



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART I

#### PREVENTION OF CRIME AND DISORDER

#### CHAPTER I

##### ENGLAND AND WALES

##### *Youth crime and disorder*

### **8 Parenting orders**

- (1) This section applies where, in any court proceedings—
  - (a) a child safety order is made in respect of a child;
  - (b) an anti-social behaviour order or sex offender order is made in respect of a child or young person;
  - (c) a child or young person is convicted of an offence; or
  - (d) a person is convicted of an offence under section 443 (failure to comply with school attendance order) or section 444 (failure to secure regular attendance at school of registered pupil) of the Education Act 1996.
- (2) Subject to subsection (3) and section 9(1) below, if in the proceedings the court is satisfied that the relevant condition is fulfilled, it may make a parenting order in respect of a person who is a parent or guardian of the child or young person or, as the case may be, the person convicted of the offence under section 443 or 444 (“the parent”).
- (3) A court shall not make a parenting order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area in which it appears to the court that the parent resides or will reside and the notice has not been withdrawn.
- (4) A parenting order is an order which requires the parent—

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- (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order; and
- (b) subject to subsection (5) below, to attend, for a concurrent period not exceeding three months and not more than once in any week, such counselling or guidance sessions as may be specified in directions given by the responsible officer;

and in this subsection “week” means a period of seven days beginning with a Sunday.

- (5) A parenting order may, but need not, include such a requirement as is mentioned in subsection (4)(b) above in any case where such an order has been made in respect of the parent on a previous occasion.
- (6) The relevant condition is that the parenting order would be desirable in the interests of preventing—
  - (a) in a case falling within paragraph (a) or (b) of subsection (1) above, any repetition of the kind of behaviour which led to the child safety order, anti-social behaviour order or sex offender order being made;
  - (b) in a case falling within paragraph (c) of that subsection, the commission of any further offence by the child or young person;
  - (c) in a case falling within paragraph (d) of that subsection, the commission of any further offence under section 443 or 444 of the Education Act 1996.
- (7) The requirements that may be specified under subsection (4)(a) above are those which the court considers desirable in the interests of preventing any such repetition or, as the case may be, the commission of any such further offence.
- (8) In this section and section 9 below “responsible officer”, in relation to a parenting order, means one of the following who is specified in the order, namely—
  - (a) a probation officer;
  - (b) a social worker of a local authority social services department; and
  - (c) a member of a youth offending team.

## **9 Parenting orders: supplemental**

- (1) Where a person under the age of 16 is convicted of an offence, the court by or before which he is so convicted—
  - (a) if it is satisfied that the relevant condition is fulfilled, shall make a parenting order; and
  - (b) if it is not so satisfied, shall state in open court that it is not and why it is not.
- (2) Before making a parenting order—
  - (a) in a case falling within paragraph (a) of subsection (1) of section 8 above;
  - (b) in a case falling within paragraph (b) or (c) of that subsection, where the person concerned is under the age of 16; or
  - (c) in a case falling within paragraph (d) of that subsection, where the person to whom the offence related is under that age,

a court shall obtain and consider information about the person’s family circumstances and the likely effect of the order on those circumstances.
- (3) Before making a parenting order, a court shall explain to the parent in ordinary language—
  - (a) the effect of the order and of the requirements proposed to be included in it;

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- (b) the consequences which may follow (under subsection (7) below) if he fails to comply with any of those requirements; and
  - (c) that the court has power (under subsection (5) below) to review the order on the application either of the parent or of the responsible officer.
- (4) Requirements specified in, and directions given under, a parenting order shall, as far as practicable, be such as to avoid—
  - (a) any conflict with the parent’s religious beliefs; and
  - (b) any interference with the times, if any, at which he normally works or attends an educational establishment.
- (5) If while a parenting order is in force it appears to the court which made it, on the application of the responsible officer or the parent, that it is appropriate to make an order under this subsection, the court may make an order discharging the parenting order or varying it—
  - (a) by cancelling any provision included in it; or
  - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (6) Where an application under subsection (5) above for the discharge of a parenting order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.
- (7) If while a parenting order is in force the parent without reasonable excuse fails to comply with any requirement included in the order, or specified in directions given by the responsible officer, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **10 Appeals against parenting orders**

- (1) An appeal shall lie—
  - (a) to the High Court against the making of a parenting order by virtue of paragraph (a) of subsection (1) of section 8 above; and
  - (b) to the Crown Court against the making of a parenting order by virtue of paragraph (b) of that subsection.
- (2) On an appeal under subsection (1) above the High Court or the Crown 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.
- (3) Any order of the High Court or the Crown Court made on an appeal under subsection (1) above (other than one directing that an application be re-heard by a magistrates’ court) shall, for the purposes of subsections (5) to (7) of section 9 above, be treated as if it were an order of the court from which the appeal was brought and not an order of the High Court or the Crown Court.
- (4) A person in respect of whom a parenting order is made by virtue of section 8(1)(c) above shall have the same right of appeal against the making of the order as if—
  - (a) the offence that led to the making of the order were an offence committed by him; and

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- (b) the order were a sentence passed on him for the offence.
- (5) A person in respect of whom a parenting order is made by virtue of section 8(1)(d) above shall have the same right of appeal against the making of the order as if the order were a sentence passed on him for the offence that led to the making of the order.
- (6) The Lord Chancellor may by order make provision as to the circumstances in which appeals under subsection (1)(a) above may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11 (jurisdiction) to the Children Act 1989 (“the 1989 Act”).
- (7) Except to the extent provided for in any order made under subsection (6) above, no appeal may be made against any decision of a kind mentioned in that subsection.

## **11 Child safety orders**

- (1) Subject to subsection (2) below, if a magistrates' court, on the application of a local authority, is satisfied that one or more of the conditions specified in subsection (3) below are fulfilled with respect to a child under the age of 10, it may make an order (a “child safety order”) which—
  - (a) places the child, for a period (not exceeding the permitted maximum) specified in the order, under the supervision of the responsible officer; and
  - (b) requires the child to comply with such requirements as are so specified.
- (2) A court shall not make a child safety order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area in which it appears that the child resides or will reside and the notice has not been withdrawn.
- (3) The conditions are—
  - (a) that the child has committed an act which, if he had been aged 10 or over, would have constituted an offence;
  - (b) that a child safety order is necessary for the purpose of preventing the commission by the child of such an act as is mentioned in paragraph (a) above;
  - (c) that the child has contravened a ban imposed by a curfew notice; and
  - (d) that the child has acted 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.
- (4) The maximum period permitted for the purposes of subsection (1)(a) above is three months or, where the court is satisfied that the circumstances of the case are exceptional, 12 months.
- (5) The requirements that may be specified under subsection (1)(b) above are those which the court considers desirable in the interests of—
  - (a) securing that the child receives appropriate care, protection and support and is subject to proper control; or
  - (b) preventing any repetition of the kind of behaviour which led to the child safety order being made.
- (6) Proceedings under this section or section 12 below shall be family proceedings for the purposes of the 1989 Act or section 65 of the Magistrates' Courts Act 1980 (“the

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1980 Act”); and the standard of proof applicable to such proceedings shall be that applicable to civil proceedings.

- (7) In this section “local authority” has the same meaning as in the 1989 Act.
- (8) In this section and section 12 below, “responsible officer”, in relation to a child safety order, means one of the following who is specified in the order, namely—
- (a) a social worker of a local authority social services department; and
  - (b) a member of a youth offending team.

## **12 Child safety orders: supplemental**

- (1) Before making a child safety order, a magistrates' court shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.
- (2) Before making a child safety order, a magistrates' court shall explain to the parent or guardian of the child in ordinary language—
- (a) the effect of the order and of the requirements proposed to be included in it;
  - (b) the consequences which may follow (under subsection (6) below) if the child fails to comply with any of those requirements; and
  - (c) that the court has power (under subsection (4) below) to review the order on the application either of the parent or guardian or of the responsible officer.
- (3) Requirements included in a child safety order shall, as far as practicable, be such as to avoid—
- (a) any conflict with the parent's religious beliefs; and
  - (b) any interference with the times, if any, at which the child normally attends school.
- (4) If while a child safety order is in force in respect of a child it appears to the court which made it, on the application of the responsible officer or a parent or guardian of the child, that it is appropriate to make an order under this subsection, the court may make an order discharging the child safety order or varying it—
- (a) by cancelling any provision included in it; or
  - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (5) Where an application under subsection (4) above for the discharge of a child safety order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.
- (6) Where a child safety order is in force and it is proved to the satisfaction of the court which made it or another magistrates' court acting for the same petty sessions area, on the application of the responsible officer, that the child has failed to comply with any requirement included in the order, the court—
- (a) may discharge the order and make in respect of him a care order under subsection (1)(a) of section 31 of the 1989 Act; or
  - (b) may make an order varying the order—
    - (i) by cancelling any provision included in it; or
    - (ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order

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if the court had then had power to make it and were exercising the power.

- (7) Subsection (6)(a) above applies whether or not the court is satisfied that the conditions mentioned in section 31(2) of the 1989 Act are fulfilled.

### **13 Appeals against child safety orders**

- (1) An appeal shall lie to the High Court against the making by a magistrates' court of a child safety order; and on such an appeal the High 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.
- (2) Any order of the High Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of subsections (4) to (6) of section 12 above, be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the High Court.
- (3) Subsections (6) and (7) of section 10 above shall apply for the purposes of subsection (1) above as they apply for the purposes of subsection (1)(a) of that section.

### **14 Local child curfew schemes**

- (1) A local authority may make a scheme (a “local child curfew scheme”) for enabling the authority—
- (a) subject to and in accordance with the provisions of the scheme; and
  - (b) if, after such consultation as is required by the scheme, the authority considers it necessary to do so for the purpose of maintaining order,
- to give a notice imposing, for a specified period (not exceeding 90 days), a ban to which subsection (2) below applies.
- (2) This subsection applies to a ban on children of specified ages (under 10) being in a public place within a specified area—
- (a) during specified hours (between 9 pm and 6 am); and
  - (b) otherwise than under the effective control of a parent or a responsible person aged 18 or over.
- (3) Before making a local child curfew scheme, a local authority shall consult—
- (a) every chief officer of police any part of whose police area lies within its area; and
  - (b) such other persons or bodies as it considers appropriate.
- (4) A local child curfew scheme shall be made under the common seal of the local authority and shall not have effect until it is confirmed by the Secretary of State.
- (5) The Secretary of State—
- (a) may confirm, or refuse to confirm, a local child curfew scheme submitted under this section for confirmation; and
  - (b) may fix the date on which such a scheme is to come into operation;

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and if no date is so fixed, the scheme shall come into operation at the end of the period of one month beginning with the date of its confirmation.

- (6) A notice given under a local child curfew scheme (a “curfew notice”) may specify different hours in relation to children of different ages.
- (7) A curfew notice shall be given—
- (a) by posting the notice in some conspicuous place or places within the specified area; and
  - (b) in such other manner, if any, as appears to the local authority to be desirable for giving publicity to the notice.
- (8) In this section—
- “local authority” means—
    - (a) in relation to England, the council of a district or London borough, the Common Council of the City of London, the Council of the Isle of Wight and the Council of the Isles of Scilly;
    - (b) in relation to Wales, the council of a county or county borough;
  - “public place” has the same meaning as in Part II of the Public Order Act 1986.

## **15 Contravention of curfew notices**

- (1) Subsections (2) and (3) below apply where a constable has reasonable cause to believe that a child is in contravention of a ban imposed by a curfew notice.
- (2) The constable shall, as soon as practicable, inform the local authority for the area that the child has contravened the ban.
- (3) The constable may remove the child to the child’s place of residence unless he has reasonable cause to believe that the child would, if removed to that place, be likely to suffer significant harm.
- (4) In subsection (1) of section 47 of the 1989 Act (local authority’s duty to investigate)—
- (a) in paragraph (a), after sub-paragraph (ii) there shall be inserted the following sub-paragraph—
    - “(iii) has contravened a ban imposed by a curfew notice within the meaning of Chapter I of Part I of the Crime and Disorder Act 1998; or”;and
  - (b) at the end there shall be inserted the following paragraph—
    - “In the case of a child falling within paragraph (a)(iii) above, the enquiries shall be commenced as soon as practicable and, in any event, within 48 hours of the authority receiving the information.”

## **16 Removal of truants to designated premises etc**

- (1) This section applies where a local authority—
- (a) designates premises in a police area (“designated premises”) as premises to which children and young persons of compulsory school age may be removed under this section; and
  - (b) notifies the chief officer of police for that area of the designation.

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- (2) A police officer of or above the rank of superintendent may direct that the powers conferred on a constable by subsection (3) below—
- (a) shall be exercisable as respects any area falling within the police area and specified in the direction; and
  - (b) shall be so exercisable during a period so specified;
- and references in that subsection to a specified area and a specified period shall be construed accordingly.
- (3) If a constable has reasonable cause to believe that a child or young person found by him in a public place in a specified area during a specified period—
- (a) is of compulsory school age; and
  - (b) is absent from a school without lawful authority,
- the constable may remove the child or young person to designated premises, or to the school from which he is so absent.
- (4) A child's or young person's absence from a school shall be taken to be without lawful authority unless it falls within subsection (3) (leave, sickness, unavoidable cause or day set apart for religious observance) of section 444 of the Education Act 1996.
- (5) In this section—
- “local authority” means—
    - (a) in relation to England, a county council, a district council whose district does not form part of an area that has a county council, a London borough council or the Common Council of the City of London;
    - (b) in relation to Wales, a county council or a county borough council;
  - “public place” has the same meaning as in section 14 above;
  - “school” has the same meaning as in the Education Act 1996.