in force at 1.4.1999 by S.I. 1998/3263, art. 5

#### Marginal Citations

- M19** 1995 c.46.

### <sup>F119</sup>22A Anti-social behaviour strategies

- (1) Each local authority shall prepare jointly with the relevant chief constable a strategy for dealing with anti-social behaviour in the authority’s area; and the authority shall publish the strategy.
- (2) The strategy shall, in particular, include provision as to—

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- (a) how the authority and the police are to co-ordinate the exercise of their functions in so far as they are exercisable in relation to anti-social behaviour in the authority’s area; and
  - (b) the exchange of information between the authority and the police relating to such behaviour.
- (3) The local authority and the relevant chief constable—
- (a) shall keep the strategy under review; and
  - (b) may from time to time revise the strategy,
- and the authority shall publish the strategy as so revised.
- (4) In this section—
- “anti-social behaviour” means any act or conduct (including speech) which causes or is likely to cause alarm, distress, nuisance or annoyance to any person;
  - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) and any reference to the area of such an authority is a reference to the local government area within the meaning of that Act for which it is so constituted;
  - “relevant chief constable” means the chief constable of the police force maintained under the Police (Scotland) Act 1967 (c. 77) the area of which includes the area of the local authority.]

**Textual Amendments**

**F119** S. 22A inserted (prosp.) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 83, 89

**23 Anti-social behaviour as ground of eviction.**

- (1) <sup>F120</sup> .....
- (2) <sup>F120</sup> .....
- (3) <sup>F120</sup> .....
- (4) For Ground 15 in Schedule 5 to the <sup>M20</sup>Housing (Scotland) Act 1988 (eviction on ground of use of premises for immoral or illegal purposes etc.) there shall be substituted the following—

**Ground 15**

The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—

- (a) been convicted of—
  - (i) using or allowing the house to be used for immoral or illegal purposes; or
  - (ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or
- (b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or
- (c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.

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In this Ground “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance, “conduct” includes speech and a course of conduct must involve conduct on at least two occasions and “tenant” includes any one of joint tenants.”

- (5) No person shall be liable to eviction under paragraph 2 or 7 of Schedule 3 to the <sup>M21</sup>Housing (Scotland) Act 1987 or Ground 15 in Schedule 5 to the <sup>M22</sup>Housing (Scotland) Act 1988 as substituted respectively by subsection (2), (3) and (4) above in respect of any act or conduct before the commencement of this section unless he would have been liable to be evicted under those paragraphs or, as the case may be, that Ground as they had effect before that substitution.

#### Textual Amendments

**F120** S. 23(1)-(3) repealed (30.9.2002) by [The Housing \(Scotland\) Act 2001 \(asp 10\)](#), s. 112, Sch. 10 para. 27; S.S.I. 2002/321, [art. 2](#), Sch. (with arts. 3-5)

#### Marginal Citations

**M20** 1988 c.43.

**M21** 1987 c.26.

**M22** 1988 c.43.

## 24 Noise-making equipment: police power of seizure.

- (1) The <sup>M23</sup>Civic Government (Scotland) Act 1982 shall be amended in accordance with this section.
- (2) In section 54 (offence of playing instruments, etc.), after subsection (2) there shall be inserted the following subsections—
- “(2A) Where a constable reasonably suspects that an offence under subsection (1) above has been committed in relation to a musical instrument or in relation to such a device as is mentioned in paragraph (c) of that subsection, he may enter any premises on which he reasonably suspects that instrument or device to be and seize any such instrument or device he finds there.
- (2B) A constable may use reasonable force in the exercise of the power conferred by subsection (2A) above.
- (2C) Schedule 2A to this Act (which makes provision in relation to the retention and disposal of property seized under subsection (2A) above) shall have effect.”
- (3) In section 60 (powers of search and seizure)—
- (a) in subsection (5)—
- (i) after the words “Nothing in” there shall be inserted the words “section 54(2A) of this Act or ”; and
- (ii) for the words from “which” to the end there shall be substituted the words “ which is otherwise exercisable by a constable ”; and
- (b) in subsection (6)—
- (i) in paragraph (a), for the words from “in pursuance” to the word “vessel” there shall be substituted the words—



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“to enter and search—

- (i) any premises in pursuance of section 54(2A) of this Act or of subsection (1) above; or
  - (ii) any vehicle or vessel in pursuance of the said subsection (1),”; and
- (ii) in paragraph (c), after “under” there shall be inserted the words “section 54(2A) of this Act or ”.

(4) After Schedule 2 there shall be inserted the Schedule set out in Schedule 1 to this Act.

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**Marginal Citations**

**M23** 1982 c.45.

**CHAPTER III**

GREAT BRITAIN

**25 Powers to require removal of masks etc.**

[<sup>F121</sup>(1) After subsection (4) of section 60 (powers to stop and search in anticipation of violence) of the <sup>M24</sup>Criminal Justice and Public Order Act 1994 (“the 1994 Act”) there shall be inserted the following subsection—

“(4A) This section also confers on any constable in uniform power—

- (a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;
- (b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.”]

(2) In subsection (5) of that section, for the words “those powers” there shall be substituted the words “the powers conferred by subsection (4) above ”.

(3) In subsection (8) of that section, for the words “to stop or (as the case may be) to stop the vehicle” there shall be substituted the following paragraphs—

- “(a) to stop, or to stop a vehicle; or
- (b) to remove an item worn by him.”.

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**Textual Amendments**

**F121** S. 25(1) repealed (E.W.) (14.12.2001) by 2001 c. 24, ss. 125, 127(2)(i), **Sch. 8 Pt. 6**

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**Commencement Information**

**I18** S. 25 wholly in force at 1.3.1999; S. 25 not in force at Royal Assent, see s. 121; S. 25 expressed to be in force at 1.12.1998 by S.I. 1998/2327, **art. 4(1)** (which entry relating to the commencement of s. 25 omitted (30.8.1998) by virtue of S.I. 1998/2906, **art. 2**); S. 25 in force at 1.3.1999 by S.I. 1998/3263, **art. 4**

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### Marginal Citations

M24 1994 c.33.

## 26 Retention and disposal of things seized.

After section 60 of the 1994 Act there shall be inserted the following section—

### “60A Retention and disposal of things seized under section 60.

- (1) Any things seized by a constable under section 60 may be retained in accordance with regulations made by the Secretary of State under this section.
- (2) The Secretary of State may make regulations regulating the retention and safe keeping, and the disposal and destruction in prescribed circumstances, of such things.
- (3) Regulations under this section may make different provisions for different classes of things or for different circumstances.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

### Commencement Information

**I19** S. 26 wholly in force at 1.3.1999; S. 26 not in force at Royal Assent, see s. 121; S. 26 in force at 1.12.1998 for the purpose of making regulations under s. 60A of the Criminal Justice and Public Order Act 1994 by S.I. 1998/2327, art. 4(1) (as amended by 1998/2906, art. 2(3)); S. 26 in force at 1.3.1999 by S.I. 1998/3263, art. 4

## 27 Power of arrest for failure to comply with requirement.

- (1) In section 24(2) (arrestable offences) of the Police and Criminal Evidence Act 1984 (“the 1984 Act”), after paragraph (n) there shall be inserted—

“(o) an offence under section 60(8)(b) of the <sup>M25</sup>Criminal Justice and Public Order Act 1994 (failing to comply with requirement to remove mask etc.);”.

- (2) After section 60A of the 1994 Act there shall be inserted the following section—

### “60B Arrest without warrant for offences under section 60: Scotland.

In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under section 60(8) he may arrest that person without warrant.”

### Commencement Information

**I20** S. 27 wholly in force at 1.3.1999; S. 27 not in force at Royal Assent, see s. 121; S. 27 expressed to be in force at 1.12.1998 by S.I. 1998/2327, art. 4(1) (which entry relating to the commencement of s. 27

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omitted (30.8.1998) by virtue of 1998/2906, art. 2(2)); [S. 27](#) in force at 1.3.1999 by [S.I. 1998/3263](#), [art. 4](#)

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**Marginal Citations**

**M25** [1994 c.33](#).

**Status:**

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**Changes to legislation:**

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