



# Anti-social Behaviour Act 2003

## 2003 CHAPTER 38

### PART 1

#### PREMISES WHERE DRUGS USED UNLAWFULLY

##### **1 Closure notice**

- (1) This section applies to premises if a police officer not below the rank of superintendent (the authorising officer) has reasonable grounds for believing—
  - (a) that at any time during the relevant period the premises have been used in connection with the unlawful use, production or supply of a Class A controlled drug, and
  - (b) that the use of the premises is associated with the occurrence of disorder or serious nuisance to members of the public.
- (2) The authorising officer may authorise the issue of a closure notice in respect of premises to which this section applies if he is satisfied—
  - (a) that the local authority for the area in which the premises are situated has been consulted;
  - (b) that reasonable steps have been taken to establish the identity of any person who lives on the premises or who has control of or responsibility for or an interest in the premises.
- (3) An authorisation under subsection (2) may be given orally or in writing, but if it is given orally the authorising officer must confirm it in writing as soon as it is practicable.
- (4) A closure notice must—
  - (a) give notice that an application will be made under section 2 for the closure of the premises;
  - (b) state that access to the premises by any person other than a person who habitually resides in the premises or the owner of the premises is prohibited;
  - (c) specify the date and time when and the place at which the application will be heard;

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- (d) explain the effects of an order made in pursuance of section 2;
  - (e) state that failure to comply with the notice amounts to an offence;
  - (f) give information about relevant advice providers.
- (5) The closure notice must be served by a constable.
- (6) Service is effected by—
- (a) fixing a copy of the notice to at least one prominent place on the premises,
  - (b) fixing a copy of the notice to each normal means of access to the premises,
  - (c) fixing a copy of the notice to any outbuildings which appear to the constable to be used with or as part of the premises,
  - (d) giving a copy of the notice to at least one person who appears to the constable to have control of or responsibility for the premises, and
  - (e) giving a copy of the notice to the persons identified in pursuance of subsection (2)(b) and to any other person appearing to the constable to be a person of a description mentioned in that subsection.
- (7) The closure notice must also be served on any person who occupies any other part of the building or other structure in which the premises are situated if the constable reasonably believes at the time of serving the notice under subsection (6) that the person's access to the other part of the building or structure will be impeded if a closure order is made under section 2.
- (8) It is immaterial whether any person has been convicted of an offence relating to the use, production or supply of a controlled drug.
- (9) The Secretary of State may by regulations specify premises or descriptions of premises to which this section does not apply.
- (10) The relevant period is the period of three months ending with the day on which the authorising officer considers whether to authorise the issue of a closure notice in respect of the premises.
- (11) Information about relevant advice providers is information about the names of and means of contacting persons and organisations in the area that provide advice about housing and legal matters.

## **2 Closure order**

- (1) If a closure notice has been issued under section 1 a constable must apply under this section to a magistrates' court for the making of a closure order.
- (2) The application must be heard by the magistrates' court not later than 48 hours after the notice was served in pursuance of section 1(6)(a).
- (3) The magistrates' court may make a closure order if and only if it is satisfied that each of the following paragraphs applies—
- (a) the premises in respect of which the closure notice was issued have been used in connection with the unlawful use, production or supply of a Class A controlled drug;
  - (b) the use of the premises is associated with the occurrence of disorder or serious nuisance to members of the public;
  - (c) the making of the order is necessary to prevent the occurrence of such disorder or serious nuisance for the period specified in the order.

- (4) A closure order is an order that the premises in respect of which the order is made are closed to all persons for such period (not exceeding three months) as the court decides.
- (5) But the order may include such provision as the court thinks appropriate relating to access to any part of the building or structure of which the premises form part.
- (6) The magistrates' court may adjourn the hearing on the application for a period of not more than 14 days to enable—
  - (a) the occupier of the premises,
  - (b) the person who has control of or responsibility for the premises, or
  - (c) any other person with an interest in the premises,to show why a closure order should not be made.
- (7) If the magistrates' court adjourns the hearing under subsection (6) it may order that the closure notice continues in effect until the end of the period of the adjournment.
- (8) A closure order may be made in respect of all or any part of the premises in respect of which the closure notice was issued.
- (9) It is immaterial whether any person has been convicted of an offence relating to the use, production or supply of a controlled drug.

### **3 Closure order: enforcement**

- (1) This section applies if a magistrates' court makes an order under section 2.
- (2) A constable or an authorised person may—
  - (a) enter the premises in respect of which the order is made;
  - (b) do anything reasonably necessary to secure the premises against entry by any person.
- (3) A person acting under subsection (2) may use reasonable force.
- (4) But a constable or authorised person seeking to enter the premises for the purposes of subsection (2) must, if required to do so by or on behalf of the owner, occupier or other person in charge of the premises, produce evidence of his identity and authority before entering the premises.
- (5) A constable or authorised person may also enter the premises at any time while the order has effect for the purpose of carrying out essential maintenance of or repairs to the premises.
- (6) In this section and in section 4 an authorised person is a person authorised by the chief officer of police for the area in which the premises are situated.

### **4 Closure of premises: offences**

- (1) A person commits an offence if he remains on or enters premises in contravention of a closure notice.
- (2) A person commits an offence if—
  - (a) he obstructs a constable or an authorised person acting under section 1(6) or 3(2),
  - (b) he remains on premises in respect of which a closure order has been made, or

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- (c) he enters the premises.
- (3) A person guilty of an offence under this section is liable on summary conviction—
  - (a) to imprisonment for a period not exceeding six months, or
  - (b) to a fine not exceeding level 5 on the standard scale,or to both such imprisonment and fine.
- (4) But a person does not commit an offence under subsection (1) or subsection (2)(b) or (c) if he has a reasonable excuse for entering or being on the premises (as the case may be).
- (5) A constable in uniform may arrest a person he reasonably suspects of committing or having committed an offence under this section.

## **5 Extension and discharge of closure order**

- (1) At any time before the end of the period for which a closure order is made or extended a constable may make a complaint to an appropriate justice of the peace for an extension or further extension of the period for which it has effect.
- (2) But a complaint must not be made unless it is authorised by a police officer not below the rank of superintendent—
  - (a) who has reasonable grounds for believing that it is necessary to extend the period for which the closure order has effect for the purpose of preventing the occurrence of disorder or serious nuisance to members of the public, and
  - (b) who is satisfied that the local authority has been consulted about the intention to make the complaint.
- (3) If a complaint is made to a justice of the peace under subsection (1) the justice may issue a summons directed to—
  - (a) the persons on whom the closure notice relating to the closed premises was served under subsection (6)(d) or (e) or (7) of section 1;
  - (b) any other person who appears to the justice to have an interest in the closed premises but on whom the closure notice was not served,requiring such person to appear before the magistrates' court to answer to the complaint.
- (4) If the court is satisfied that the order is necessary to prevent the occurrence of disorder or serious nuisance for a further period it may extend the period for which the order has effect by a period not exceeding three months.
- (5) But a closure order must not have effect for more than six months.
- (6) Any of the following persons may make a complaint to an appropriate justice of the peace for an order that a closure order is discharged—
  - (a) a constable;
  - (b) the local authority;
  - (c) a person on whom the closure notice relating to the closed premises was served under subsection (6)(d) or (e) or (7) of section 1;
  - (d) a person who has an interest in the closed premises but on whom the closure notice was not served.

- (7) If a complaint is made under subsection (6) by a person other than a constable the justice may issue a summons directed to such constable as he thinks appropriate requiring the constable to appear before the magistrates' court to answer to the complaint.
- (8) The court must not make an order discharging a closure order unless it is satisfied that the closure order is no longer necessary to prevent the occurrence of disorder or serious nuisance to members of the public.
- (9) If a summons is issued in accordance with subsection (3) or (7), a notice stating the date, time and place at which the complaint will be heard must be served on—
  - (a) the persons to whom the summons is directed if it is issued under subsection (3);
  - (b) the persons mentioned in subsection (6)(c) and (d) (except the complainant) if the summons is issued under subsection (7);
  - (c) such constable as the justice thinks appropriate (unless he is the complainant);
  - (d) the local authority (unless they are the complainant).
- (10) An appropriate justice of the peace is a justice of the peace acting for the petty sessions area in which the premises in respect of which a closure order is made are situated.

## **6 Appeals**

- (1) This section applies to—
  - (a) an order under section 2 or 5;
  - (b) a decision by a court not to make an order under either of those sections.
- (2) An appeal against an order or decision to which this section applies must be brought to the Crown Court before the end of the period of 21 days beginning with the day on which the order or decision is made.
- (3) An appeal against an order under section 2 or 5(4) may be brought by—
  - (a) a person on whom the closure notice relating to the closed premises was served under section 1(6)(d) or (e);
  - (b) a person who has an interest in the closed premises but on whom the closure notice was not served.
- (4) An appeal against the decision of a court not to make such an order may be brought by—
  - (a) a constable;
  - (b) the local authority.
- (5) On an appeal under this section the Crown Court may make such order as it thinks appropriate.

## **7 Access to other premises**

- (1) This section applies to any person who occupies or owns any part of a building or structure—
  - (a) in which closed premises are situated, and
  - (b) in respect of which the closure order does not have effect.

- (2) A person to whom this section applies may at any time while a closure order has effect apply to—
  - (a) the magistrates' court in respect of an order made under section 2 or 5;
  - (b) the Crown Court in respect of an order made under section 6.
- (3) If an application is made under this section notice of the date, time and place of the hearing to consider the application must be given to every person mentioned in section 5(6).
- (4) On an application under this section the court may make such order as it thinks appropriate in relation to access to any part of a building or structure in which closed premises are situated.
- (5) It is immaterial whether any provision has been made as mentioned in section 2(5).

## **8 Reimbursement of costs**

- (1) A police authority or a local authority which incurs expenditure for the purpose of clearing, securing or maintaining the premises in respect of which a closure order has effect may apply to the court which made the order for an order under this section.
- (2) On an application under this section the court may make such order as it thinks appropriate in the circumstances for the reimbursement (in full or in part) by the owner of the premises of the expenditure mentioned in subsection (1).
- (3) But an application for an order under this section must not be entertained unless it is made not later than the end of the period of three months starting with the day the closure order ceases to have effect.
- (4) An application under this section must be served on—
  - (a) the police authority for the area in which the premises are situated if the application is made by the local authority;
  - (b) the local authority if the application is made by a police authority;
  - (c) the owner of the premises.

## **9 Exemption from liability for certain damages**

- (1) A constable is not liable for relevant damages in respect of anything done or omitted to be done by him in the performance or purported performance of his functions under this Part.
- (2) A chief officer of police is not liable for relevant damages in respect of anything done or omitted to be done by a constable under his direction or control in the performance or purported performance of the constable's functions under this Part.
- (3) Subsections (1) and (2) do not apply—
  - (a) if the act or omission is shown to have been in bad faith;
  - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998 (c. 42).
- (4) This section does not affect any other exemption from liability for damages (whether at common law or otherwise).

- (5) Relevant damages are damages in proceedings for judicial review or for the tort of negligence or misfeasance in public duty.

## **10 Compensation**

- (1) This section applies to any person who incurs financial loss in consequence of—
- (a) the issue of a closure notice, or
  - (b) a closure order having effect.
- (2) A person to whom this section applies may apply to—
- (a) the magistrates' court which considered the application for a closure order;
  - (b) the Crown Court if the closure order was made or extended by an order made by that Court on an appeal under section 6.
- (3) An application under this section must not be entertained unless it is made not later than the end of the period of three months starting with whichever is the later of—
- (a) the day the court decides not to make a closure order;
  - (b) the day the Crown Court dismisses an appeal against a decision not to make a closure order;
  - (c) the day a closure order ceases to have effect.
- (4) On an application under this section the court may order the payment of compensation out of central funds if it is satisfied—
- (a) that the person had no connection with the use of the premises as mentioned in section 1(1),
  - (b) if the person is the owner or occupier of the premises, that he took reasonable steps to prevent the use,
  - (c) that the person has incurred financial loss as mentioned in subsection (1), and
  - (d) having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss.
- (5) Central funds has the same meaning as in enactments providing for the payment of costs.

## **11 Interpretation**

- (1) References to a controlled drug and (however expressed) to the production or supply of a controlled drug must be construed in accordance with the Misuse of Drugs Act 1971 (c. 38).
- (2) A Class A controlled drug is a controlled drug which is a Class A drug within the meaning of section 2 of that Act.
- (3) Premises includes—
- (a) any land or other place (whether enclosed or not);
  - (b) any outbuildings which are or are used as part of the premises.
- (4) A closure notice is a notice issued under section 1.
- (5) A closure order is—
- (a) an order made under section 2;
  - (b) an order extended under section 5;

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- (c) an order made or extended under section 6 which has the like effect as an order made or extended under section 2 or 5 (as the case may be).
- (6) Each of the following is a local authority in relation to England—
- (a) a district council;
  - (b) a London borough council;
  - (c) a county council for an area for which there is no district council;
  - (d) the Common Council of the City of London in its capacity as a local authority;
  - (e) the Council of the Isles of Scilly.
- (7) Each of the following is a local authority in relation to Wales—
- (a) a county council;
  - (b) a county borough council.
- (8) References to a local authority are to the local authority for the area in which premises—
- (a) to which a closure notice applies are situated;
  - (b) in respect of which a closure order has effect are situated.
- (9) Closed premises are premises in respect of which a closure order has effect.
- (10) A person is the owner of premises if either of the following paragraphs applies to him—
- (a) he is a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion;
  - (b) he is a person who holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than three years.
- (11) This section applies for the purposes of this Part.