



# Police Reform Act 2002

## 2002 CHAPTER 30

### PART 4

#### POLICE POWERS ETC.

### CHAPTER 2

#### PROVISIONS MODIFYING AND SUPPLEMENTING POLICE POWERS

#### *Anti-social behaviour*

#### **61 Anti-social behaviour orders**

- (1) Section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders) shall be amended as follows.
- (2) For paragraph (b) of subsection (1) (authority to be satisfied that order is necessary to protect persons), there shall be substituted—
  - “(b) that such an order is necessary to protect relevant persons from further anti-social acts by him.”
- (3) The words after that paragraph (which specify the authorities who, as relevant authorities, are entitled to apply for anti-social behaviour orders) shall be omitted.
- (4) After subsection (1) there shall be inserted—
  - “(1A) In this section and sections 1B and 1E “relevant authority” means—
    - (a) the council for a local government area;
    - (b) the chief officer of police of any police force maintained for a police area;
    - (c) the chief constable of the British Transport Police Force; or

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- (d) any person registered under section 1 of the Housing Act 1996 (c. 52) as a social landlord who provides or manages any houses or hostel in a local government area.
- (1B) In this section “relevant persons” means—
- (a) in relation to a relevant authority falling within paragraph (a) of subsection (1A), persons within the local government area of that council;
  - (b) in relation to a relevant authority falling within paragraph (b) of that subsection, persons within the police area;
  - (c) in relation to a relevant authority falling within paragraph (c) of that subsection—
    - (i) persons who are on or likely to be on policed premises in a local government area; or
    - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises;
  - (d) in relation to a relevant authority falling within paragraph (d) of that subsection—
    - (i) persons who are residing in or who are otherwise on or likely to be on premises provided or managed by that authority; or
    - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises.”
- (5) Subsection (2) (which is superseded by the provision made by section 66 of this Act) shall cease to have effect.
- (6) In subsection (3) (which identifies the court to which an application should be made), for the words from “the place” to the end there shall be substituted “the local government area or police area concerned”.
- (7) For subsection (6) (nature of prohibitions which may be imposed by order) there shall be substituted—
- “(6) The prohibitions that may be imposed by an anti-social behaviour order are those necessary for the purpose of protecting persons (whether relevant persons or persons elsewhere in England and Wales) from further anti-social acts by the defendant.”
- (8) In subsection (10) of that section (penalty for contravention of order), for “shall be” there shall be substituted “is guilty of an offence and”.
- (9) In subsection (12) of that section (interpretation)—
- (a) after “In this section—” there shall be inserted—
 

““British Transport Police Force” means the force of constables appointed under section 53 of the [British Transport Commission Act 1949 \(c. xxix\)](#);” and
  - (b) after the definition of “local government area” there shall be inserted—
 

““policed premises” has the meaning given by section 53(3) of the [British Transport Commission Act 1949](#).”
- (10) Nothing in this section applies in relation to any application made under section 1 of the Crime and Disorder Act 1998 (c. 37) before the coming into force of this section.

## **62 Power of Secretary of State to add to relevant authorities**

(1) After section 1 of the Crime and Disorder Act 1998 (c. 37) there shall be inserted—

### **“1A Power of Secretary of State to add to relevant authorities**

The Secretary of State may by order provide that the chief officer of a body of constables maintained otherwise than by a police authority is, in such cases and circumstances as may be prescribed by the order, to be a relevant authority for the purposes of section 1 above.”

(2) In subsection (2) of section 114 of that Act (negative resolution procedure for orders) after “section” there shall be inserted “1A,”.

## **63 Orders in county court proceedings**

After section 1A of the Crime and Disorder Act 1998 (which is inserted by section 62), there shall be inserted—

### **“1B Orders in county court proceedings**

(1) This section applies to any proceedings in a county court (“the principal proceedings”).

(2) If a relevant authority—

- (a) is a party to the principal proceedings, and
- (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,

it may make an application in those proceedings for an order under subsection (4).

(3) If a relevant authority—

- (a) is not a party to the principal proceedings, and
- (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,

it may make an application to be joined to those proceedings to enable it to apply for an order under subsection (4) and, if it is so joined, may apply for such an order.

(4) If, on an application for an order under this subsection, it is proved that the conditions mentioned in section 1(1) are fulfilled as respects that other party, the court may make an order which prohibits him from doing anything described in the order.

(5) Subject to subsection (6), the party to the principal proceedings against whom an order under this section has been made and the relevant authority on whose application that order was made may apply to the county court which made an order under this section for it to be varied or discharged by a further order.

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- (6) Except with the consent of the relevant authority and the person subject to the order, no order under this section shall be discharged before the end of the period of two years beginning with the date of service of the order.
- (7) Subsections (5) to (7) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders made under this section as they apply for the purposes of the making and effect of anti-social behaviour orders.”

## **64 Orders on conviction in criminal proceedings**

After section 1B of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 63), there shall be inserted—

### **“1C Orders on conviction in criminal proceedings**

- (1) This section 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 section is necessary to protect persons in any place in England and Wales 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 section whether or not an application has been made for such an order.
- (4) An order under this section 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 him conditionally.
- (5) An order under this section 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.
- (6) An offender subject to an order under this section may apply to the court which made it for it to be varied or discharged.
- (7) In the case of an order under this section made by a magistrates' court, the reference in subsection (6) to the court by which the order was made includes a reference to any magistrates' court acting for the same petty sessions area as that court.
- (8) No application may be made under subsection (6) for the discharge of an order before the end of the period of two years beginning with the day on which the order takes effect.

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(9) Subsections (7), (10) and (11) of section 1 apply for the purposes of the making and effect of orders made by virtue of this section as they apply for the purposes of the making and effect of anti-social behaviour orders.

(10) In this section—

“the commencement date” has the same meaning as in section 1 above;

“the court” in relation to an offender means—

(a) the court by or before which he is convicted of the relevant offence; or

(b) if he is committed to the Crown Court to be dealt with for that offence, the Crown Court; and

“relevant offence” means an offence committed after the coming into force of section 64 of the Police Reform Act 2002 (c. 30).”

## **65 Interim orders**

(1) After section 1C of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 64), there shall be inserted—

### **“1D Interim orders**

(1) The applications to which this section applies are—

(a) an application for an anti-social behaviour order; and

(b) an application for an order under section 1B.

(2) If, before determining an application to which this section applies, the court considers that it is just to make an order under this section pending the determination of that application (“the main application”), it may make such an order.

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

(4) An order under this section—

(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.

(5) Subsections (6), (8) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders under this section as they apply for the purposes of the making and effect of anti-social behaviour orders.”

(2) In section 4(1) of that Act (appeals), after “an anti-social behaviour order” there shall be inserted “, an order under section 1D above.”

## **66 Consultation requirements**

After section 1D of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 65), there shall be inserted—

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**“1E Consultation requirements**

- (1) This section applies to—
  - (a) applications for an anti-social behaviour order; and
  - (b) applications for an order under section 1B.
- (2) Before making an application to which this section applies, the council for a local government area shall consult the chief officer of police of the police force maintained for the police area within which that local government area lies.
- (3) Before making an application to which this section applies, a chief officer of police shall consult the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside.
- (4) Before making an application to which this section applies, a relevant authority other than a council for a local government area or a chief officer of police shall consult—
  - (a) the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside; and
  - (b) the chief officer of police of the police force maintained for the police area within which that local government area lies.”