

CRIME AND SECURITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Gang-related violence

124. Injunctions to prevent gang-related violence were established in the Policing and Crime Act 2009 (“the 2009 Act”). Such an injunction may be granted where the court is satisfied that a person has engaged in, or has encouraged or assisted, gang-related violence, and where the court considers that it is necessary to grant the injunction for the purpose of preventing the person from continuing to engage in gang-related violence or for the purpose of protecting the person from such violence.

Section 34: Grant of injunction: minimum age

125. [Section 34](#) amends section 34 of the 2009 Act so that injunctions may only be obtained against persons aged 14 or over.

Section 35: Review on respondent to injunction becoming 18

126. [Section 35](#) in the first place inserts a new subsection into section 36 of the 2009 Act.
127. Section 36 of the 2009 Act allows the court to review the terms of an injunction at any time, and requires the court to review an injunction after one year. The new subsection has the effect of requiring the court to review an injunction where it is granted in respect of a respondent under the age of 18 and remains effective after the respondent reaches 18.
128. Secondly, section 35 amends section 42 of the 2009 Act so as secure that it is not necessary for a review hearing to be held if the injunction is varied within the 4 weeks preceding the respondent’s 18th birthday.

Section 36: Consultation of youth offending team

129. [Section 36](#) amends section 38 of the 2009 Act to insert a new requirement for injunction applicants to consult the appropriate youth offending team before applying for an injunction in relation to a person under 18 years of age.
130. The youth offending team to be consulted is the one for the area in which it appears the proposed respondent resides.

Section 37: Application for variation or discharge of injunction

131. [Section 37](#) amends section 42 of the 2009 Act by inserting a provision which prevents a further application to vary or discharge an injunction being made without the consent of the court if a previous application to vary or discharge has been dismissed. This amendment has effect for injunctions granted against adults and against 14-17 year olds.

Section 38: Powers of court to remand

132. This section amends Schedule 5 to the 2009 Act (power of remand) and prevents respondents aged under 18 from being remanded in custody by the courts. This means that they are only eligible for remand on bail.

Section 39: Powers of court on breach of injunction by respondent under 18

133. **Section 39** inserts a new section 46A and a new Schedule 5A into the 2009 Act to enable the courts to make further orders when a person under the age of 18 breaches an injunction. Currently a breach of such an injunction would be dealt with as a contempt of court, but this is often not considered appropriate where the respondent is under 18. Therefore new Schedule 5A provides the court with two new powers for dealing with a breach of an injunction in respect of an individual aged under 18 at the time of breach. These are the power to make a supervision order and the power to make a detention order.