

ANTI-SOCIAL BEHAVIOUR ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Parental Responsibilities

Sections 26 – 29: Parenting orders in respect of criminal conduct and anti-social behaviour

79. *Sections 26 - 29* make provision to extend the circumstances in which parenting orders in respect of criminal conduct or anti-social behaviour can be made under sections 8 to 10 of the Crime and Disorder Act 1998. *Subsections (1) and (2)* of section 26 outline the circumstances in which the youth offending team can apply to the court for a parenting order. *Subsection (3)* sets out the circumstances in which the court can make the order. *Subsection (4)* sets out what the requirements of the parenting order will be.
80. *Subsection (5)* of section 26 mirrors the provision in section 8(5) of the Crime and Disorder Act 1998 that a parent is not necessarily required to attend a counselling or guidance programme when a parent has already been subject to a parenting order. However, if a parent has entered into a parenting contract including a guidance or counselling programme he may still be required to attend such a programme by a parenting order. *Subsection (6)* allows the programme to include a residential component where the conditions set out in *subsections (7) and (8)* are met.
81. *Subsection (1)* of section 27 provides that in deciding whether to make a parenting order, the court must consider any refusal by the parent to enter into a parenting contract under section 25 or any failure to comply with the requirements of such a contract. *Subsection (2)* of section 27 requires that where the child or young person is below 16 the court must, before it makes the order, consider the likely effect of the order on his family circumstances. *Subsection (3)* of section 27 applies provisions of the Crime and Disorder Act 1998 to these parenting orders. These provisions:
- require the court to explain to the parent the effect of the order and the consequences of breaching it;
 - specify that, as far as practical, the requirements in the order and directions given under it should not conflict with a parent's religious beliefs or interfere with a parent's work or education;
 - enable the court to discharge or vary the order; and
 - make parents convicted of failing to comply with requirements in or directions given under an order liable to a fine.
82. *Subsection (4)* of section 27 requires youth offending teams to have regard to guidance on these parenting orders which may be issued by the Secretary of State.
83. *Subsection (1)* of section 28 specifies that appeals against parenting orders under section 26 will be to the Crown Court and *subsection (2)* applies the mechanisms for appeal set out in section 10 of the Crime and Disorder Act 1998.

*These notes refer to the Anti-Social Behaviour Act 2003 (c.38)
which received Royal Assent on 20 November 2003*

84. **Section 29** sets out the meaning of terms used in sections 25-28. “Anti-social behaviour” means behaviour which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as himself and “criminal conduct” is defined to include behaviour by children below the age of criminal responsibility that would be criminal were they above that age.
85. “Child” and “young person” have the same meaning as in the Crime and Disorder Act 1998. A “child” is a person under the age of 14. A “young person” is a person who has attained the age of 14 and is under the age of 18. All reference to “parent” includes “guardian” which takes its meaning from the Children and Young Person Act 1933 and includes anyone who, in the opinion of the court, has for the time being the care of the child or young person.
86. A “youth offending team” has the same definition as in the Crime and Disorder Act 1998. The Crime and Disorder Act 1998 sets out that it is the duty of each local authority to establish for their area one or more youth offending teams. This will include at least one of the following:
- an officer of a local probation board;
 - a social worker of a local authority social services department;
 - a police officer;
 - a person nominated by a health authority any part of whose area lies within the local authority's area;
 - a person nominated by the chief education officer appointed by the local authority under section 532 of the Education Act 1996.
87. *Subsection (2)* of section 29 provides that the definition of “youth justice services” in section 38(4) of the Crime and Disorder Act will be amended to include youth offending teams performing functions relating to parenting contracts and orders under sections 25-27.