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STATUTORY INSTRUMENTS

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**2004 No. 1988**

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

*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 <sup>F1</sup>....

(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.

[<sup>F2</sup>(4A) Nothing in this Article affects the operation of Article 78 of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time in respect of complaints made in courts of summary jurisdiction).]

(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.

- F1** Words in [art. 3\(2\)](#) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 1 para. 127\(1\)](#), [Sch. 9 Pt. 1](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387](#), art. 2(k)(m) (with art. 3)
- F2** [Art. 3\(4A\)](#) inserted (6.4.2008) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), [ss. 59\(2\)](#), 66(2); [S.I. 2008/791](#), [art. 3\(d\)](#)

### 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.

[<sup>F3</sup>1A) An application by a relevant authority for an order under this Article may be made without notice being given to the defendant.]

(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.

- F3** [Art. 4\(1A\)](#) inserted (8.6.2008) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), [arts. 1\(3\)\(a\)](#), [93](#)

### 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;” .

**Changes to legislation:**

There are currently no known outstanding effects for the The Anti-social Behaviour (Northern Ireland) Order 2004, Anti-social behaviour orders on application by relevant authority.