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## STATUTORY INSTRUMENTS

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# 2004 No. 1988 (N.I. 12)

## The Anti-social Behaviour (Northern Ireland) Order 2004

- - - - - 27th July 2004

### Modifications etc. (not altering text)

- C1** Order: functions transferred from Secretary of State to Department of Justice (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 4(1)(2), [Sch. 1](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)

### *Introductory*

#### **Title and commencement**

- 1.—(1) This Order may be cited as the Anti-social Behaviour (Northern Ireland) Order 2004.
- (2) Articles 3 to 8 shall come into operation on such day as the Secretary of State may by order appoint<sup>F1F2</sup>.
- (3) An order under paragraph (2) may contain such transitional provisions as the Secretary of State thinks necessary or expedient.

**F1** partly exercised by SR 2004/373

**F2** partly exercised by SR 2004/530 - Order now wholly in force

#### **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“anti-social behaviour order” means an order under Article 3, 4<sup>F3</sup>6 or 6A];

“the commencement date” means the date on which Article 3 comes into operation.

(3) In this Order “a relevant authority” means—

- (a) a district council;
- (b) the Chief Constable; or
- (c) the Northern Ireland Housing Executive.

(4) In this Order “relevant persons” means—

- (a) in relation to a district council, persons within the district of the council;

- (b) in relation to the Chief Constable, persons within Northern Ireland;
- (c) in relation to the Northern Ireland Housing Executive—
  - (i) persons who are residing in or who are otherwise on or likely to be on premises provided or managed by the Executive; or
  - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises.

[<sup>F4</sup>(4A) The Secretary of State may by order amend paragraph (3) by adding any person or body specified in the order to the list of relevant authorities in that paragraph.

(4B) An order under paragraph (4A) may—

- (a) amend paragraph (4) so as to specify the persons who are to be “relevant persons” in relation to any person or body added to the list of relevant authorities;
- (b) amend Article 5 so as to require consultation by or with any person or body so added before the making of an application for an order under Article 3; and
- (c) amend Article 7 so as to enable proceedings for an offence under paragraph (1) of that Article to be brought by any person or body so added.

(4C) An order under paragraph (4A) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c.36) shall apply accordingly.]

(5) In this Order, in relation to an anti-social behaviour order[<sup>F5</sup> under Article 3 or 4]

- (a) references to “the relevant authority” are references to the relevant authority on whose application the order is made; and
- (b) references to “the defendant” are references to the person in respect of whom the order is made.

(6) The Chief Constable may direct in writing that such of his functions under this Order as are specified in the direction may be exercised by such police officers as are specified in the direction.

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| <b>F3</b> | Words in <a href="#">art. 2(2)</a> in definition of "anti-social behaviour order" substituted (18.9.2006) by <a href="#">Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I. 15))</a> , arts. 1(2)(a), 4(2); S.R. 2006/368, <a href="#">art. 2(a)</a> |
| <b>F4</b> | <a href="#">Art. 2(4A)-(4C)</a> inserted (18.9.2006) by <a href="#">Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I. 15))</a> , arts. 1(2)(a), 2(2); S.R. 2006/368, <a href="#">art. 2(a)</a>  |
| <b>F5</b> | Words in <a href="#">art. 2(5)</a> inserted (18.9.2006) by <a href="#">Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I. 15))</a> , arts. 1(2)(a), 2(3); S.R. 2006/368, <a href="#">art. 2(a)</a>   |

### *Anti-social behaviour orders on application by relevant authority*

#### **Anti-social behaviour orders on application to magistrates' court**

**3.—(1)** An application for an order under this Article 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
- (b) that such an order is necessary to protect relevant persons from further anti-social acts by him.

(2) Such an application shall be made by complaint to a magistrates' court for the county court division in which it is alleged that the harassment, alarm or distress was caused or was likely to be caused.

(3) If, on such an application, it is proved that the conditions mentioned in paragraph (1) are fulfilled, the magistrates' court may make an order which prohibits the defendant from doing anything described in the order.

(4) For the purpose of determining whether the condition mentioned in paragraph (1)(a) is fulfilled with respect to any person, the court shall disregard any act of that person which he shows was reasonable in the circumstances.

(5) The prohibitions that may be imposed by an order under this Article are those necessary for the purpose of protecting persons (whether relevant persons or not) from further anti-social acts by the defendant.

(6) An order under this Article shall have effect for a period (not less than two years) specified in the order or until further order.

(7) Subject to paragraph (8), the relevant authority or the defendant may apply by complaint to the court which made an order under this Article for it to be varied or discharged by a further order.

(8) Except with the consent of the relevant authority and the defendant, no order under this Article shall be discharged before the end of the period of two years beginning with the date of service of the order.

(9) An appeal shall lie to the county court against the making by a magistrates' court of an order under this Article.

(10) On such an appeal the county 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.

(11) Any order of the county court made on such an appeal (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of paragraph (7), be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the county court.

### **Interim anti-social behaviour orders on applications under Article 3**

4.—(1) If, before determining an application for an order under Article 3, the court considers that it is just to make an order under this Article pending the determination of that application ( “the main application”), it may make such an order.

(2) An order under this Article is an order which prohibits the defendant from doing anything described in the order.

(3) An order under this Article—

(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.

(4) The prohibitions that may be imposed by an order under this Article are those necessary for the purpose of protecting persons (whether relevant persons or not) from further anti-social acts by the defendant.

(5) The relevant authority or the defendant may apply by complaint to the court which made an order under this Article for it to be varied or discharged by a further order.

(6) An appeal shall lie to the county court against the making by a magistrates' court of an order under this Article.

(7) On such an appeal the county 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.

(8) Any order of the county court made on an appeal under this Article (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of paragraph (5), be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the county court.

### **Proceedings under Articles 3 and 4: consultation and legal aid**

5.—(1) Before making an application for an order under Article 3, a district council shall consult—

- (a) the Chief Constable; and
- (b) if the person in relation to whom the application is to be made resides or appears to reside on premises provided or managed by the Northern Ireland Housing Executive, the Executive.

(2) Before making such an application, the Chief Constable shall consult—

- (a) the council for the district in which the person in relation to whom the application is to be made resides or appears to reside; and
- (b) if that person resides or appears to reside on premises provided or managed by the Northern Ireland Housing Executive, the Executive.

(3) Before making such an application, the Northern Ireland Housing Executive shall consult—

- (a) the council for the district in which the person in relation to whom the application is to be made resides or appears to reside; and
- (b) the Chief Constable.

(4) In the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (1981 NI 8) in Part I of Schedule 1 (proceedings for which legal aid may be given) in paragraph 3 at the end add—

- “(k) proceedings for, or relating to, an anti-social behaviour order under Article 3 or 4 of the Anti-social Behaviour (Northern Ireland) Order 2004;” .

### *Anti-social behaviour orders on conviction in criminal proceedings*

### **Anti-social behaviour orders on conviction in criminal proceedings**

6.—(1) This Article 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 Article is necessary to protect persons within Northern Ireland 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 Article—

- (a) if the prosecution asks it to do so; or

(b) if the court thinks it is appropriate to do so.

(4) For the purpose of deciding whether to make an order under this Article the court may consider evidence led by the prosecution and the defence.

(5) It is immaterial whether evidence led in pursuance of paragraph (4) would have been admissible in the proceedings in which the offender was convicted.

(6) An order under this Article 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 the offender conditionally.

[<sup>F6</sup>(6A) The court may adjourn any proceedings in relation to an order under this Article even after sentencing the offender.

(6B) 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.

(6C) 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) An order under this Article 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.

(8) [<sup>F7</sup>Subject to Article 6B,] An order under this Article shall have effect for a period (not less than two years) specified in the order or until further order.

(9) <sup>F8</sup> .....

(10) <sup>F8</sup> .....

(11) <sup>F8</sup> .....

(12) The functions of—

(a) <sup>F8</sup> .....

(b) the Director of Public Prosecutions under section 31 of the Justice (Northern Ireland) Act 2002 (c.26),

include having the conduct of applications for orders under this Article.

(13) In this Article—

“the court” in relation to an offender means the court by or before which he is convicted of the relevant offence;

“relevant offence” means an offence committed after the coming into operation of this Article.

**F6** Art. 6(6A)–(6C) inserted (18.9.2006) by Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I. 15)), arts. 1(2)(a), 3(2); S.R. 2006/368, **art. 2(a)**

**F7** Words in art. 6(8) inserted (18.9.2006) by Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I. 15)), arts. 1(2)(a), 3(3); S.R. 2006/368, **art. 2(a)**

**F8** Art. 6(9)–(12)(a) repealed (18.9.2006) by Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I. 15)), arts. 1(2)(a), 3(4), 27, Sch. 2; S.R. 2006/368, **art. 2(a)**

#### [<sup>F9</sup>Interim anti-social behaviour order on conviction in criminal proceedings

**6A.**—(1) This Article applies where—

(a) a request is made by the prosecution for an order under Article 6; or

- (b) the court is minded to make an order under that Article of its own motion.
- (2) If, before determining the request or deciding whether to make the order of its own motion, the court considers that it is just to make an order under this Article pending the determination of the request or before making that decision, it may make such an order.
- (3) An order under this Article is an order which prohibits the offender from doing anything described in the order.
- (4) Subject to Article 6B, an order under this Article—
  - (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 request or on the court's making a decision as to whether to make an order under Article 6 of its own motion.
- (5) The prohibitions that may be imposed by an order under this Article are those necessary for the purpose of protecting persons in Northern Ireland from further anti-social acts by the offender.
- (6) An appeal shall lie to the county court against the making by a magistrates' court of an order under this Article.
- (7) On such an appeal the county 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.]

**F9** Art. 6A inserted (18.9.2006) by [Criminal Justice \(Northern Ireland\) Order 2005 \(S.I. 2005/1965 \(N.I. 15\)\)](#), arts. 2(a), 4(1); S.R. 2006/368, [art. 2\(a\)](#)

#### [<sup>F10</sup>**Variation or discharge of orders under Article 6 or 6A**

**6B.**—(1) An order under Article 6 or 6A may specify one or more relevant authorities (other than the Chief Constable) for the purposes of exercising the functions conferred by this Article or Article 7 on a specified authority; and, in relation to any such order, any relevant authority so specified is referred to in this Article and Article 7 as a “specified authority”.

- (2) Where—
  - (a) an order under Article 6 is made in the circumstances mentioned in paragraph (3)(a) of that Article; or
  - (b) an order under Article 6A is made in the circumstances mentioned in paragraph (1)(a) of that Article,

the relevant authority or authorities to be specified in the order shall be such as may be requested by the prosecution.

- (3) Where—
  - (a) an order under Article 6 is made in the circumstances mentioned in paragraph (3)(b) of that Article; or
  - (b) an order under Article 6A is made in the circumstances mentioned in paragraph (1)(b) of that Article,

the relevant authority or authorities to be specified in the order shall be such as may be determined by the court.

(4) Where an order is made under Article 6 or 6A, the prosecution must send a copy of the order to—

- (a) the Director of Public Prosecutions (if the Director is not conducting the prosecution);
- (a) the Chief Constable; and
- (b) any specified authority.

(5) A person subject to an order under Article 6 or 6A may apply to the court which made it for it to be varied or discharged.

(6) If he does so, he must send written notice of his application to—

- (a) the Chief Constable; and
- (b) any specified authority.

(7) If an application under paragraph (5) is successful, the court must serve notice of the variation or discharge on any specified authority.

(8) The Chief Constable may apply to the court which made an order under Article 6 or 6A for it to be varied or discharged.

(9) If the Chief Constable does so, he must send written notice of his application to—

- (a) the person subject to the order; and
- (b) any specified authority.

(10) If an application under paragraph (8) is successful, the Chief Constable must serve notice of the variation or discharge on any specified authority.

(11) A specified authority may apply to the court which made an order under Article 6 or 6A for it to be varied or discharged if it appears to the authority 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.

(12) If a specified authority does so, it must send written notice of its application to—

- (a) the person subject to the order;
- (b) the Chief Constable; and
- (c) any other specified authority.

(13) If an application under paragraph (11) is successful, the specified authority which made the application must serve notice of the variation or discharge on—

- (a) the Chief Constable; and
- (b) any other specified authority.

(14) The references in paragraphs (5), (8) and (11) to the court by which an order was made—

- (a) include, in the case of an order made by a magistrates' court, a reference to any magistrates' court acting for the same county court division as that court; and
- (b) shall be treated, in the case of an order made on appeal, as a reference to the court from which the appeal was brought (and not the appellate court).

(15) No order under Article 6 or 6A shall be discharged on an application under this Article before the end of the period of two years beginning with the day on which the order takes effect, unless—

- (a) in the case of an application under paragraph (5), the Chief Constable and any specified authority each consent,

*Status: Point in time view as at 18/09/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Anti-social Behaviour (Northern Ireland) Order 2004. (See end of Document for details)*

- (b) in the case of an application under paragraph (8), any specified authority and the person subject to the order each consent, and
- (c) in the case of an application under paragraph (11), the Chief Constable, any other specified authority and the person subject to the order each consent.]

**F10** Art. 6B inserted (18.9.2006) by [Criminal Justice \(Northern Ireland\) Order 2005 \(S.I. 2005/1965 \(N.I. 15\)\)](#), arts. 2(a), 5; S.R. 2006/368, **art. 2(a)**

### *[<sup>F11</sup>Special measures for witnesses*

**F11** Art. 6C and preceding cross-heading inserted (18.9.2006) by [Criminal Justice \(Northern Ireland\) Order 2005 \(S.I. 2005/1965 \(N.I. 15\)\)](#), arts. 2(a), 6; S.R. 2006/368, **art. 2(a)**

## **Special measures for witnesses**

**6C.**—(1) This Article applies—

- (a) to proceedings on an application for, or relating to the issue whether to make, vary or discharge an anti-social behaviour order; and
- (b) to proceedings on an appeal against the making of an anti-social behaviour order.

(2) Part II of the Criminal Evidence (Northern Ireland) Order 1999 (NI 8) (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 Part mentioned in paragraph (3) (which make provision appropriate only in the context of criminal proceedings), and
- (b) any other necessary modifications.

(3) The provisions are—

- (a) Article 5(4),
- (b) Article 9(1)(b) and (5) to (7),
- (c) Article 10(1)(b) and (2)(b) and (c),
- (d) Article 15(10), and
- (e) Article 20.

(4) Any rules of court made under or for the purposes of Part II of that Order shall apply in relation to proceedings to which this Article 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 the Youth Justice and Criminal Evidence Act 1999 (c.23) (restrictions on reporting special measures directions etc.) applies, with any necessary modifications, in relation to—

- (a) a direction under Article 7 of the Criminal Evidence (Northern Ireland) Order 1999, as applied by this Article, or
- (b) an order discharging or varying such a direction,

and sections 49 and 51 of that Act (offences) apply accordingly.]



## *Breach of anti social-behaviour orders*

### **Breach of anti-social behaviour orders**

7.—(1) If without reasonable excuse a person does anything which he is prohibited from doing by an anti-social behaviour order, he shall be 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.

(2) Proceedings for an offence under paragraph (1) may be brought by a district council<sup>F12</sup> if—

- (a) in the case of an order under Article 3 or 4, the order was made on the application of the council; or
- (b) in the case of an order under Article 6 or 6A, the council is a specified authority in relation to the order.]

(3) Proceedings for an offence under paragraph (1) may be brought by the Northern Ireland Housing Executive<sup>F13</sup> if—

- (a) in the case of an order under Article 3 or 4, the order was made on the application of the Executive; or
- (b) in the case of an order under Article 6 or 6A, the Executive is a specified authority in relation to the order.]

<sup>F14</sup>(3A) In proceedings for an offence under paragraph (1), a copy of the original anti-social behaviour order, certified as such by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.]

(4) Where a person is convicted of an offence under paragraph (1), it shall not be open to the court by or before which he is so convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) in respect of the offence.

**F12** Words in art. 7(2) substituted (18.9.2006) by [Criminal Justice \(Northern Ireland\) Order 2005 \(S.I. 2005/1965 \(N.I. 15\)\)](#), arts. 1(2)(a), 7(2); S.R. 2006/368, [art. 2\(a\)](#)

**F13** Words in art. 7(3) substituted (18.9.2006) by [Criminal Justice \(Northern Ireland\) Order 2005 \(S.I. 2005/1965 \(N.I. 15\)\)](#), arts. 1(2)(a), 7(3); S.R. 2006/368, [art. 2\(a\)](#)

**F14** [Art. 7\(3A\)](#) inserted (18.9.2006) by [Criminal Justice \(Northern Ireland\) Order 2005 \(S.I. 2005/1965 \(N.I. 15\)\)](#), arts. 1(2)(a), 7(4); S.R. 2006/368, [art. 2\(a\)](#)

## *Restrictions on reporting proceedings for orders against children*

### **Restrictions on reporting proceedings for orders against children**

8.—(1) In any proceedings for, or in relation to, an anti-social behaviour order against a child, the court may direct that—

- (a) no report shall be published which reveals the name, address or school of the child or includes any particulars likely to lead to the identification of the child; and
- (b) no picture shall be published as being or including a picture of the child.

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*Status: Point in time view as at 18/09/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Anti-social Behaviour (Northern Ireland) Order 2004. (See end of Document for details)*

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(2) If a report or picture is published in contravention of a direction under paragraph (1), the following persons—

- (a) in the case of publication of a written report or a picture as part of a newspaper, any proprietor, editor or publisher of the newspaper;
- (b) in the case of the inclusion of a report or picture in a programme service, any body corporate which provides the service and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Paragraph (4) applies in relation to proceedings in which an order is made under Article 6 in respect of a child.

(4) <sup>F15</sup> In so far as the proceedings relate to the making of the order, Article 22 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (restrictions on reporting criminal proceedings concerning child) does not apply in respect of the child.

(5) As from the coming into force of the repeal of Article 22 of the Criminal Justice (Children) (Northern Ireland) Order 1998 by Schedule 6 to the Youth Justice and Criminal Evidence Act 1999 (c.23), paragraph (4) has effect with the substitution for the reference to that Article of a reference to section 49 of the Children and Young Persons Act 1933 (c.12).

(6) In this Article—

“child” means a person who is under the age of<sup>F16</sup> 18];

“picture” means a picture in a newspaper and a picture included in a programme service;

“programme service” has the same meaning as in the Broadcasting Act 1990 (c.42);

“publish” includes—

- (a) include in a programme service;
- (b) cause to be published;

“report” means a report in a newspaper and a report included in a programme service.

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**F15** mod. by 2004 NI 12

**F16** 2005 NI 15

**Status:**

Point in time view as at 18/09/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Anti-social Behaviour (Northern Ireland) Order 2004.