



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART I

#### PREVENTION OF CRIME AND DISORDER

#### CHAPTER I

##### ENGLAND AND WALES

##### *Crime and disorder: general*

### **1 Anti-social behaviour orders**

- (1) An application for an order under this section 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 persons in the local government area in which the harassment, alarm or distress was caused or was likely to be caused from further anti-social acts by him;and in this section “relevant authority” means the council for the local government area or any chief officer of police any part of whose police area lies within that area.
- (2) A relevant authority shall not make such an application without consulting each other relevant authority.
- (3) Such an application shall be made by complaint to the magistrates' court whose commission area includes the place where it is alleged that the harassment, alarm or distress was caused or was likely to be caused.

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- (4) If, on such an application, it is proved that the conditions mentioned in subsection (1) above are fulfilled, the magistrates' court may make an order under this section (an “anti-social behaviour order”) which prohibits the defendant from doing anything described in the order.
- (5) For the purpose of determining whether the condition mentioned in subsection (1)(a) above is fulfilled, the court shall disregard any act of the defendant which he shows was reasonable in the circumstances.
- (6) The prohibitions that may be imposed by an anti-social behaviour order are those necessary for the purpose of protecting from further anti-social acts by the defendant—
  - (a) persons in the local government area; and
  - (b) persons in any adjoining local government area specified in the application for the order;
 and a relevant authority shall not specify an adjoining local government area in the application without consulting the council for that area and each chief officer of police any part of whose police area lies within that area.
- (7) An anti-social behaviour order shall have effect for a period (not less than two years) specified in the order or until further order.
- (8) Subject to subsection (9) below, the applicant or the defendant may apply by complaint to the court which made an anti-social behaviour order for it to be varied or discharged by a further order.
- (9) Except with the consent of both parties, no anti-social behaviour order shall be discharged before the end of the period of two years beginning with the date of service of the order.
- (10) If without reasonable excuse a person does anything which he is prohibited from doing by an anti-social behaviour order, he shall be 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.
- (11) Where a person is convicted of an offence under subsection (10) above, it shall not be open to the court by or before which he is so convicted to make an order under subsection (1)(b) (conditional discharge) of section 1A of the Powers of Criminal Courts Act 1973 (“the 1973 Act”) in respect of the offence.
- (12) In this section—
  - “the commencement date” means the date of the commencement of this section;
  - “local government area” means—
    - (a) in relation to England, a district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
    - (b) in relation to Wales, a county or county borough.

## 2 Sex offender orders

- (1) If it appears to a chief officer of police that the following conditions are fulfilled with respect to any person in his police area, namely—

- (a) that the person is a sex offender; and
  - (b) that the person has acted, since the relevant date, in such a way as to give reasonable cause to believe that an order under this section is necessary to protect the public from serious harm from him,

the chief officer may apply for an order under this section to be made in respect of the person.
- (2) Such an application shall be made by complaint to the magistrates' court whose commission area includes any place where it is alleged that the defendant acted in such a way as is mentioned in subsection (1)(b) above.
- (3) If, on such an application, it is proved that the conditions mentioned in subsection (1) above are fulfilled, the magistrates' court may make an order under this section (a "sex offender order") which prohibits the defendant from doing anything described in the order.
- (4) The prohibitions that may be imposed by a sex offender order are those necessary for the purpose of protecting the public from serious harm from the defendant.
- (5) A sex offender order shall have effect for a period (not less than five years) specified in the order or until further order; and while such an order has effect, Part I of the Sex Offenders Act 1997 shall have effect as if—
  - (a) the defendant were subject to the notification requirements of that Part; and
  - (b) in relation to the defendant, the relevant date (within the meaning of that Part) were the date of service of the order.
- (6) Subject to subsection (7) below, the applicant or the defendant may apply by complaint to the court which made a sex offender order for it to be varied or discharged by a further order.
- (7) Except with the consent of both parties, no sex offender order shall be discharged before the end of the period of five years beginning with the date of service of the order.
- (8) If without reasonable excuse a person does anything which he is prohibited from doing by a sex offender order, he shall be 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.
- (9) Where a person is convicted of an offence under subsection (8) above, it shall not be open to the court by or before which he is so convicted to make an order under subsection (1)(b) (conditional discharge) of section 1A of the 1973 Act in respect of the offence.

### **3 Sex offender orders: supplemental**

- (1) In section 2 above and this section "sex offender" means a person who—
  - (a) has been convicted of a sexual offence to which Part I of the Sex Offenders Act 1997 applies;
  - (b) has been found not guilty of such an offence by reason of insanity, or found to be under a disability and to have done the act charged against him in respect of such an offence;

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- (c) has been cautioned by a constable, in England and Wales or Northern Ireland, in respect of such an offence which, at the time when the caution was given, he had admitted; or
  - (d) has been punished under the law in force in a country or territory outside the United Kingdom for an act which—
    - (i) constituted an offence under that law; and
    - (ii) would have constituted a sexual offence to which that Part applies if it had been done in any part of the United Kingdom.
- (2) In subsection (1) of section 2 above “the relevant date”, in relation to a sex offender, means—
  - (a) the date or, as the case may be, the latest date on which he has been convicted, found, cautioned or punished as mentioned in subsection (1) above; or
  - (b) if later, the date of the commencement of that section.
- (3) Subsections (2) and (3) of section 6 of the Sex Offenders Act 1997 apply for the construction of references in subsections (1) and (2) above as they apply for the construction of references in Part I of that Act.
- (4) In subsections (1) and (2) above, any reference to a person having been cautioned shall be construed as including a reference to his having been reprimanded or warned (under section 65 below) as a child or young person.
- (5) An act punishable under the law in force in any country or territory outside the United Kingdom constitutes an offence under that law for the purposes of subsection (1) above, however it is described in that law.
- (6) Subject to subsection (7) below, the condition in subsection (1)(d)(i) above shall be taken to be satisfied unless, not later than rules of court may provide, the defendant serves on the applicant a notice—
  - (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in his opinion satisfied;
  - (b) showing his grounds for that opinion; and
  - (c) requiring the applicant to show that it is satisfied.
- (7) The court, if it thinks fit, may permit the defendant to require the applicant to show that the condition is satisfied without the prior service of a notice under subsection (6) above.

#### **4 Appeals against orders**

- (1) An appeal shall lie to the Crown Court against the making by a magistrates' court of an anti-social behaviour order or sex offender order.
- (2) On such an appeal 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 Crown 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 section 1(8) or 2(6) 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 Crown Court.

### *Crime and disorder strategies*

## **5 Authorities responsible for strategies**

- (1) Subject to the provisions of this section, the functions conferred by section 6 below shall be exercisable in relation to each local government area by the responsible authorities, that is to say—
  - (a) the council for the area and, where the area is a district and the council is not a unitary authority, the council for the county which includes the district; and
  - (b) every chief officer of police any part of whose police area lies within the area.
- (2) In exercising those functions, the responsible authorities shall act in co-operation with the following persons and bodies, namely—
  - (a) every police authority any part of whose police area lies within the area;
  - (b) every probation committee or health authority any part of whose area lies within the area; and
  - (c) every person or body of a description which is for the time being prescribed by order of the Secretary of State under this subsection;and it shall be the duty of those persons and bodies to co-operate in the exercise by the responsible authorities of those functions.
- (3) The responsible authorities shall also invite the participation in their exercise of those functions of at least one person or body of each description which is for the time being prescribed by order of the Secretary of State under this subsection.
- (4) In this section and sections 6 and 7 below “local government area” means—
  - (a) in relation to England, each district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
  - (b) in relation to Wales, each county or county borough.

## **6 Formulation and implementation of strategies**

- (1) The responsible authorities for a local government area shall, in accordance with the provisions of section 5 above and this section, formulate and implement, for each relevant period, a strategy for the reduction of crime and disorder in the area.
- (2) Before formulating a strategy, the responsible authorities shall—
  - (a) carry out a review of the levels and patterns of crime and disorder in the area (taking due account of the knowledge and experience of persons in the area);
  - (b) prepare an analysis of the results of that review;
  - (c) publish in the area a report of that analysis; and
  - (d) obtain the views on that report of persons or bodies in the area (including those of a description prescribed by order under section 5(3) above), whether by holding public meetings or otherwise.
- (3) In formulating a strategy, the responsible authorities shall have regard to the analysis prepared under subsection (2)(b) above and the views obtained under subsection (2)(d) above.

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- (4) A strategy shall include—
  - (a) objectives to be pursued by the responsible authorities, by co-operating persons or bodies or, under agreements with the responsible authorities, by other persons or bodies; and
  - (b) long-term and short-term performance targets for measuring the extent to which such objectives are achieved.
- (5) After formulating a strategy, the responsible authorities shall publish in the area a document which includes details of—
  - (a) co-operating persons and bodies;
  - (b) the review carried out under subsection (2)(a) above;
  - (c) the report published under subsection (2)(c) above; and
  - (d) the strategy, including in particular—
    - (i) the objectives mentioned in subsection (4)(a) above and, in each case, the authorities, persons or bodies by whom they are to be pursued; and
    - (ii) the performance targets mentioned in subsection (4)(b) above.
- (6) While implementing a strategy, the responsible authorities shall keep it under review with a view to monitoring its effectiveness and making any changes to it that appear necessary or expedient.
- (7) In this section—
  - “co-operating persons or bodies” means persons or bodies co-operating in the exercise of the responsible authorities' functions under this section;
  - “relevant period” means—
    - (a) the period of three years beginning with such day as the Secretary of State may by order appoint; and
    - (b) each subsequent period of three years.

## **7 Supplemental**

- (1) The responsible authorities for a local government area shall, whenever so required by the Secretary of State, submit to the Secretary of State a report on such matters connected with the exercise of their functions under section 6 above as may be specified in the requirement.
- (2) A requirement under subsection (1) above may specify the form in which a report is to be given.
- (3) The Secretary of State may arrange, or require the responsible authorities to arrange, for a report under subsection (1) above to be published in such manner as appears to him to be appropriate.

### *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—
  - (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—

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- (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;
  - (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
  - (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 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 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.

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- (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; 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.

- (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.

*Miscellaneous and supplemental*

**17 Duty to consider crime and disorder implications**

- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- (2) This section applies to a local authority, a joint authority, a police authority, a National Park authority and the Broads Authority.
- (3) In this section—
  - “local authority” means a local authority within the meaning given by section 270(1) of the Local Government Act 1972 or the Common Council of the City of London;
  - “joint authority” has the same meaning as in the Local Government Act 1985;
  - “National Park authority” means an authority established under section 63 of the Environment Act 1995.

**18 Interpretation etc. of Chapter I**

- (1) In this Chapter—
  - “anti-social behaviour order” has the meaning given by section 1(4) above;
  - “chief officer of police” has the meaning given by section 101(1) of the Police Act 1996;
  - “child safety order” has the meaning given by section 11(1) above;
  - “curfew notice” has the meaning given by section 14(6) above;
  - “local child curfew scheme” has the meaning given by section 14(1) above;
  - “parenting order” has the meaning given by section 8(4) above;
  - “police area” has the meaning given by section 1(2) of the Police Act 1996;
  - “police authority” has the meaning given by section 101(1) of that Act;
  - “responsible officer”—
    - (a) in relation to a parenting order, has the meaning given by section 8(8) above;
    - (b) in relation to a child safety order, has the meaning given by section 11(8) above;
  - “sex offender order” has the meaning given by section 2(3) above.
- (2) In this Chapter, unless the contrary intention appears, expressions which are also used in Part I of the Criminal Justice Act 1991 (“the 1991 Act”) have the same meanings as in that Part.
- (3) Where directions under a parenting order are to be given by a probation officer, the probation officer shall be an officer appointed for or assigned to the petty sessions area within which it appears to the court that the child or, as the case may be, the parent resides or will reside.
- (4) Where the supervision under a child safety order is to be provided, or directions under a parenting order are to be given, by—

- (a) a social worker of a local authority social services department; or
  - (b) a member of a youth offending team,
- the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that the child or, as the case may be, the parent resides or will reside.
- (5) For the purposes of this Chapter the Inner Temple and the Middle Temple form part of the City of London.

## CHAPTER II

### SCOTLAND

#### 19 Anti-social behaviour orders

- (1) A local authority may make an application for an order under this section if it appears to the authority that the following conditions are fulfilled with respect to any person of or over the age of 16, namely—
- (a) that the person has—
    - (i) acted in an anti-social manner, that is to say, in a manner that caused or was likely to cause alarm or distress; or
    - (ii) pursued a course of anti-social conduct, that is to say, pursued a course of conduct that caused or was likely to cause alarm or distress, to one or more persons not of the same household as himself in the authority's area (and in this section "anti-social acts" and "anti-social conduct" shall be construed accordingly); and
  - (b) that such an order is necessary to protect persons in the authority's area from further anti-social acts or conduct by him.
- (2) An application under subsection (1) above shall be made by summary application to the sheriff within whose sheriffdom the alarm or distress was alleged to have been caused or to have been likely to be caused.
- (3) On an application under subsection (1) above, the sheriff may, if he is satisfied that the conditions mentioned in that subsection are fulfilled, make an order under this section (an "anti-social behaviour order") which, for the purpose of protecting persons in the area of the local authority from further anti-social acts or conduct by the person against whom the order is sought, prohibits him from doing anything described in the order.
- (4) For the purpose of determining whether the condition mentioned in subsection (1)(a) is fulfilled, the sheriff shall disregard any act of the person in respect of whom the application is made which that person shows was reasonable in the circumstances.
- (5) This section does not apply in relation to anything done before the commencement of this section.
- (6) Nothing in this section shall prevent a local authority from instituting any legal proceedings otherwise than under this section against any person in relation to any anti-social act or conduct.
- (7) In this section "conduct" includes speech and a course of conduct must involve conduct on at least two occasions.

- (8) In this section and section 21 below “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 and any reference to the area of such an authority is a reference to the local government area within the meaning of that Act for which it is so constituted.

## **20 Sex offender orders**

- (1) An application for an order under this section may be made by a chief constable if it appears to him that the conditions mentioned in subsection (2) below are fulfilled with respect to any person in the area of his police force.
- (2) The conditions are—
  - (a) that the person in respect of whom the application for the order is made is—
    - (i) of or over the age of 16 years; and
    - (ii) a sex offender; and
  - (b) that the person has acted, since the relevant date, in such a way as to give reasonable cause to believe that an order under this section is necessary to protect the public from serious harm from him.
- (3) An application under subsection (1) above shall be made by summary application to the sheriff within whose sheriffdom the person is alleged to have acted as mentioned in subsection (2)(b) above.
- (4) On an application under subsection (1) above the sheriff may—
  - (a) pending the determination of the application, make any such interim order as he considers appropriate; and
  - (b) if he is satisfied that the conditions mentioned in subsection (2) above are fulfilled, make an order under this section (“a sex offender order”) which prohibits the person in respect of whom it is made from doing anything described in the order.
- (5) The prohibitions that may be imposed by an order made under subsection (4) above are those necessary for the purpose of protecting the public from serious harm from the person in respect of whom the order is made.
- (6) While a sex offender order has effect, Part I of the Sex Offenders Act 1997 shall have effect as if—
  - (a) the person in respect of whom the order has been obtained were subject to the notification requirements of that Part; and
  - (b) in relation to that person, the relevant date (within the meaning of that Part) were the date on which the copy of the order was given or delivered to that person in accordance with subsections (8) and (9) of section 21 below.
- (7) Section 3 above applies for the purposes of this section as it applies for the purposes of section 2 above with the following modifications—
  - (a) any reference in that section to the defendant shall be construed as a reference to the person in respect of whom the order is sought; and
  - (b) in subsection (2) of that section, the reference to subsection (1) of the said section 2 shall be construed as a reference to subsection (2)(b) of this section.
- (8) A constable may arrest without warrant a person whom he reasonably suspects of doing, or having done, anything prohibited by an order under subsection (4)(a) above or a sex offender order.



## **21 Procedural provisions with respect to orders**

- (1) Before making an application under—
  - (a) section 19(1) above;
  - (b) subsection (7)(b)(i) below,the local authority shall consult the relevant chief constable.
- (2) Before making an application under section 20(1) above or subsection (7)(b)(i) below, the chief constable shall consult the local authority within whose area the person in respect of whom the order is sought is for the time being.
- (3) In subsection (1) above “relevant chief constable” means the chief constable of the police force maintained under the Police (Scotland) Act 1967 the area of which includes the area of the local authority making the application.
- (4) A failure to comply with subsection (1) or (2) above shall not affect the validity of an order made on any application to which either of those subsections applies.
- (5) A record of evidence shall be kept on any summary application under section 19 or 20 above or subsection (7)(b) below.
- (6) Subsections (7) to (9) below apply to anti-social behaviour orders and sex offender orders and subsections (8) and (9) below apply to an order made under section 20(4)(a) above.
- (7) An order to which this subsection applies—
  - (a) shall have effect for a period specified in the order or indefinitely; and
  - (b) may at any time be varied or revoked on a summary application by—
    - (i) the local authority or, as the case may be, chief constable who obtained the order; or
    - (ii) the person subject to the order.
- (8) The clerk of the court by which an order to which this subsection applies is made or varied shall cause a copy of the order as so made or varied to be—
  - (a) given to the person named in the order; or
  - (b) sent to the person so named by registered post or by the recorded delivery service.
- (9) An acknowledgement or certificate of delivery of a letter sent under subsection (8)(b) above issued by the Post Office shall be sufficient evidence of the delivery of the letter on the day specified in such acknowledgement or certificate.
- (10) Where an appeal is lodged against the determination of an application under section 19 or 20 above or subsection (7)(b) above, any order made on the application shall, without prejudice to the determination of an application under subsection (7)(b) above made after the lodging of the appeal, continue to have effect pending the disposal of the appeal.

## **22 Offences in connection with breach of orders**

- (1) Subject to subsection (3) below, if without reasonable excuse a person breaches an anti-social behaviour order by doing anything which he is prohibited from doing by the order, he shall be guilty of an offence and shall be liable—

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- (a) on summary conviction, to a term of imprisonment 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) Subsection (3) applies where—
  - (a) the breach of the anti-social behaviour order referred to in subsection (1) above consists in the accused having acted in a manner prohibited by the order which constitutes a separate offence (in this section referred to as the “separate offence”); and
  - (b) the accused has been charged with that separate offence.
- (3) Where this subsection applies, the accused shall not be liable to be proceeded against for an offence under subsection (1) above but, subject to subsection (4) below, the court which sentences him for that separate offence shall, in determining the appropriate sentence or disposal for that offence, have regard to—
  - (a) the fact that the offence was committed by him while subject to an anti-social behaviour order;
  - (b) the number of such orders to which he was subject at the time of the commission of the offence;
  - (c) any previous conviction of the accused of an offence under subsection (1) above; and
  - (d) the extent to which the sentence or disposal in respect of any such previous conviction of the accused differed, by virtue of this subsection, from that which the court would have imposed but for this subsection.
- (4) The court shall not, under subsection (3) above, have regard to the fact that the separate offence was committed while the accused was subject to an anti-social behaviour order unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.
- (5) The fact that the separate offence was committed while the accused was subject to an anti-social behaviour order shall, unless challenged—
  - (a) in the case of proceedings on indictment, by giving notice of a preliminary objection under paragraph (b) of section 72 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) or under that paragraph as applied by section 71(2) of that Act; or
  - (b) in summary proceedings, by preliminary objection before his plea is recorded, be held as admitted.
- (6) Subject to subsection (7) below, subsections (1) to (5) above apply in relation to an order under section 20(4)(a) above and to a sex offender order as they apply in relation to an anti-social behaviour order.
- (7) Subsection (2) above as applied for the purposes of subsection (6) above shall have effect with the substitution of the words “at the time at which he committed” for the words “which constitutes”.

## **23 Anti-social behaviour as ground of eviction**

- (1) Schedule 3 to the Housing (Scotland) Act 1987 (grounds of eviction in relation to secure tenancies) shall be amended in accordance with subsections (2) and (3) below.

(2) For paragraph 2 there shall be substituted the following paragraph—

- “2 (1) The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has been convicted of—
- (a) using or allowing the house to be used for immoral or illegal purposes; or
  - (b) an offence punishable by imprisonment committed in, or in the locality of, the house.

(2) In sub-paragraph (1) above “tenant” includes any one of joint tenants and any sub-tenant.”

(3) For paragraph 7 there shall be substituted the following paragraph—

- “7 (1) The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—
- (a) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or
  - (b) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (a) above,

and it is not reasonable in all the circumstances that the landlord should be required to make other accommodation available to him.

(2) In sub-paragraph (1) above—

“anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance;

“conduct” includes speech and a course of conduct must involve conduct on at least two occasions; and

“tenant” includes any one of joint tenants and any sub-tenant.”

(4) For Ground 15 in Schedule 5 to the Housing (Scotland) Act 1988 (eviction on ground of use of premises for immoral or illegal purposes etc.) there shall be substituted the following—

*“Ground 15*

The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—

- (a) been convicted of—
  - (i) using or allowing the house to be used for immoral or illegal purposes; or
  - (ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or
- (b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or
- (c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.

In this Ground “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance, “conduct” includes speech and a course of conduct must

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involve conduct on at least two occasions and “tenant” includes any one of joint tenants.”

- (5) No person shall be liable to eviction under paragraph 2 or 7 of Schedule 3 to the Housing (Scotland) Act 1987 or Ground 15 in Schedule 5 to the Housing (Scotland) Act 1988 as substituted respectively by subsection (2), (3) and (4) above in respect of any act or conduct before the commencement of this section unless he would have been liable to be evicted under those paragraphs or, as the case may be, that Ground as they had effect before that substitution.

## **24 Noise-making equipment: police power of seizure**

- (1) The Civic Government (Scotland) Act 1982 shall be amended in accordance with this section.
- (2) In section 54 (offence of playing instruments, etc.), after subsection (2) there shall be inserted the following subsections—
- “(2A) Where a constable reasonably suspects that an offence under subsection (1) above has been committed in relation to a musical instrument or in relation to such a device as is mentioned in paragraph (c) of that subsection, he may enter any premises on which he reasonably suspects that instrument or device to be and seize any such instrument or device he finds there.
- (2B) A constable may use reasonable force in the exercise of the power conferred by subsection (2A) above.
- (2C) Schedule 2A to this Act (which makes provision in relation to the retention and disposal of property seized under subsection (2A) above) shall have effect.”
- (3) In section 60 (powers of search and seizure)—
- (a) in subsection (5)—
- (i) after the words “Nothing in” there shall be inserted the words “section 54(2A) of this Act or”; and
- (ii) for the words from “which” to the end there shall be substituted the words “which is otherwise exercisable by a constable”; and
- (b) in subsection (6)—
- (i) in paragraph (a), for the words from “in pursuance” to the word “vessel” there shall be substituted the words—
- “to enter and search—
- (i) any premises in pursuance of section 54(2A) of this Act or of subsection (1) above; or
- (ii) any vehicle or vessel in pursuance of the said subsection (1),”; and
- (ii) in paragraph (c), after “under” there shall be inserted the words “section 54(2A) of this Act or”.
- (4) After Schedule 2 there shall be inserted the Schedule set out in Schedule 1 to this Act.

## CHAPTER III

### GREAT BRITAIN

#### 25 Powers to require removal of masks etc

- (1) After subsection (4) of section 60 (powers to stop and search in anticipation of violence) of the Criminal Justice and Public Order Act 1994 (“the 1994 Act”) there shall be inserted the following subsection—

“(4A) This section also confers on any constable in uniform power—

- (a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;
- (b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.”

- (2) In subsection (5) of that section, for the words “those powers” there shall be substituted the words “the powers conferred by subsection (4) above”.

- (3) In subsection (8) of that section, for the words “to stop or (as the case may be) to stop the vehicle” there shall be substituted the following paragraphs—

- “(a) to stop, or to stop a vehicle; or
- (b) to remove an item worn by him.”

#### 26 Retention and disposal of things seized

After section 60 of the 1994 Act there shall be inserted the following section—

##### “60A Retention and disposal of things seized under section 60

- (1) Any things seized by a constable under section 60 may be retained in accordance with regulations made by the Secretary of State under this section.
- (2) The Secretary of State may make regulations regulating the retention and safe keeping, and the disposal and destruction in prescribed circumstances, of such things.
- (3) Regulations under this section may make different provisions for different classes of things or for different circumstances.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### 27 Power of arrest for failure to comply with requirement

- (1) In section 24(2) (arrestable offences) of the Police and Criminal Evidence Act 1984 (“the 1984 Act”), after paragraph (n) there shall be inserted—

- “(o) an offence under section 60(8)(b) of the Criminal Justice and Public Order Act 1994 (failing to comply with requirement to remove mask etc.);”

- (2) After section 60A of the 1994 Act there shall be inserted the following section—

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*Status: This is the original version (as it was originally enacted).*

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**“60B Arrest without warrant for offences under section 60: Scotland**

In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under section 60(8) he may arrest that person without warrant.”