



Anti-social Behaviour Act 2003

2003 CHAPTER 38

PART 9

MISCELLANEOUS POWERS

85 Anti-social behaviour orders

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 1(1A) (authorities who may apply for anti-social behaviour orders)—
 - (a) after paragraph (a) there is inserted—

“(aa) in relation to England, a county council;”;
 - (b) after paragraph (c) “or” is omitted;
 - (c) after paragraph (d) there is inserted “or
 - (e) a housing action trust established by order in pursuance of section 62 of the Housing Act 1988.”
- (3) In section 1(1B) (persons requiring protection from anti-social acts)—
 - (a) after paragraph (a) there is inserted—

“(aa) in relation to a relevant authority falling within paragraph (aa) of subsection (1A), persons within the county of the county council;”;
 - (b) in paragraph (d) after “paragraph (d)” there is inserted “or (e)”.
- (4) In section 1 after subsection (10) (penalty for breach of anti-social behaviour order) there are inserted the following subsections—

“(10A) The following may bring proceedings for an offence under subsection (10)—

 - (a) a council which is a relevant authority;
 - (b) the council for the local government area in which a person in respect of whom an anti-social behaviour order has been made resides or appears to reside.

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- (10B) If proceedings for an offence under subsection (10) are brought in a youth court section 47(2) of the Children and Young Persons Act 1933 (c. 12) has effect as if the persons entitled to be present at a sitting for the purposes of those proceedings include one person authorised to be present by a relevant authority.”
- (5) In section 1B (anti-social behaviour orders in county court proceedings) after subsection (3) there are inserted the following subsections—
- “(3A) Subsection (3B) applies if a relevant authority is a party to the principal proceedings and considers—
- (a) that a person who is not a party to the proceedings has acted in an anti-social manner, and
 - (b) that the person’s anti-social acts are material in relation to the principal proceedings.
- (3B) The relevant authority may—
- (a) make an application for the person mentioned in subsection (3A)(a) to be joined to the principal proceedings to enable an order under subsection (4) to be made in relation to that person;
 - (b) if that person is so joined, apply for an order under subsection (4).
- (3C) But a person must not be joined to proceedings in pursuance of subsection (3B) unless his anti-social acts are material in relation to the principal proceedings.”
- (6) In section 1B(5) for “party to the principal proceedings” there is substituted “person”.
- (7) In section 1E (consultation requirements) after subsection (4) there is inserted—
- “(5) Subsection (4)(a) does not apply if the relevant authority is a county council for a county in which there are no districts.”
- (8) In section 9 (which makes supplemental provision about parenting orders) after subsection (1A) there is inserted the following subsection—
- “(1B) If an anti-social behaviour order is made in respect of a person under the age of 16 the court which makes the order—
- (a) must make a parenting order if it is satisfied that the relevant condition is fulfilled;
 - (b) if it is not so satisfied, must state in open court that it is not and why it is not.”
- (9) An order under section 93 below made in relation to subsection (5) above may make provision for that subsection to come into force—
- (a) for such period as is specified in the order;
 - (b) on different days in respect of persons of different ages.
- (10) Subsection (9) does not affect section 94(2) below.
- (11) The making of an order as mentioned in subsection (9)(a) does not prevent the making of a further order under section 93 below—
- (a) whether for the same or a different purpose, or
 - (b) in relation to the same area.

86 Certain orders made on conviction of offences

- (1) In section 1C of the Crime and Disorder Act 1998 (c. 37) (orders on conviction of an offence to prevent anti-social acts) in subsection (3) for the words from “whether or not” to the end there is substituted “—
 - (a) if the prosecutor asks it to do so, or
 - (b) if the court thinks it is appropriate to do so.”
- (2) After subsection (3) of that section there are inserted the following subsections—
 - “(3A) For the purpose of deciding whether to make an order under this section the court may consider evidence led by the prosecution and the defence.
 - (3B) It is immaterial whether evidence led in pursuance of subsection (3A) would have been admissible in the proceedings in which the offender was convicted.”
- (3) After subsection (9) of that section there are inserted the following subsections—
 - “(9A) The council for the local government area in which a person in respect of whom an anti-social behaviour order has been made resides or appears to reside may bring proceedings under section 1(10) (as applied by subsection (9) above) for breach of an order under subsection (2) above.
 - (9B) Subsection (9C) applies in relation to proceedings in which an order under subsection (2) is made against a child or young person who is convicted of an offence.
 - (9C) In so far as the proceedings relate to the making of the order—
 - (a) section 49 of the Children and Young Persons Act 1933 (c. 12) (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the child or young person against whom the order is made;
 - (b) section 39 of that Act (power to prohibit publication of certain matter) does so apply.”
- (4) In subsection (10) of that section before the entry relating to “the commencement date” there is inserted—

““child” and “young person” have the same meaning as in the Children and Young Persons Act 1933 (c. 12);”.
- (5) In section 14A of the Football Spectators Act 1989 (c. 37) after subsection (3) there are inserted the following subsections—
 - “(3A) For the purpose of deciding whether to make an order under this section the court may consider evidence led by the prosecution and the defence.
 - (3B) It is immaterial whether evidence led in pursuance of subsection (3A) would have been admissible in the proceedings in which the offender was convicted.”
- (6) In section 3(2) of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions) after paragraph (f) the word “and” is omitted and there is inserted the following paragraph—
 - “(fa) to have the conduct of applications for orders under section 1C of the Crime and Disorder Act 1998 (orders made on conviction of certain offences) and section 14A of the Football Spectators Act 1989 (banning orders made on conviction of certain offences);”.

87 Penalty notices for disorderly behaviour by young persons

- (1) The Criminal Justice and Police Act 2001 (c. 16) is amended as follows.
- (2) In section 2(1) (penalty notices for disorderly behaviour by persons aged 18 or over) for “18” substitute “16”.
- (3) After section 2(5) insert—
- “(6) The Secretary of State may by order—
- (a) amend subsection (1) by substituting for the age for the time being specified in that subsection a different age which is not lower than 10, and
- (b) if that different age is lower than 16, make provision as follows—
- (i) where a person whose age is lower than 16 is given a penalty notice, for a parent or guardian of that person to be notified of the giving of the notice, and
- (ii) for that parent or guardian to be liable to pay the penalty under the notice.
- (7) The provision which may be made by virtue of subsection (6)(b) includes provision amending, or applying (with or without modifications), this Chapter or any other enactment (whenever passed or made).
- (8) The power conferred by subsection (6) is exercisable by statutory instrument.
- (9) No order shall be made under subsection (6) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.”
- (4) After section 3(1) (amount of penalty) insert—
- “(1A) The Secretary of State may specify different amounts for persons of different ages.”

88 Curfew orders and supervision orders

Schedule 2 (which relates to curfew orders and supervision orders under the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)) shall have effect.

89 Extension of powers of community support officers etc.

- (1) The Police Reform Act 2002 (c. 30) is amended as follows.
- (2) In section 105 (powers of Secretary of State to make orders and regulations) in subsection (3)(b) after “99(6)” insert “or paragraph 15A(2) of Schedule 4 or paragraph 9A(2) of Schedule 5”.
- (3) In Part 1 of Schedule 4 (powers exercisable by community support officers) after paragraph 11 insert—

“Power to stop cycles

- 11A (1) Subject to sub-paragraph (2), where a designation applies this paragraph to any person, that person shall, within the relevant police area, have the

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power of a constable in uniform under section 163(2) of the Road Traffic Act 1988 to stop a cycle.

- (2) The power mentioned in sub-paragraph (1) may only be exercised by that person in relation to a person who he has reason to believe has committed an offence under section 72 of the Highway Act 1835 (riding on a footway) by cycling.”

- (4) In Part 1 of that Schedule, after paragraph 15 insert—

“Power to modify paragraph 1(2)(a)

15A (1) The Secretary of State may by order provide that paragraph 1(2)(a) is to have effect as if the reference to the powers there mentioned did not include those powers so far as they relate to an offence under any provision for the time being mentioned in the first column of the Table in section 1(1) of the Criminal Justice and Police Act 2001 which is specified in the order.

- (2) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by this paragraph unless a draft of that order has been laid before Parliament and approved by a resolution of each House.”

- (5) In paragraph 1(2) of Schedule 5 (powers of accredited persons to issue fixed penalty notices) after paragraph (a) insert—

“(aa) the powers of a constable in uniform to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (fixed penalty notices in respect of offences of disorder) except in respect of an offence under section 12 of the Licensing Act 1872 or section 91 of the Criminal Justice Act 1967;”.

- (6) After paragraph 8 of that Schedule insert—

“Power to stop cycles

8A (1) Subject to sub-paragraph (2), a person whose accreditation specifies that this paragraph applies to him shall, within the relevant police area, have the power of a constable in uniform under section 163(2) of the Road Traffic Act 1988 to stop a cycle.

- (2) The power mentioned in sub-paragraph (1) may only be exercised by that person in relation to a person who he has reason to believe has committed an offence under section 72 of the Highway Act 1835 (riding on a footway) by cycling.”

- (7) After paragraph 9 of that Schedule insert—

“Power to modify paragraph 1(2)(aa)

9A (1) The Secretary of State may by order provide that paragraph 1(2)(aa) is to have effect as if the reference to the powers there mentioned did not include those powers so far as they relate to an offence under any provision for the time being mentioned in the first column of the Table in

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section 1(1) of the Criminal Justice and Police Act 2001 which is specified in the order.

- (2) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by this paragraph unless a draft of that order has been laid before Parliament and approved by a resolution of each House.”

90 Report by local authority in certain cases where person remanded on bail

After section 23A of the Children and Young Persons Act 1969 (c. 54) there is inserted—

“23B Report by local authority in certain cases where person remanded on bail

- (1) Subsection (2) below applies where a court remands a person aged 10 or 11 on bail and either—
 - (a) the person is charged with or has been convicted of a serious offence, or
 - (b) in the opinion of the court the person is a persistent offender.
- (2) The court may order a local authority to make an oral or written report specifying where the person is likely to be placed or maintained if he is further remanded to local authority accommodation.
- (3) An order under subsection (2) above must designate the local authority which is to make the report; and that authority must be the local authority which the court would have designated under section 23(2) of this Act if the person had been remanded to local authority accommodation.
- (4) An order under subsection (2) above must specify the period within which the local authority must comply with the order.
- (5) The maximum period that may be so specified is seven working days.
- (6) If the Secretary of State by order so provides, subsection (2) above also applies where—
 - (a) a court remands on bail any person who has attained the age of 12 and is under the age of 17,
 - (b) the requirement in section 23AA(3) of this Act is fulfilled, and
 - (c) in a case where he is remanded after conviction, the court is satisfied that the behaviour which constituted the offence was due, to a significant extent, to the circumstances in which the offender was living.
- (7) In this section—

“serious offence” means an offence punishable in the case of an adult with imprisonment for a term of two years or more.

“working day” means any day other than—

 - (a) a Saturday or a Sunday,
 - (b) Christmas day or Good Friday, or
 - (c) a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.”

91 Proceedings under section 222 of the Local Government Act 1972: power of arrest attached to injunction

- (1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (c. 70) (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area).
- (2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) below applies, attach a power of arrest to any provision of the injunction.
- (3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either—
 - (a) the conduct mentioned in subsection (2) consists of or includes the use or threatened use of violence, or
 - (b) there is a significant risk of harm to the person mentioned in that subsection.
- (4) Harm includes serious ill-treatment or abuse (whether physical or not).
- (5) Local authority has the same meaning as in section 222 of the Local Government Act 1972.