



# Violent Crime Reduction Act 2006

## 2006 CHAPTER 38

### PART 1

#### ALCOHOL-RELATED VIOLENCE AND DISORDER

#### CHAPTER 1

#### DRINKING BANNING ORDERS

#### *Introductory*

### **1 Drinking banning orders**

- (1) A drinking banning order is an order that prohibits the individual against whom it is made (“the subject”) from doing the things described in the order.
- (2) Such an order may impose any prohibition on the subject which is necessary for the purpose of protecting other persons from criminal or disorderly conduct by the subject while he is under the influence of alcohol.
- (3) The prohibitions imposed by such an order must include such prohibition as the court making it considers necessary, for that purpose, on the subject's entering—
  - (a) premises in respect of which there is a premises licence authorising the use of the premises for the sale of alcohol by retail; and
  - (b) premises in respect of which there is a club premises certificate authorising the use of the premises for the supply of alcohol to members or guests.
- (4) A drinking banning order may not impose a prohibition on the subject that prevents him—
  - (a) from having access to a place where he resides;
  - (b) from attending at any place which he is required to attend for the purposes of any employment of his or of any contract of services to which he is a party;

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- (c) from attending at any place which he is expected to attend during the period for which the order has effect for the purposes of education or training or for the purpose of receiving medical treatment; or
  - (d) from attending at any place which he is required to attend by any obligation imposed on him by or under an enactment or by the order of a court or tribunal.
- (5) Expressions used in subsection (3) and in the Licensing Act 2003 (c. 17) or in a Part of that Act have the same meanings in that subsection as in that Act or Part.

**Commencement Information**

**II** S. 1 in force at 31.8.2009 by S.I. 2009/1840, art. 2(a)

**2 Duration of drinking banning orders**

- (1) A drinking banning order has effect for a period specified in the order (“the specified period”), which must be not less than two months and not more than two years.
- (2) A drinking banning order may provide that different prohibitions contained in the order have effect for different periods; but, in each case, the period (“the prohibition period”) must be not less than two months and not more than two years.
- (3) A drinking banning order may include provision for—
  - (a) the order, or
  - (b) a prohibition contained in it,
 to cease to have effect before the end of the specified period or the prohibition period if the subject satisfactorily completes the approved course specified in the order.
- (4) Provision under subsection (3) must fix the time at which the order or the prohibition will cease to have effect if the subject satisfactorily completes the specified approved course as whichever is the later of—
  - (a) the time specified in the order in accordance with subsection (5); and
  - (b) the time when he does satisfactorily complete that course.
- (5) The time specified for the purposes of subsection (4)(a) must be a time after the expiry of at least half the specified period or (as the case may be) the prohibition period.
- (6) Provision under subsection (3) may be included in a drinking banning order only if—
  - (a) the court making the order is satisfied that a place on the specified approved course will be available for the subject; and
  - (b) the subject has agreed to the inclusion of the provision in question in the order.
- (7) Before making provision under subsection (3), the court must inform the subject in ordinary language (whether in writing or otherwise) about—
  - (a) the effect of including the provision in the order;
  - (b) what, in general terms, attendance on the course will involve if he undertakes it;
  - (c) any fees he will be required to pay for the course if he undertakes it; and
  - (d) when he will have to pay any such fees.
- (8) Where a court makes a drinking banning order which does not include provision under subsection (3), it must give its reasons for not including such provision in open court.

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- (9) The Secretary of State may by regulations amend subsection (5) so as to modify the earliest time (after the completion of the specified approved course) when by virtue of that subsection—
- (a) a drinking banning order, or
  - (b) a prohibition contained in such an order,
- may cease to have effect.

**Commencement Information**

**I2** S. 2 in force at 31.8.2009 by S.I. 2009/1840, art. 2(b)

*Orders made on application*

**3 Orders on an application to magistrates' court**

- (1) An application to a magistrates' court for the making of a drinking banning order against an individual may be made by a relevant authority if—
- (a) it appears to the authority that the conditions in subsection (2) are satisfied with respect to the individual; and
  - (b) the individual is aged 16 or over.
- (2) The conditions are—
- (a) that the individual has, after the commencement of this section, engaged in criminal or disorderly conduct while under the influence of alcohol; and
  - (b) that such an order is necessary to protect other persons from further conduct by him of that kind while he is under the influence of alcohol.
- (3) An application under this section to a magistrates' court has to be made by complaint.
- (4) Before making an application under this section, a relevant authority must consult the appropriate persons.
- (5) If, on an application under this section with respect to an individual, it is proved that the conditions in subsection (2) are satisfied in his case, the magistrates' court may make a drinking banning order against him.
- (6) Nothing in this section affects the operation of section 127 of the Magistrates' Courts Act 1980 (c. 43) (limitation of time in respect of informations laid or complaints made in magistrates' court).

**Commencement Information**

**I3** S. 3 in force at 31.8.2009 by S.I. 2009/1840, art. 2(c)

**4 Orders in county court proceedings**

- (1) This section applies where proceedings have been brought in a county court.
- (2) If a relevant authority—
- (a) is a party to the proceedings, and

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- (b) considers that another party to the proceedings is an individual in relation to whom it would be reasonable for it to make an application under section 3, it may make an application in the proceedings for a drinking banning order against the individual.
- (3) If a relevant authority—
- (a) is not a party to the proceedings, and
  - (b) considers that a party to the proceedings is an individual in relation to whom it would be reasonable for it to make an application under section 3,
- it may make an application to be joined to those proceedings for the purposes of this section and (if it is joined) may apply for a drinking banning order against the individual.
- (4) Subsection (5) applies if a relevant authority is a party to the proceedings and considers that—
- (a) an individual who is not a party to the proceedings has engaged in criminal or disorderly conduct while under the influence of alcohol; and
  - (b) that conduct is material in relation to the proceedings.
- (5) The relevant authority—
- (a) may make an application for the individual to be joined for the purposes of this section; and
  - (b) if that individual is joined, may apply for a drinking banning order against him.
- (6) A relevant authority must consult the appropriate persons—
- (a) before making an application for a drinking banning order under subsection (2);
  - (b) before making an application to be joined to proceedings under subsection (3);
  - (c) before making an application to join an individual to proceedings under subsection (5).
- (7) If, on an application under this section for a drinking banning order against an individual—
- (a) it is proved that the conditions in section 3(2) are satisfied in relation to the individual, and
  - (b) his criminal or disorderly conduct while under the influence of alcohol is material in relation to the proceedings,
- the court may make a drinking banning order against him.

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**Commencement Information**

**I4** S. 4 in force at 31.8.2009 by S.I. 2009/1840, art. 2(d)

## **5 Variation or discharge of orders under s. 3 or 4**

- (1) This section applies to a drinking banning order made under section 3 or 4.
- (2) The following persons may apply to the court which made the order for it to be varied or discharged by a further order—
  - (a) the subject;

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- (b) the relevant authority on whose application the order was made.
- (3) In the case of an order under section 3 made by a magistrates' court, the reference in subsection (2) to the court which made the order includes a reference to a relevant local court.
- (4) An application under subsection (2) to a magistrates' court has to be made by complaint.
- (5) The order may not be varied so as to extend the specified period to more than two years.
- (6) The order may not be discharged unless—
  - (a) it is discharged from a time after the end of the period that is half the duration of the specified period; or
  - (b) the relevant authority on whose application the order was made has consented to its earlier discharge.

#### Commencement Information

**I5** S. 5 in force at 31.8.2009 by S.I. 2009/1840, art. 2(e)

VALID FROM 01/04/2010

### *Orders made on conviction*

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

- (1) This section applies where—
  - (a) an individual aged 16 or over is convicted of an offence (the “offender”); and
  - (b) at the time he committed the offence, he was under the influence of alcohol.
- (2) The court must consider whether the conditions in section 3(2) are satisfied in relation to the offender.
- (3) If the court decides that the conditions are satisfied in relation to the offender, it may make a drinking banning order against him.
- (4) If the court—
  - (a) decides that the conditions are satisfied in relation to the offender, but
  - (b) does not make a drinking banning order,it must give its reasons for not doing so in open court.
- (5) If the court decides that the conditions are not satisfied in relation to the offender, it must state that fact in open court and give its reasons.

#### **7 Supplementary provision about orders on conviction**

- (1) For the purpose of deciding whether to make a drinking banning order under section 6 the court may consider evidence led by the prosecution and evidence led by the defence.

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- (2) It is immaterial whether the evidence would have been admissible in the proceedings in which the offender was convicted.
- (3) A drinking banning order under section 6 must not be made except—
  - (a) in addition to a sentence imposed in respect of the offence; or
  - (b) in addition to an order discharging the offender conditionally.
- (4) The court may adjourn any proceedings in relation to a drinking banning order under section 6 even after sentencing the offender.
- (5) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.
- (6) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.
- (7) A drinking banning order under section 6 takes effect on—
  - (a) the day on which it is made; or
  - (b) if on that day the offender is detained in legal custody, the day on which he is released from that custody.
- (8) Subsection (9) applies in relation to proceedings in which a drinking banning order is made under section 6 against a young person.
- (9) 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 young person against whom the order is made; and
  - (b) section 39 of that Act (power to prohibit publication of certain matters) does so apply.
- (10) In section 3(2)(fa) of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director), after the first occurrence of “conviction of certain offences)” insert “, section 6 of the Violent Crime Reduction Act 2006 (orders on conviction in criminal proceedings) ”.
- (11) In this section and section 6 “the court” in relation to an offender means—
  - (a) the court by or before which he is convicted of the offence; or
  - (b) if he is committed to the Crown Court to be dealt with for the offence, the Crown Court.

## **8 Variation or discharge of orders under s. 6**

- (1) The following persons may apply to the court which made a drinking banning order under section 6 for the order to be varied or discharged by a further order—
  - (a) the subject;
  - (b) the Director of Public Prosecutions; or
  - (c) a relevant authority.
- (2) If the subject makes an application under subsection (1), he must also send notice of his application to the Director of Public Prosecutions.

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- (3) If the Director of Public Prosecutions or a relevant authority makes an application under subsection (1), he or it must also send notice of the application to the subject.
- (4) In the case of an order under section 6 made by a magistrates' court, the reference in subsection (1) to the court which made the order includes a reference to a relevant local court.
- (5) An order under section 6 may not be varied so as to extend the specified period to more than two years.
- (6) No order under section 6 is to be discharged on an application under subsection (1)
  - (a) unless—
    - (a) it is discharged from a time after the end of the period that is half the duration of the specified period; or
    - (b) the Director of Public Prosecutions has consented to its earlier discharge.
- (7) In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2) after paragraph (fc) insert—
  - (fd) where it appears to him appropriate to do so, to have the conduct of applications under section 8(1)(b) of the Violent Crime Reduction Act 2006 for the variation or discharge of orders made under section 6 of that Act;
  - (fe) where it appears to him appropriate to do so, to appear on any application under section 8(1)(a) of that Act by a person subject to an order under section 6 of that Act for the variation or discharge of the order.”

#### *Supplemental provisions about drinking banning orders*

### **9 Interim orders**

- (1) This section applies in each of the following cases—
  - (a) where an application is made for a drinking banning order;
  - (b) where the court is required under section 6 to consider whether the conditions for making a drinking banning order are satisfied.
- (2) Before—
  - (a) determining the application, or
  - (b) considering whether the conditions are satisfied,the court may make an order under this section (“an interim order”) if it considers that it is just to do so.
- (3) Where this section applies by virtue of subsection (1)(a), an application for an interim order against an individual—
  - (a) may be made without notice being given to that individual; and
  - (b) may be heard in the absence of that individual.
- (4) The following permission is required for the making or hearing of an application in accordance with subsection (3)—
  - (a) in the case of proceedings in the county court, the permission of the court; and

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- (b) in the case of an application to a magistrates' court, the permission of the proper officer.
- (5) Permission may only be given under subsection (4) if the court or proper officer is satisfied—
  - (a) that it is necessary for the application to be made without notice being given to the individual in question; and
  - (b) that it is not necessary for the application to be heard in the presence of the individual.
- (6) An interim order—
  - (a) may contain any provision that may be contained in a drinking banning order; but
  - (b) has effect, unless renewed, only for such fixed period of not more than four weeks as may be specified in the order.
- (7) An interim order—
  - (a) may be renewed (on one or more occasions) for a period of not more than four weeks from the end of the period when it would otherwise cease to have effect;
  - (b) must cease to have effect (if it has not previously done so) on the determination of the application mentioned in subsection (1)(a) or on the court's making its decision whether to make a drinking banning order under section 6.
- (8) Section 5 applies in relation to an interim order made in a case falling within subsection (1)(a) as it applies in relation to a drinking banning order made under section 3 or 4, but with the omission of section 5(5) and (6).
- (9) Section 8 applies in relation to an interim order made in a case falling within subsection (1)(b) as it applies in relation to a drinking banning order made under section 6, but with the omission of section 8(5) and (6).

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**Commencement Information**

**I6** S. 9 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(a)

## 10 Appeals

- (1) An appeal lies to the Crown Court against the making by a magistrates' court of a drinking banning order under section 3 or 6.
- (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;
  - (b) may also make such incidental or consequential orders as appear to it to be just.
- (3) An 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 be treated for the purposes of sections 5 and 8 as an order of the magistrates' court from which the appeal was brought.



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**Commencement Information**

**I7** S. 10 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(b)

**11 Breach of drinking banning orders**

- (1) If the subject of a drinking banning order or of an interim order does, without reasonable excuse, anything that he is prohibited from doing by the order, he is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) If a person is convicted of an offence under subsection (1), it is not open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
- (4) A local authority may bring proceedings for an offence under subsection (1).
- (5) The Secretary of State may by order provide that a person of a description specified in the order may bring proceedings for an offence under subsection (1) in such cases and such circumstances as may be prescribed by the order.
- (6) In proceedings for an offence under subsection (1), a copy of the original drinking banning order or interim order, certified as such by the proper officer of the court which made it, is admissible as evidence—
  - (a) of its having been made, and
  - (b) of its contents,to the same extent that oral evidence of those things is admissible in those proceedings.
- (7) If proceedings for an offence under subsection (1) 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 for the purposes of those proceedings included one person authorised to be present by a relevant authority.
- (8) In relation to proceedings brought against a young person for an offence under subsection (1)—
  - (a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the young person against whom the proceedings are brought; and
  - (b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (power to restrict reporting on criminal proceedings involving persons under 18) does so apply.
- (9) If, in relation to any such proceedings, the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it must give its reasons for doing so.
- (10) Subject to paragraph 2(2) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999, until section 45 of that Act comes into force, the references to it in this section are to be read as references to section 39 of the Children and Young Persons Act 1933 (power to prohibit publication of certain matters).

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**Commencement Information**

**18** S. 11 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(c)

**12 Approved courses**

- (1) If an application is made to the Secretary of State for the approval of a course for the purposes of section 2, he must decide whether to grant or refuse the application.
- (2) In reaching that decision the Secretary of State—
  - (a) must have regard to the nature of the course and to whether the person providing it is an appropriate person both to provide it and efficiently and effectively to administer its provision; and
  - (b) may take into account any recommendations made by persons appointed by the Secretary of State to consider the application.
- (3) A course may be approved subject to conditions specified by the Secretary of State.
- (4) The approval of a course—
  - (a) is for the period specified by the Secretary of State (which must not exceed 7 years); and
  - (b) may be withdrawn by him at any time.
- (5) Regulations made by the Secretary of State may make provision in relation to the approval of courses and may, in particular, include—
  - (a) provision about the making of applications for approval;
  - (b) provision for the payment of fees, of such amounts as are prescribed by the regulations, in respect of applications for approval, the giving of approvals, or both;
  - (c) provision specifying the maximum fees that a person may be required to pay for a course and about when fees for courses have to be paid;
  - (d) provision for the monitoring of courses and of persons providing courses;
  - (e) provision about the withdrawal of approvals; and
  - (f) provision authorising the Secretary of State (whether on payment of a fee or otherwise) to make available information about courses and about persons providing courses.
- (6) The Secretary of State—
  - (a) may issue guidance about the conduct of approved courses; and
  - (b) in exercising the powers and duties conferred or imposed on him by or under subsections (1) to (5) must have regard to the guidance under this subsection that is for the time being in force.
- (7) Also, a court must have regard to that guidance in determining what for the purposes of section 13 constitutes reasonable instructions or reasonable requirements by a person providing an approved course.

**Commencement Information**

**19** S. 12 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(d)

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### 13 Certificates of completion of approved courses

- (1) For the purposes of section 2—
  - (a) the subject of a drinking banning order is to be regarded as having completed an approved course satisfactorily if, and only if, the person providing the course has given a certificate that the subject has done so; and
  - (b) the time at which the subject is to be regarded as having satisfactorily completed the course is the time when that certificate is received by the proper officer of the court that made the order.
- (2) For the purposes of this section a certificate that a person has satisfactorily completed a course—
  - (a) has to be in such form, and
  - (b) has to contain such particulars,as may be specified in, or determined under, regulations made by the Secretary of State.
- (3) The person providing an approved course must give the subject of a drinking banning order in which that course is specified a certificate for the purposes of this section unless that subject—
  - (a) has failed to make due payment of fees for the course;
  - (b) has failed to attend the course in accordance with the reasonable instructions of the person providing the course; or
  - (c) has failed to comply with any other reasonable requirement of that person.
- (4) Where a person providing an approved course decides not to give the subject of a drinking banning order a certificate under subsection (1), he must give the subject written notice of the decision, setting out the grounds of the decision.
- (5) The obligation of the person providing an approved course to give, in the case of the subject of a drinking banning order in which that course is specified, either—
  - (a) a certificate for the purposes of this section, or
  - (b) a notice under subsection (4),must be discharged before the end of 14 days beginning with the day on which any request to do so is made by that subject.
- (6) The subject of a drinking banning order who is given a notice under subsection (4) or who claims that a request for the purposes of subsection (5) has not been complied with may, within such period as may be prescribed by rules of court, apply to—
  - (a) the court which made the order, or
  - (b) if that court is not the Crown Court or a relevant local court, to either the court which made the order or a relevant local court,for a declaration that there has been a contravention of subsection (3).
- (7) If the court grants the application, the applicant is to be treated for the purposes of section 2 as having satisfactorily completed the course at the time of the making of the declaration.
- (8) The Secretary of State may by regulations make provision as to—
  - (a) the form of a notice under subsection (4); and
  - (b) the manner in which such a notice is given and the time to be taken as the time of the giving of such a notice.

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### Commencement Information

**I10** S. 13 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(e)

## 14 Interpretation of Chapter 1

(1) In this Chapter—

“appropriate persons”, in relation to an application for a drinking banning order or an application referred to in section 4(6)(b) or (c), means such of the following as is not a party to the application—

- (a) the chief officer of police of the police force for the police area where the conduct to which the application relates occurred;
- (b) the chief officer of police of the police force for the police area in which the individual to whose conduct the application relates normally resides;
- (c) every local authority in whose area the place where that individual normally resides is situated; and
- (d) the Chief Constable of the British Transport Police Force;

“approved course” means a course approved by the Secretary of State for the purposes of section 2;

“drinking banning order” means an order under section 3, 4 or 6;

“interim order” means an order under section 9;

“local authority” means—

- (a) a county council in England;
- (b) a district council in England;
- (c) a London borough council;
- (d) the Common Council of the City of London;
- (e) the Council of the Isles of Scilly;
- (f) a county council or a county borough council in Wales;

“proper officer”—

- (a) in relation to a magistrates' court, means the justices' clerk; and
- (b) in relation to any other court, means the clerk of the court;

“relevant authority” means—

- (a) the chief officer of police of a police force for a police area;
- (b) the Chief Constable of the British Transport Police Force;
- (c) a local authority;

“relevant local court”, in relation to a drinking banning order, means a magistrates' court acting for the local justice area in which the subject normally resides;

“specified period”, in relation to a drinking banning order, means the period specified in the order for the purposes of section 2(1) as the period for which the order is to have effect;

“subject”, in relation to an order, means the individual against whom it is made;

“young person” has the same meaning as in the Children and Young Persons Act 1933 (c. 12) (see section 107(1) of that Act).

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- (2) References in this Chapter to protecting persons from criminal or disorderly conduct include references to protecting their property from unlawful loss or damage.
- (3) The Secretary of State may by order provide that a person of a description specified in the order is to be regarded as a relevant authority for such purposes of the provisions of this Chapter as are specified in the order.
- (4) A power of the Secretary of State to make an order or regulations under this Chapter shall be exercisable by statutory instrument.
- (5) Every such power includes power—
  - (a) to make different provision for different cases;
  - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
  - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- (6) No regulations shall be made under section 2 unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (7) A statutory instrument containing—
  - (a) regulations under section 12 or 13, or
  - (b) an order under section 11 or this section,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The power under subsection (5) to make incidental, supplemental and consequential provision includes power to modify so much of this section as defines “appropriate persons”.

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**Commencement Information**

**111** S. 14 in force at 31.8.2009 for specified purposes by S.I. 2009/1840, art. 3(f)

**Status:**

Point in time view as at 31/08/2009. This version of this chapter contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Chapter 1.