



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 8

#### ANTI-SOCIAL BEHAVIOUR

##### *Premises closure orders*

#### **118 Closure orders: premises associated with persistent disorder or nuisance**

Schedule 20 inserts a new Part 1A into the Anti-social Behaviour Act 2003 (c. 38) which makes provision about the issue of closure notices and the making of closure orders in respect of premises associated with persistent disorder or nuisance.

##### *Nuisance or disturbance on hospital premises*

#### **119 Offence of causing nuisance or disturbance on NHS premises**

- (1) A person commits an offence if—
  - (a) the person causes, without reasonable excuse and while on NHS premises, a nuisance or disturbance to an NHS staff member who is working there or is otherwise there in connection with work,
  - (b) the person refuses, without reasonable excuse, to leave the NHS premises when asked to do so by a constable or an NHS staff member, and
  - (c) the person is not on the NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself.
- (2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) For the purposes of this section—

- (a) a person ceases to be on NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself once the person has received the advice, treatment or care, and
- (b) a person is not on NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself if the person has been refused the advice, treatment or care during the last 8 hours.

(4) In this section—

“English NHS premises” means—

- (a) any hospital vested in, or managed by, a relevant English NHS body,
- (b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, a relevant English NHS body), and
- (c) the hospital grounds,

“hospital grounds” means land in the vicinity of a hospital and associated with it,

“NHS premises” means English NHS premises or Welsh NHS premises,

“NHS staff member” means a person employed by a relevant English NHS body, or a relevant Welsh NHS body, or otherwise working for such a body (whether as or on behalf of a contractor, as a volunteer or otherwise),

“relevant English NHS body” means—

- (a) a National Health Service trust (see section 25 of the National Health Service Act 2006 (c. 41)), all or most of whose hospitals, establishments and facilities are situated in England,
- (b) a Primary Care Trust (see section 18 of that Act), or
- (c) an NHS foundation trust (see section 30 of that Act),

“relevant Welsh NHS body” means—

- (a) a National Health Service trust (see section 18 of the National Health Service (Wales) Act 2006 (c. 42)), all or most of whose hospitals, establishments and facilities are situated in Wales, or
- (b) a Local Health Board (see section 11 of that Act),

“vehicle” includes an air ambulance,

“Welsh NHS premises” means—

- (a) any hospital vested in, or managed by, a relevant Welsh NHS body,
- (b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, a relevant Welsh NHS body), and
- (c) the hospital grounds.

## **120 Power to remove person causing nuisance or disturbance**

- (1) If a constable reasonably suspects that a person is committing or has committed an offence under section 119, the constable may remove the person from the NHS premises concerned.
- (2) If an authorised officer reasonably suspects that a person is committing or has committed an offence under section 119, the authorised officer may—
  - (a) remove the person from the NHS premises concerned, or
  - (b) authorise an appropriate NHS staff member to do so.

- (3) Any person removing another person from NHS premises under this section may use reasonable force (if necessary).
- (4) An authorised officer cannot remove a person under this section or authorise another person to do so if the authorised officer has reason to believe that—
- (a) the person to be removed requires medical advice, treatment or care for himself or herself, or
  - (b) the removal of the person would endanger the person’s physical or mental health.
- (5) In this section—
- “appropriate NHS staff member”—
    - (a) in relation to English NHS premises, means an English NHS staff member, and
    - (b) in relation to Welsh NHS premises, means a Welsh NHS staff member,
  - “authorised officer”—
    - (a) in relation to English NHS premises, means any English NHS staff member authorised by a relevant English NHS body to exercise the powers which are conferred by this section on an authorised officer in respect of English NHS premises, and
    - (b) in relation to Welsh NHS premises, means any Welsh NHS staff member authorised by a relevant Welsh NHS body to exercise the powers which are conferred by this section on an authorised officer in respect of Welsh NHS premises,
  - “English NHS staff member” means a person employed by a relevant English NHS body or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise),
  - “Welsh NHS staff member” means a person employed by a relevant Welsh NHS body or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise).
- (6) Terms defined in section 119 have the same meaning in this section as in that section.

## **121 Guidance about the power to remove etc.**

- (1) The appropriate national authority may from time to time prepare and publish guidance to relevant NHS bodies and authorised officers about the powers in section 120.
- (2) Such guidance may, in particular, relate to—
- (a) the authorisation by relevant NHS bodies of authorised officers,
  - (b) the authorisation by authorised officers of appropriate NHS staff members to remove persons under section 120,
  - (c) training requirements for authorised officers and persons authorised by them to remove persons under section 120,
  - (d) matters that may be relevant to a consideration by authorised officers for the purposes of section 120 of whether offences are being, or have been, committed under section 119,
  - (e) matters to be taken into account by authorised officers in deciding whether there is reason to believe that a person requires medical advice, treatment or care for himself or herself or that the removal of a person would endanger the person’s physical or mental health,

- (f) the procedure to be followed by authorised officers or persons authorised by them before using the power of removal in section 120,
  - (g) the degree of force that it may be appropriate for authorised officers or persons authorised by them to use in particular circumstances,
  - (h) arrangements for ensuring that persons on NHS premises are aware of the offence in section 119 and the powers of removal in section 120, or
  - (i) the keeping of records.
- (3) Before publishing guidance under this section, the appropriate national authority must consult such persons as the authority considers appropriate.
- (4) A relevant NHS body and an authorised officer must, when exercising functions under, or in connection with, section 120, have regard to any guidance published by the appropriate national authority under this section.
- (5) In this section—
- “appropriate national authority”—
  - (a) in relation to a relevant English NHS body and authorised officers in respect of English NHS premises, means the Secretary of State, and
  - (b) in relation to a relevant Welsh NHS body and authorised officers in respect of Welsh NHS premises, means the Welsh Ministers,
- “appropriate NHS staff member” and “authorised officer” have the same meaning as in section 120,
- “relevant NHS body” means a relevant English NHS body or a relevant Welsh NHS body.
- (6) Terms defined in section 119 have the same meaning in this section as in that section.

## **122 Nuisance or disturbance on HSS premises**

Schedule 21 makes provision for Northern Ireland corresponding to the provision made for England and Wales by sections 119 to 121.

*Anti-social behaviour orders etc. in respect of children and young persons*

## **123 Review of anti-social behaviour orders etc.**

- (1) In Part 1 of the Crime and Disorder Act 1998 (c. 37) (prevention of crime and disorder) after section 1I insert—

### **“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

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- (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—
- (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.

### **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.
- (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.”

- (2) In section 1(1A) of that Act (meaning of “relevant authority”) for “1CA, 1E and 1F” substitute “1C, 1CA, 1E, 1F and 1K”.
- (3) In section 1C of that Act (orders on conviction in criminal proceedings) after section (9) insert—

“(9ZA) An order under this section made in respect of a person under the age of 17, or an order varying such an order, may specify a relevant authority (other than the chief officer of police mentioned in section 1K(2)(a)) as being responsible for carrying out a review under section 1J of the operation of the order.”

## 124 Individual support orders

- (1) In section 1AA of the Crime and Disorder Act 1998 (c. 37) (individual support orders) for subsection (1) and the words in subsection (2) before paragraph (a) substitute—

“(1) This section applies 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.

(1A) This section also applies where—

- (a) an anti-social behaviour order has previously been made in respect of such a defendant;
- (b) an application is made by complaint to the court which made that order, by the relevant authority which applied for it, for an order under this section; and

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- (c) at the time of the hearing of the application—
    - (i) the defendant is still a child or young person, and
    - (ii) the anti-social behaviour order is still in force.
- (1B) The court must consider whether the individual support conditions are fulfilled and, if satisfied that they are, must make an individual support order.
- (2) An individual support order is an order which—
- (2) In subsection (3)(a) of that section, for the words after “the kind of behaviour which led to” substitute “the making of—
  - (i) the anti-social behaviour order, or
  - (ii) an order varying that order (in a case where the variation is made as a result of further anti-social behaviour by the defendant);”.
- (3) In subsection (5) of that section, for “which led to the making of the anti-social behaviour order” substitute “mentioned in subsection (3)(a) above”.
- (4) In section 1(1A) of that Act (meaning of “relevant authority”) after “and sections” insert “1AA,”.
- (5) In section 1AB of that Act (which makes further provision about individual support orders) after subsection (5) insert—
  - “(5A) The period specified as the term of an individual support order made on an application under section 1AA(1A) above must not be longer than the remaining part of the term of the anti-social behaviour order as a result of which it is made.”
- (6) In section 1B of that Act (orders in county court proceedings) after subsection (7) insert—
  - “(8) Sections 1AA and 1AB apply in relation to orders under this section, with any necessary modifications, as they apply in relation to anti-social behaviour orders.
  - (9) In their application by virtue of subsection (8), sections 1AA(1A)(b) and 1AB(6) have effect as if the words “by complaint” were omitted.”
- (7) In section 1C of that Act (orders on conviction in criminal proceedings) after subsection (9A) insert—
  - “(9AA) Sections 1AA and 1AB apply in relation to orders under this section, with any necessary modifications, as they apply in relation to anti-social behaviour orders.
  - (9AB) In their application by virtue of subsection (9AA), sections 1AA(1A)(b) and 1AB(6) have effect as if the words “by complaint” were omitted.
  - (9AC) In its application by virtue of subsection (9AA), section 1AA(1A)(b) has effect as if the reference to the relevant authority which applied for the anti-social behaviour order were a reference to the chief officer of police, or other relevant authority, responsible under section 1K(2)(a) or (b) for carrying out a review of the order under this section.”

*Parenting contracts and parenting orders***125 Parenting contracts and parenting orders: local authorities**

- (1) Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities) is amended as follows.
- (2) In section 29(1) (interpretation) in the definition of “local authority” for paragraphs (b) and (c) substitute—
  - “(aa) a district council in England;”.
- (3) In section 26B (parenting orders: registered social landlords)—
  - (a) in subsection (8), after “the local authority” insert “(or, if subsection (8A) applies, each local authority)”;
  - (b) after that subsection insert—
    - “(8A) This subsection applies if the place where the child or young person resides or appears to reside is within the area of a county council and within the area of a district council.”;
  - (c) in subsection (10)(a), after “the local authority” insert “(or authorities)”.
- (4) In section 27 (parenting orders: supplemental) for subsection (3A) substitute—
  - “(3A) Proceedings for an offence under section 9(7) of the 1998 Act (parenting orders: breach of requirement etc.) as applied by subsection (3)(b) above may be brought by any of the following local authorities—
    - (a) the local authority that applied for the order, if the child or young person, or the person alleged to be in breach, resides or appears to reside in that authority’s area;
    - (b) the local authority of the child or young person, if that child or young person does not reside or appear to reside in the area of the local authority that applied for the order;
    - (c) the local authority of the person alleged to be in breach, if that person does not reside or appear to reside in the area of the local authority that applied for the order.
  - (3B) For the purposes of subsection (3A)(b) and (c)—
    - (a) an individual’s local authority is the local authority in whose area the individual resides or appears to reside; but
    - (b) if the place where an individual resides or appears to reside is within the area of a county council and within the area of a district council, a reference to that individual’s local authority is to be read as a reference to either of those authorities.”