

## STATUTORY INSTRUMENTS

# 2004 No. 1988

## 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>F1</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>F2</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>F3</sup> .....

(10) <sup>F3</sup> .....

(11) <sup>F3</sup> .....

(12) The functions of—

- (a) <sup>F3</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.

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| <b>F1</b> | 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, <b>art. 2(a)</b>               |
| <b>F2</b> | 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, <b>art. 2(a)</b>            |
| <b>F3</b> | 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, <b>art. 2(a)</b> |

#### **[<sup>F4</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.]

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| <b>F4</b> | 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, <b>art. 2(a)</b> |
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## **[F5]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;

**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, Anti-social behaviour orders on conviction in criminal proceedings. (See end of Document for details)

- (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,
  - (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.]

**F5** 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)

**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, Anti-social behaviour orders on conviction in criminal proceedings.