



Violent Crime Reduction Act 2006

2006 CHAPTER 38

PART 1

ALCOHOL-RELATED VIOLENCE AND DISORDER

CHAPTER 1

DRINKING BANNING ORDERS

Orders made on conviction

6 Orders on conviction in criminal proceedings

- (1) This section applies where—
 - (a) an individual aged 16 or over is convicted of an offence (the “offender”); and
 - (b) at the time he committed the offence, he was under the influence of alcohol.
- (2) The court must consider whether the conditions in section 3(2) are satisfied in relation to the offender.
- (3) If the court decides that the conditions are satisfied in relation to the offender, it may make a drinking banning order against him.
- (4) If the court—
 - (a) decides that the conditions are satisfied in relation to the offender, but
 - (b) does not make a drinking banning order,it must give its reasons for not doing so in open court.
- (5) If the court decides that the conditions are not satisfied in relation to the offender, it must state that fact in open court and give its reasons.

7 Supplementary provision about orders on conviction

- (1) For the purpose of deciding whether to make a drinking banning order under section 6 the court may consider evidence led by the prosecution and evidence led by the defence.
- (2) It is immaterial whether the evidence would have been admissible in the proceedings in which the offender was convicted.
- (3) A drinking banning order under section 6 must not be made except—
 - (a) in addition to a sentence imposed in respect of the offence; or
 - (b) in addition to an order discharging the offender conditionally.
- (4) The court may adjourn any proceedings in relation to a drinking banning order under section 6 even after sentencing the offender.
- (5) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.
- (6) But the court may not issue a warrant for the offender’s arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.
- (7) A drinking banning order under section 6 takes effect on—
 - (a) the day on which it is made; or
 - (b) if on that day the offender is detained in legal custody, the day on which he is released from that custody.
- (8) Subsection (9) applies in relation to proceedings in which a drinking banning order is made under section 6 against a young person.
- (9) 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 young person against whom the order is made; and
 - (b) section 39 of that Act (power to prohibit publication of certain matters) does so apply.
- (10) In section 3(2)(fa) of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director), after the first occurrence of “conviction of certain offences” insert “, section 6 of the Violent Crime Reduction Act 2006 (orders on conviction in criminal proceedings)”.
- (11) In this section and section 6 “the court” in relation to an offender means—
 - (a) the court by or before which he is convicted of the offence; or
 - (b) if he is committed to the Crown Court to be dealt with for the offence, the Crown Court.

8 Variation or discharge of orders under s. 6

- (1) The following persons may apply to the court which made a drinking banning order under section 6 for the order to be varied or discharged by a further order—
 - (a) the subject;
 - (b) the Director of Public Prosecutions; or

- (c) a relevant authority.
- (2) If the subject makes an application under subsection (1), he must also send notice of his application to the Director of Public Prosecutions.
- (3) If the Director of Public Prosecutions or a relevant authority makes an application under subsection (1), he or it must also send notice of the application to the subject.
- (4) In the case of an order under section 6 made by a magistrates' court, the reference in subsection (1) to the court which made the order includes a reference to a relevant local court.
- (5) An order under section 6 may not be varied so as to extend the specified period to more than two years.
- (6) No order under section 6 is to be discharged on an application under subsection (1)
 - (a) unless—
 - (a) it is discharged from a time after the end of the period that is half the duration of the specified period; or
 - (b) the Director of Public Prosecutions has consented to its earlier discharge.
- (7) In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2) after paragraph (fc) insert—
 - “(fd) where it appears to him appropriate to do so, to have the conduct of applications under section 8(1)(b) of the Violent Crime Reduction Act 2006 for the variation or discharge of orders made under section 6 of that Act;
 - (fe) where it appears to him appropriate to do so, to appear on any application under section 8(1)(a) of that Act by a person subject to an order under section 6 of that Act for the variation or discharge of the order.”