



# Anti-social Behaviour, Crime and Policing Act 2014

## 2014 CHAPTER 12

### PART 4

#### COMMUNITY PROTECTION

#### CHAPTER 1

#### COMMUNITY PROTECTION NOTICES

#### *Community protection notices*

#### **43 Power to issue notices**

- (1) An authorised person may issue a community protection notice to an individual aged 16 or over, or a body, if satisfied on reasonable grounds that—
  - (a) the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and
  - (b) the conduct is unreasonable.
- (2) In subsection
  - (1)“authorised person” means a person on whom section 53 (or an enactment amended by that section) confers power to issue community protection notices.
- (3) A community protection notice is a notice that imposes any of the following requirements on the individual or body issued with it—
  - (a) a requirement to stop doing specified things;
  - (b) a requirement to do specified things;
  - (c) a requirement to take reasonable steps to achieve specified results.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The only requirements that may be imposed are ones that are reasonable to impose in order—
- (a) to prevent the detrimental effect referred to in subsection (1) from continuing or recurring, or
  - (b) to reduce that detrimental effect or to reduce the risk of its continuance or recurrence.
- (5) A person (A) may issue a community protection notice to an individual or body (B) only if—
- (a) B has been given a written warning that the notice will be issued unless B's conduct ceases to have the detrimental effect referred to in subsection (1), and
  - (b) A is satisfied that, despite B having had enough time to deal with the matter, B's conduct is still having that effect.
- (6) A person issuing a community protection notice must before doing so inform any body or individual the person thinks appropriate.
- (7) A community protection notice must—
- (a) identify the conduct referred to in subsection (1);
  - (b) explain the effect of sections 46 to 51.
- (8) A community protection notice may specify periods within which, or times by which, requirements within subsection (3)(b) or (c) are to be complied with.

#### **44 Occupiers of premises etc**

- (1) Conduct on, or affecting, premises (other than premises within subsection (2)) that a particular person—
- (a) owns,
  - (b) leases,
  - (c) occupies,
  - (d) controls,
  - (e) operates, or
  - (f) maintains,
- is treated for the purposes of section 43 as conduct of that person.
- (2) Conduct on, or affecting, premises occupied for the purposes of a government department is treated for the purposes of section 43 as conduct of the Minister in charge of that department.
- (3) This section does not treat an individual's conduct as that of another person if that person cannot reasonably be expected to control or affect it.

## 45 Occupier or owner unascertainable

- (1) This section applies where—
- (a) an authorised person has power to issue a community protection notice,
  - (b) the detrimental effect referred to in section 43  
(1) arises from the condition of premises or the use to which premises have been put, and
  - (c) the authorised person has made reasonable enquiries to find out the name or proper address of the occupier of the premises (or, if the premises are unoccupied, the owner) but without success.
- (2) The authorised person may—
- (a) post the community protection notice on the premises;
  - (b) enter the premises, or other premises, to the extent reasonably necessary for that purpose.
- (3) The community protection notice is treated as having been issued to the occupier of the premises (or, if the premises are unoccupied, the owner) at the time the notice is posted.
- (4) In this section “authorised person” has the same meaning as in section 43  
(1)

## 46 Appeals against notices

- (1) A person issued with a community protection notice may appeal to a magistrates’ court against the notice on any of the following grounds.
1. That the conduct specified in the community protection notice—
    - (a) did not take place,
    - (b) has not had a detrimental effect on the quality of life of those in the locality,
    - (c) has not been of a persistent or continuing nature,
    - (d) is not unreasonable, or
    - (e) is conduct that the person cannot reasonably be expected to control or affect.
  2. That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable.
  3. That there is a material defect or error in, or in connection with, the notice.
  4. That the notice was issued to the wrong person.
- (2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice.
- (3) While an appeal against a community protection notice is in progress—
- (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but
  - (b) any other requirement imposed by the notice is of no effect.

For this purpose an appeal is “in progress” until it is finally determined or is withdrawn.

- (4) A magistrates' court hearing an appeal against a community protection notice must—
- (a) quash the notice,
  - (b) modify the notice (for example by extending a period specified in it), or
  - (c) dismiss the appeal.

*Failure to comply with notice*

**47 Remedial action by local authority**

- (1) Where a person issued with a community protection notice (“the defaulter”) fails to comply with a requirement of the notice, the relevant local authority may take action under subsection

(2)

or subsection

(3)

(or both).

- (2) The relevant local authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air.
- (3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice—
- (a) specifying work it intends to have carried out to ensure that the failure is remedied,
  - (b) specifying the estimated cost of the work, and
  - (c) inviting the defaulter to consent to the work being carried out,
- the authority may have the work carried out if the necessary consent is given.

- (4) In subsection

(3)

“the necessary consent” means the consent of—

- (a) the defaulter, and
- (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter).

Paragraph

(b)

does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success.

- (5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection

(2)

may only enter land that is open to the air.

- (6) If work is carried out under subsection

(2)

or

(3)

and the relevant local authority issues a notice to the defaulter—

- (a) giving details of the work that was carried out, and

- (b) specifying an amount that is no more than the cost to the authority of having the work carried out,  
the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).
- (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive.
- (8) A magistrates' court hearing an appeal under subsection (7) must—
- (a) confirm the amount, or
  - (b) substitute a lower amount.
- (9) In this section “the relevant local authority” means—
- (a) the local authority that issued the community protection notice;
  - (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

#### **48 Offence of failing to comply with notice**

- (1) A person issued with a community protection notice who fails to comply with it commits an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction—
- (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual;
  - (b) to a fine not exceeding £20,000, in the case of a body.
- (3) A person does not commit an offence under this section if—
- (a) the person took all reasonable steps to comply with the notice, or
  - (b) there is some other reasonable excuse for the failure to comply with it.

#### **49 Remedial orders**

- (1) A court before which a person is convicted of an offence under section 48 in respect of a community protection notice may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done.
- (2) An order under this section may in particular require the defendant—
- (a) to carry out specified work, or
  - (b) to allow specified work to be carried out by or on behalf of a specified local authority.
- (3) To be specified under subsection

**(2)(b)**

a local authority must be—

- (a) the local authority that issued the community protection notice;
- (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

**(4)** A requirement imposed under subsection**(2)(b)**

does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent.

But this does not prevent a defendant who fails to give that consent from being in breach of the court's order.

**(5)** In subsection**(4)**

“the defendant's home” means the house, flat, vehicle or other accommodation where the defendant—

- (a) usually lives, or
- (b) is living at the time when the work is or would be carried out.

**(6)** If work is carried out under subsection**(2)(b)**

and the local authority specified under that subsection issues a notice to the defaulter—

- (a) giving details of the work that was carried out, and
- (b) specifying an amount that is no more than the cost to the authority of having the work carried out,

the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection

**(7)**

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**(7)** A person issued with a notice under subsection**(6)**

may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection

**(6)(b)**

is excessive.

**(8)** A magistrates' court hearing an appeal under subsection**(7)**

must—

- (a) confirm the amount, or
- (b) substitute a lower amount.

**50 Forfeiture of item used in commission of offence**

- (1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence.

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- (2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable—
  - (a) to a constable, or
  - (b) to a person employed by a local authority or designated by a local authority under section 53(1)(c).
- (3) An order under this section may require the item—
  - (a) to be destroyed, or
  - (b) to be disposed of in whatever way the order specifies.
- (4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either—
  - (a) in accordance with the order, or
  - (b) if no arrangements are specified in the order, in whatever way seems appropriate to the police force.
- (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2)(b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either—
  - (a) in accordance with the order, or
  - (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

## **51 Seizure of item used in commission of offence**

- (1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting—
  - (a) that an offence under section 48 has been committed, and
  - (b) that there is an item used in the commission of the offence on premises specified in the information,the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item.
- (2) In this section “designated person” means a person designated by a local authority under section 53(1)(c).
- (3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section.
- (4) A constable or designated person who has seized an item under a warrant under this section—
  - (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized;
  - (b) otherwise, must before the end of that period return the item to the person from whom it was seized.
- (5) In subsection  
(4)

“relevant criminal proceedings” means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.

## 52 Fixed penalty notices

- (1) An authorised person may issue a fixed penalty notice to anyone who that person has reason to believe has committed an offence under section 48.
- (2) In subsection [\(1\)](#) “authorised person” means a person on whom section 53 (or an enactment amended by that section) confers power to issue fixed penalty notices under this section.
- (3) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice.
- (4) The local authority specified under subsection [\(3\)](#) must be—
  - (a) the local authority that issued the community protection notice to which the fixed penalty notice relates;
  - (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.
- (5) Where a person is issued with a notice under this section in respect of an offence—
  - (a) no proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice;
  - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (6) A fixed penalty notice must—
  - (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
  - (b) state the period during which (because of subsection [\(5\)\(a\)](#)) proceedings will not be taken for the offence;
  - (c) specify the amount of the fixed penalty;
  - (d) state the name and address of the person to whom the fixed penalty may be paid;
  - (e) specify permissible methods of payment.
- (7) An amount specified under subsection [\(6\)\(c\)](#) must not be more than £100.
- (8) A fixed penalty notice may specify two amounts under subsection [\(6\)\(c\)](#) and specify that, if the lower of those amounts is paid within a specified period (of less than 14 days), that is the amount of the fixed penalty.
- (9) Whatever other method may be specified under subsection [\(6\)\(e\)](#)

, payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under subsection

(6)(d)

, at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(10) Where a letter is sent as mentioned in subsection

(9)

, payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(11) In any proceedings, a certificate that—

(a) purports to be signed by or on behalf of the chief finance officer of the local authority concerned, and

(b) states that payment of a fixed penalty was, or was not, received by the dated specified in the certificate,

is evidence of the facts stated.

(12) In this section “chief finance officer”, in relation to a local authority, means the person with responsibility for the authority’s financial affairs.

#### *Who may issue notices*

### **53 Authorised persons**

(1) A community protection notice or a fixed penalty notice may be issued by—

(a) a constable;

(b) the relevant local authority (see subsections

(2)

and

(3)

);

(c) a person designated by the relevant local authority for the purposes of this section.

(2) For a community protection notice, “the relevant local authority” means the local authority (or, as the case may be, any of the local authorities) within whose area the conduct specified in the notice has, according to the notice, been taking place.

(3) For a fixed penalty notice, “the relevant local authority” means the local authority (or, as the case may be, any of the local authorities) within whose area the offence in question is alleged to have taken place.

(4) Only a person of a description specified in an order made by the Secretary of State for the purposes of subsection

(1)(c)

may be designated under that subsection.

(5) In Part 1 of Schedule 4 to the Police Reform Act 2002 (powers exercisable by community support officers), after paragraph 1ZA there is inserted—

*“Power to issue community protection notices*

1ZB A person shall have the power of a constable to issue a community protection notice under section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 if—

- (a) a designation applies this paragraph to that person, and
- (b) the conduct specified in the notice has (according to the notice) been taking place within the relevant police area.”

(6) In paragraph 1 of that Schedule (power of community support officers to issue fixed penalty notices), after paragraph (ab) of sub-paragraph (2) there is inserted—

- “(ac) the power of a constable to issue a fixed penalty notice under section 52 of the Anti-social Behaviour, Crime and Policing Act 2014 (fixed penalty notice in respect of failure to comply with community protection notice);”.

*Supplemental***54 Exemption from liability**

- (1) A local authority exercising or purporting to exercise a power under section 47  
(2)  
is not liable to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of that power.
- (2) A person carrying out work under section 47  
(2)  
, or a person by or on whose behalf work is carried out under section 49  
(2)(b)  
, is not liable to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in carrying out that work.
- (3) Subsections  
(1)  
and  
(2)  
do not apply—  
(a) to an act or omission shown to have been in bad faith, or  
(b) to liability arising out of a failure to exercise due care and attention.
- (4) Subsections  
(1)  
and  
(2)  
do not apply so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.
- (5) This section does not affect any other exemption from liability (whether at common law or otherwise).

## 55 Issuing of notices

- (1) A notice under this Chapter may be issued to a person by—
  - (a) handing it to the person,
  - (b) leaving it at the person’s proper address, or
  - (c) sending it by post to the person at that address.
- (2) A notice under this Chapter to a body corporate may be issued to the secretary or clerk of that body.
- (3) A notice under this Chapter to a partnership may be issued to a partner or a person who has the control or management of the partnership business.
- (4) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is the person’s last known address, except that—
  - (a) in the case of a body corporate or its secretary or clerk, it is the address of the body’s registered or principal office;
  - (b) in the case of a partnership or person having the control or the management of the partnership business, it is the principal office of the partnership.
- (5) For the purposes of subsection [\(4\)](#) the principal office of a company registered outside the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is its principal office within the United Kingdom.
- (6) If a person has specified an address in the United Kingdom, other than the person’s proper address within the meaning of subsection [\(4\)](#), as the one at which the person or someone on the person’s behalf will accept notices of the same description as a notice under this Chapter, that address is also treated for the purposes of this section and section 7 of the Interpretation Act 1978 as the person’s proper address.

## 56 Guidance

- (1) The Secretary of State may issue—
  - (a) guidance to chief officers of police about the exercise, by officers under their direction or control, of those officers’ functions under this Chapter;
  - (b) guidance to local authorities about the exercise of their functions under this Chapter and those of persons designated under section 53 [\(1\)\(c\)](#).
- (2) The Secretary of State may revise any guidance issued under this section.
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.

## 57 Interpretation of Chapter 1

In this Chapter—

“conduct” includes a failure to act;

“local authority” means—

- (a) in relation to England, a district council, a county council for an area for which there is no district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or a county borough council;

“owner”, in relation to premises, means—

- (a) a person (other than a mortgagee not in possession) entitled to dispose of the fee simple of the premises, whether in possession or in reversion;
  - (b) a person who holds or is entitled to the rents and profits of the premises under a lease that (when granted) was for a term of not less than 3 years;
- “premises” includes any land.

## **58 Saving and transitional provision**

- (1) The repeal or amendment by this Act of provisions about any of the notices specified in subsection

(2)

does not apply in relation to—

- (a) a notice specified in that subsection served before the commencement day;
- (b) anything done in connection with such a notice.

- (2) The notices are—

- (a) a litter abatement notice under section 92 of the Environmental Protection Act 1990;
- (b) a litter clearing notice under section 92A of that Act;
- (c) a street litter control notice under section 93 of that Act;
- (d) a defacement removal notice under section 48 of the Anti-social Behaviour Act 2003.

- (3) A community protection notice that contains no requirement that could not have been contained in one of the notices specified in subsection

(2)

may be issued in respect of conduct before the commencement day.

- (4) Subsection

(3)

applies only during the period of 3 months beginning with the commencement day.

- (5) In this section “commencement day” means the day on which this Chapter comes into force.

## CHAPTER 2

### PUBLIC SPACES PROTECTION ORDERS

#### *Public spaces protection orders*

#### **59 Power to make orders**

- (1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.
- (2) The first condition is that—
  - (a) activities carried on in a public place within the authority’s area have had a detrimental effect on the quality of life of those in the locality, or
  - (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- (3) The second condition is that the effect, or likely effect, of the activities—
  - (a) is, or is likely to be, of a persistent or continuing nature,
  - (b) is, or is likely to be, such as to make the activities unreasonable, and
  - (c) justifies the restrictions imposed by the notice.
- (4) A public spaces protection order is an order that identifies the public place referred to in subsection [\(2\)](#) (“the restricted area”) and—
  - (a) prohibits specified things being done in the restricted area,
  - (b) requires specified things to be done by persons carrying on specified activities in that area, or
  - (c) does both of those things.
- (5) The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—
  - (a) to prevent the detrimental effect referred to in subsection [\(2\)](#) from continuing, occurring or recurring, or
  - (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- (6) A prohibition or requirement may be framed—
  - (a) so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories;
  - (b) so as to apply at all times, or only at specified times, or at all times except those specified;
  - (c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.
- (7) A public spaces protection order must—
  - (a) identify the activities referred to in subsection [\(2\)](#);  
;
  - (b) explain the effect of section 63 (where it applies) and section 67;

(c) specify the period for which the order has effect.

(8) A public spaces protection order must be published in accordance with regulations made by the Secretary of State.

## **60 Duration of orders**

(1) A public spaces protection order may not have effect for a period of more than 3 years, unless extended under this section.

(2) Before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

(3) An extension under this section—

(a) may not be for a period of more than 3 years;

(b) must be published in accordance with regulations made by the Secretary of State.

(4) A public spaces protection order may be extended under this section more than once.

## **61 Variation and discharge of orders**

(1) Where a public spaces protection order is in force, the local authority that made the order may vary it—

(a) by increasing or reducing the restricted area;

(b) by altering or removing a prohibition or requirement included in the order, or adding a new one.

(2) A local authority may make a variation under subsection

(1)(a)

that results in the order applying to an area to which it did not previously apply only if the conditions in section 59

(2)

and

(3)

are met as regards activities in that area.

(3) A local authority may make a variation under subsection

(1)(b)

that makes a prohibition or requirement more extensive, or adds a new one, only if the prohibitions and requirements imposed by the order as varied are ones that section 59

(5)

allows to be imposed.

(4) A public spaces protection order may be discharged by the local authority that made it.

(5) Where an order is varied, the order as varied must be published in accordance with regulations made by the Secretary of State.

- (6) Where an order is discharged, a notice identifying the order and stating the date when it ceases to have effect must be published in accordance with regulations made by the Secretary of State.

*Prohibition on consuming alcohol*

**62 Premises etc to which alcohol prohibition does not apply**

- (1) A prohibition in a public spaces protection order on consuming alcohol does not apply to—
- (a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
  - (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
  - (c) a place within the curtilage of premises within paragraph (a) or (b);
  - (d) premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;
  - (e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses).
- (2) A prohibition in a public spaces protection order on consuming alcohol does not apply to council-operated licensed premises—
- (a) when the premises are being used for the supply of alcohol, or
  - (b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.
- (3) In this section—
- “club premises certificate” has the meaning given by section 60 of the Licensing Act 2003;
  - “premises licence” has the meaning given by section 11 of that Act;
  - “supply of alcohol” has the meaning given by section 14 of that Act.
- (4) For the purposes of this section, premises are “council-operated licensed premises” if they are authorised by a premises licence to be used for the supply of alcohol and—
- (a) the licence is held by a local authority in whose area the premises (or part of the premises) are situated, or
  - (b) the licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority.

**63 Consumption of alcohol in breach of prohibition in order**

- (1) This section applies where a constable or an authorised person reasonably believes that a person (P)—
- (a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or
  - (b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

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*Status: This is the original version (as it was originally enacted).*

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In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69

(1)

).

- (2) The constable or authorised person may require P—
  - (a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;
  - (b) to surrender anything in P’s possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.
- (3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.
- (4) A requirement imposed by an authorised person under subsection (2) is not valid if the person—
  - (a) is asked by P to show evidence of his or her authorisation, and
  - (b) fails to do so.
- (5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.
- (6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### *Restrictions on public rights of way*

### **64 Orders restricting public right of way over highway**

- (1) A local authority may not make a public spaces protection order that restricts the public right of way over a highway without considering—
  - (a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;
  - (b) the likely effect of making the order on other persons in the locality;
  - (c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.
- (2) Before making such an order a local authority must—
  - (a) notify potentially affected persons of the proposed order,
  - (b) inform those persons how they can see a copy of the proposed order,
  - (c) notify those persons of the period within which they may make representations about the proposed order, and
  - (d) consider any representations made.

In this subsection “potentially affected persons” means occupiers of premises adjacent to or adjoining the highway, and any other persons in the locality who are likely to be affected by the proposed order.

- (3) Before a local authority makes a public spaces protection order restricting the public right of way over a highway that is also within the area of another local authority, it must consult that other authority if it thinks it appropriate to do so.
- (4) A public spaces protection order may not restrict the public right of way over a highway for the occupiers of premises adjoining or adjacent to the highway.
- (5) A public spaces protection order may not restrict the public right of way over a highway that is the only or principal means of access to a dwelling.
- (6) In relation to a highway that is the only or principal means of access to premises used for business or recreational purposes, a public spaces protection order may not restrict the public right of way over the highway during periods when the premises are normally used for those purposes.
- (7) A public spaces protection order that restricts the public right of way over a highway may authorise the installation, operation and maintenance of a barrier or barriers for enforcing the restriction.
- (8) A local authority may install, operate and maintain barriers authorised under subsection (7).
- (9) A highway over which the public right of way is restricted by a public spaces protection order does not cease to be regarded as a highway by reason of the restriction (or by reason of any barrier authorised under subsection (7)).
- (10) In this section—
  - “dwelling” means a building or part of a building occupied, or intended to be occupied, as a separate dwelling;
  - “highway” has the meaning given by section 328 of the Highways Act 1980.

## **65 Categories of highway over which public right of way may not be restricted**

- (1) A public spaces protection order may not restrict the public right of way over a highway that is—
  - (a) a special road;
  - (b) a trunk road;
  - (c) a classified or principal road;
  - (d) a strategic road;
  - (e) a highway in England of a description prescribed by regulations made by the Secretary of State;
  - (f) a highway in Wales of a description prescribed by regulations made by the Welsh Ministers.
- (2) In this section—

“classified road”, “special road” and “trunk road” have the meaning given by section 329(1) of the Highways Act 1980;

“highway” has the meaning given by section 328 of that Act;

“principal road” has the meaning given by section 12 of that Act (and see section 13 of that Act);

“strategic road” has the meaning given by section 60(4) of the Traffic Management Act 2004.

### *Validity of orders*

## **66 Challenging the validity of orders**

(1) An interested person may apply to the High Court to question the validity of—

- (a) a public spaces protection order, or
- (b) a variation of a public spaces protection order.

“Interested person” means an individual who lives in the restricted area or who regularly works in or visits that area.

(2) The grounds on which an application under this section may be made are—

- (a) that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
- (b) that a requirement under this Chapter was not complied with in relation to the order or variation.

(3) An application under this section must be made within the period of 6 weeks beginning with the date on which the order or variation is made.

(4) On an application under this section the High Court may by order suspend the operation of the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied), until the final determination of the proceedings.

(5) If on an application under this section the High Court is satisfied that—

- (a) the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied), or
- (b) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under this Chapter,

the Court may quash the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied).

(6) A public spaces protection order, or any of the prohibitions or requirements imposed by the order (or by the order as varied), may be suspended under subsection

(4)

or quashed under subsection

(5)

- 
- (a) generally, or
  - (b) so far as necessary for the protection of the interests of the applicant.

- (7) An interested person may not challenge the validity of a public spaces protection order, or of a variation of a public spaces protection order, in any legal proceedings (either before or after it is made) except—
- (a) under this section, or
  - (b) under subsection (3) of section 67 (where the interested person is charged with an offence under that section).

*Failure to comply with orders*

**67 Offence of failing to comply with order**

- (1) It is an offence for a person without reasonable excuse—
- (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
  - (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.
- (4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

**68 Fixed penalty notices**

- (1) A constable or an authorised person may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 63 or 67 in relation to a public spaces protection order.
- (2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice.
- (3) The local authority specified under subsection (2) must be the one that made the public spaces protection order.
- (4) Where a person is issued with a notice under this section in respect of an offence—
- (a) no proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice;
  - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (5) A fixed penalty notice must—
- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
  - (b) state the period during which (because of subsection (4)(a))

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- ) proceedings will not be taken for the offence;
  - (c) specify the amount of the fixed penalty;
  - (d) state the name and address of the person to whom the fixed penalty may be paid;
  - (e) specify permissible methods of payment.
- (6) An amount specified under subsection (5)(c) must not be more than £100.
- (7) A fixed penalty notice may specify two amounts under subsection (5)(c) and specify that, if the lower of those amounts is paid within a specified period (of less than 14 days), that is the amount of the fixed penalty.
- (8) Whatever other method may be specified under subsection (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under subsection (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).
- (9) Where a letter is sent as mentioned in subsection (8), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (10) In any proceedings, a certificate that—
  - (a) purports to be signed by or on behalf of the chief finance officer of the local authority concerned, and
  - (b) states that payment of a fixed penalty was, or was not, received by the dated specified in the certificate,
 is evidence of the facts stated.
- (11) In this section—
  - “authorised person” means a person authorised for the purposes of this section by the local authority that made the order (or authorised by virtue of section 69 (2));
  - “chief finance officer”, in relation to a local authority, means the person with responsibility for the authority’s financial affairs.

### *Supplemental*

## **69 Powers of community support officers**

- (1) In Part 1 of Schedule 4 to the Police Reform Act 2002 (powers exercisable by community support officers), for paragraph 5 there is substituted—

*“Alcohol consumption in restricted areas*

5 Where a designation applies this paragraph to any person, that person shall, within the relevant police area, have the powers of a constable under section 63 of the Anti-social Behaviour, Crime and Policing Act 2014 (consumption of alcohol in breach of prohibition in public spaces protection order)—

(a) to impose a requirement under subsection

(2)

of that section; and

(b) to dispose under subsection

(5)

of that section of anything surrendered to the person;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable were references to that person.”

(2) In paragraph 1 of that Schedule (power of community support officers to issue fixed penalty notices), after paragraph (e) of sub-paragraph (2) there is inserted—

“(f) the power of a constable to issue a fixed penalty notice under section 68 of the Anti-social Behaviour, Crime and Policing Act 2014 (fixed penalty notice in respect of failure to comply with public spaces protection order).”

**70 Byelaws**

A byelaw that prohibits, by the creation of an offence, an activity regulated by a public spaces protection order is of no effect in relation to the restricted area during the currency of the order.

**71 Bodies other than local authorities with statutory functions in relation to land**

(1) The Secretary of State may by order—

(a) designate a person or body (other than a local authority) that has power to make byelaws in relation to particular land, and

(b) specify land in England to which the power relates.

(2) This Chapter has effect as if—

(a) a person or body designated under subsection

(1)

(a “designated person”) were a local authority, and

(b) land specified under that subsection were within its area.

But references in the rest of this section to a local authority are to a local authority that is not a designated person.

(3) The only prohibitions or requirements that may be imposed in a public spaces protection order made by a designated person are ones that it has power to impose (or would, but for section 70, have power to impose) by making a byelaw in respect of the restricted area.

- (4) A public spaces protection order made by a designated person may not include provision regulating, in relation to a particular public space, an activity that is already regulated in relation to that space by a public spaces protection order made by a local authority.
- (5) Where a public spaces protection order made by a local authority regulates, in relation to a particular public space, an activity that a public spaces protection order made by a designated person already regulates, the order made by the designated person ceases to have that effect.
- (6) If a person or body that may be designated under subsection (1)(a) gives a notice in writing under this subsection, in respect of land in relation to which it has power to make byelaws, to a local authority in whose area the land is situated—
- (a) no part of the land may form, or fall within, the restricted area of any public spaces protection order made by the local authority;
  - (b) if any part of the land—
    - (i) forms the restricted area of a public spaces protection order already made by the local authority, or
    - (ii) falls within such an area,
 the order has ceases to have effect (where sub-paragraph (i) applies), or has effect as if the restricted area did not include the land in question (where sub-paragraph (ii) applies).

## 72 Convention rights, consultation, publicity and notification

- (1) A local authority, in deciding—
- (a) whether to make a public spaces protection order (under section 59) and if so what it should include,
  - (b) whether to extend the period for which a public spaces protection order has effect (under section 60) and if so for how long,
  - (c) whether to vary a public spaces protection order (under section 61) and if so how, or
  - (d) whether to discharge a public spaces protection order (under section 61),
- must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.
- (2) In subsection (1) “Convention” has the meaning given by section 21(1) of the Human Rights Act 1998.
- (3) A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before—
- (a) making a public spaces protection order,
  - (b) extending the period for which a public spaces protection order has effect, or
  - (c) varying or discharging a public spaces protection order.
- (4) In subsection

(3)

“the necessary consultation” means consulting with—

- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) whatever community representatives the local authority thinks it appropriate to consult;
- (c) the owner or occupier of land within the restricted area;

“the necessary publicity” means—

- (a) in the case of a proposed order or variation, publishing the text of it;
- (b) in the case of a proposed extension or discharge, publicising the proposal;

“the necessary notification” means notifying the following authorities of the proposed order, extension, variation or discharge—

- (a) the parish council or community council (if any) for the area that includes the restricted area;
- (b) in the case of a public spaces protection order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area.

- (5) The requirement to consult with the owner or occupier of land within the restricted area—
  - (a) does not apply to land that is owned and occupied by the local authority;
  - (b) applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.
- (6) In the case of a person or body designated under section 71, the necessary consultation also includes consultation with the local authority which (ignoring subsection (2) of that section) is the authority for the area that includes the restricted area.
- (7) In relation to a variation of a public spaces protection order that would increase the restricted area, the restricted area for the purposes of this section is the increased area.

### 73 Guidance

- (1) The Secretary of State may issue—
  - (a) guidance to local authorities about the exercise of their functions under this Chapter and those of persons authorised by local authorities under section 63 or 68;
  - (b) guidance to chief officers of police about the exercise, by officers under their direction or control, of those officers’ functions under this Part.
- (2) The Secretary of State may revise any guidance issued under this section.
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.

### 74 Interpretation of Chapter 2

- (1) In this Chapter—
  - “alcohol” has the meaning given by section 191 of the Licensing Act 2003;

“community representative”, in relation to a public spaces protection order that a local authority proposes to make or has made, means any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area;

“local authority” means—

- (a) in relation to England, a district council, a county council for an area for which there is no district council, a London borough council, the Common Council of the City of London (in its capacity as a local authority) or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or a county borough council;

“public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

“restricted area” has the meaning given by section 59

(4)

- (2) For the purposes of this Chapter, a public spaces protection order “regulates” an activity if the activity is—
  - (a) prohibited by virtue of section 59(4)(a), or
  - (b) subjected to requirements by virtue of section 59(4)(b),
 whether or not for all persons and at all times.

## 75 Saving and transitional provision

- (1) The repeal or amendment by this Act of provisions about any of the orders specified in subsection (2) does not apply in relation to—
  - (a) an order specified in that subsection made before the commencement day;
  - (b) anything done in connection with such an order.
- (2) The orders are—
  - (a) a gating order under Part 8A of the Highways Act 1980;
  - (b) an order under section 13(2) of the Criminal Justice and Police Act 2001 (power of local authority to designate public place for restrictions on alcohol consumption);
  - (c) a dog control order under Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005.
- (3) At the end of the period of 3 years beginning with the commencement day—
  - (a) this Chapter has effect in relation to any order specified in subsection (2) that is still in force as if the provisions of the order were provisions of a public spaces protection order;
  - (b) subsection (1) ceases to have effect.

This Part, as it applies by virtue of paragraph

(a)

, has effect with any necessary modifications (and with any modifications specified in an order under section 185

(7)

).

- (4) In this section “commencement day” means the day on which this Chapter comes into force.

## CHAPTER 3

### CLOSURE OF PREMISES ASSOCIATED WITH NUISANCE OR DISORDER ETC

#### *Closure notices*

#### **76 Power to issue closure notices**

- (1) A police officer of at least the rank of inspector, or the local authority, may issue a closure notice if satisfied on reasonable grounds—

(a) that the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public, or

(b) that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises,

and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

- (2) A closure notice is a notice prohibiting access to the premises for a period specified in the notice.

For the maximum period, see section 77.

- (3) A closure notice may prohibit access—

(a) by all persons except those specified, or by all persons except those of a specified description;

(b) at all times, or at all times except those specified;

(c) in all circumstances, or in all circumstances except those specified.

- (4) A closure notice may not prohibit access by—

(a) people who habitually live on the premises, or

(b) the owner of the premises,

and accordingly they must be specified under subsection

(3)(a)

- (5) A closure notice must—

(a) identify the premises;

(b) explain the effect of the notice;

(c) state that failure to comply with the notice is an offence;

(d) state that an application will be made under section 80 for a closure order;

(e) specify when and where the application will be heard;

(f) explain the effect of a closure order;

- (g) give information about the names of, and means of contacting, persons and organisations in the area that provide advice about housing and legal matters.
- (6) A closure notice may be issued only if reasonable efforts have been made to inform—
- (a) people who live on the premises (whether habitually or not), and
  - (b) any person who has control of or responsibility for the premises or who has an interest in them,
- that the notice is going to be issued.
- (7) Before issuing a closure notice the police officer or local authority must ensure that any body or individual the officer or authority thinks appropriate has been consulted.
- (8) The Secretary of State may by regulations specify premises or descriptions of premises in relation to which a closure notice may not be issued.

## 77 Duration of closure notices

- (1) The maximum period that may be specified in a closure notice is 24 hours unless subsection (2) applies.
- (2) The maximum period is 48 hours—
- (a) if, in the case of a notice issued by a police officer, the officer is of at least the rank of superintendent, or
  - (b) if, in the case of a notice issued by a local authority, the notice is signed by the chief executive officer of the authority or a person designated by him or her for the purposes of this subsection.
- (3) In calculating when the period of 48 hours ends, Christmas Day is to be disregarded.
- (4) The period specified in a closure notice to which subsection (2) does not apply may be extended by up to 24 hours—
- (a) if, in the case of a notice issued by a police officer, an extension notice is issued by an officer of at least the rank of superintendent, or
  - (b) if, in the case of a notice issued by a local authority, the authority issues an extension notice signed by the chief executive officer of the authority or a person designated by the chief executive officer for the purposes of this subsection.
- (5) An extension notice is a notice which—
- (a) identifies the closure notice to which it relates, and
  - (b) specifies the period of the extension.
- (6) In this section “chief executive officer”, in relation to a local authority, means the head of the paid service of the authority designated under section 4 of the Local Government and Housing Act 1989.

## 78 Cancellation or variation of closure notices

- (1) This section applies where a closure notice is in force and the relevant officer or authority is no longer satisfied as mentioned in section 76(1), either—

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- (a) as regards the premises as a whole, or
  - (b) as regards a particular part of the premises.
- (2) In a case within subsection (1)(a) the relevant officer or authority must issue a cancellation notice.
- A cancellation notice is a notice cancelling the closure notice.
- (3) In a case within subsection (1)(b) the relevant officer or authority must issue a variation notice.
- A variation notice is a notice varying the closure notice so that it does not apply to the part of the premises referred to in subsection (1)(b).
- (4) A cancellation notice or a variation notice that relates to a closure notice which was—
- (a) issued by a local authority, and
  - (b) signed as mentioned in section 77  
(2)(b)
- ,
- must be signed by the person who signed the closure notice (or, if that person is not available, by another person who could have signed as mentioned in section 77  
(2)(b)
- ).
- (5) A cancellation notice or a variation notice that relates to a closure notice which was—
- (a) issued by a local authority, and
  - (b) extended under section 77  
(4)(b)
- ,
- must be signed by the person who signed the extension notice (or, if that person is not available, by another person who could have signed the extension notice).
- (6) In this section “the relevant officer or authority” means—
- (a) in the case of a closure notice issued by a police officer and not extended under section 77  
(4)(a)
  - , that officer (or, if that officer is not available, another officer of the same or higher rank);
  - (b) in the case of a closure notice issued by a police officer and extended under section 77  
(4)(a)
  - , the officer who issued the extension notice (or, if that officer is not available, another officer of the same or higher rank);
  - (c) in the case of a closure notice issued by a local authority, that authority.

## 79 Service of notices

- (1) A closure notice, an extension notice, a cancellation notice or a variation notice must be served by—
- (a) a constable, in the case of a notice issued by a police officer;
  - (b) a representative of the authority that issued the notice, in the case of a notice issued by a local authority.

- (2) The constable or local authority representative must if possible—
- (a) fix a copy of the notice to at least one prominent place on the premises,
  - (b) fix a copy of the notice to each normal means of access to the premises,
  - (c) fix a copy of the notice to any outbuildings that appear to the constable or representative to be used with or as part of the premises,
  - (d) give a copy of the notice to at least one person who appears to the constable or representative to have control of or responsibility for the premises, and
  - (e) give a copy of the notice to the people who live on the premises and to any person who does not live there but was informed (under section 76 (6)) that the notice was going to be issued.
- (3) If the constable or local authority representative reasonably believes, at the time of serving the notice, that there are persons occupying another part of the building or other structure in which the premises are situated whose access to that part will be impeded if a closure order is made under section 80, the constable or representative must also if possible serve the notice on those persons.
- (4) The constable or local authority representative may enter any premises, using reasonable force if necessary, for the purposes of complying with subsection (2)(a).
- (5) In this section “representative”, in relation to a local authority, means—
- (a) an employee of the authority, or
  - (b) a person, or employee or a person, acting on behalf of the authority.

### *Closure orders*

## **80 Power of court to make closure orders**

- (1) Whenever a closure notice is issued an application must be made to a magistrates’ court for a closure order (unless the notice has been cancelled under section 78).
- (2) An application for a closure order must be made—
  - (a) by a constable, if the closure notice was issued by a police officer;
  - (b) by the authority that issued the closure notice, if the notice was issued by a local authority.
- (3) The application must be heard by the magistrates’ court not later than 48 hours after service of the closure notice.
- (4) In calculating when the period of 48 hours ends, Christmas Day is to be disregarded.
- (5) The court may make a closure order if it is satisfied—
  - (a) that a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises, or
  - (b) that the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public, or
  - (c) that there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises,

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and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

- (6) A closure order is an order prohibiting access to the premises for a period specified in the order.

The period may not exceed 3 months.

- (7) A closure order may prohibit access—
- (a) by all persons, or by all persons except those specified, or by all persons except those of a specified description;
  - (b) at all times, or at all times except those specified;
  - (c) in all circumstances, or in all circumstances except those specified.
- (8) A closure order—
- (a) may be made in respect of the whole or any part of the premises;
  - (b) may include provision about access to a part of the building or structure of which the premises form part.
- (9) The court must notify the relevant licensing authority if it makes a closure order in relation to premises in respect of which a premises licence is in force.

## **81 Temporary orders**

- (1) This section applies where an application has been made to a magistrates' court under section 80 for a closure order.
- (2) If the court does not make a closure order it may nevertheless order that the closure notice continues in force for a specified further period of not more than 48 hours, if satisfied—
- (a) that the use of particular premises has resulted, or (if the notice is not continued) is likely soon to result, in nuisance to members of the public, or
  - (b) that there has been, or (if the notice is not continued) is likely soon to be, disorder near those premises associated with the use of those premises,
- and that the continuation of the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.
- (3) The court may adjourn the hearing of the application for a period of not more than 14 days to enable—
- (a) the occupier of the premises,
  - (b) the person with control of or responsibility for the premises, or
  - (c) any other person with an interest in the premises,
- to show why a closure order should not be made.
- (4) If the court adjourns the hearing under subsection
- (3) it may order that the closure notice continues in force until the end of the period of the adjournment.

**82 Extension of closure orders**

- (1) At any time before the expiry of a closure order, an application may be made to a justice of the peace, by complaint, for an extension (or further extension) of the period for which the order is in force.
- (2) Those entitled to make an application under this section are—
- (a) where the closure order was made on the application of a constable, a police officer of at least the rank of inspector;
  - (b) where the closure order was made on the application of a local authority, that authority.
- (3) A police officer or local authority may make an application under this section only if satisfied on reasonable grounds that it is necessary for the period of the order to be extended to prevent the occurrence, recurrence or continuance of—
- (a) disorderly, offensive or criminal behaviour on the premises,
  - (b) serious nuisance to members of the public resulting from the use of the premises, or
  - (c) disorder near the premises associated with the use of the premises,
- and also satisfied that the appropriate consultee has been consulted about the intention to make the application.
- (4) In subsection
- (3)
- “the appropriate consultee” means—
- (a) the local authority, in the case of an application by a police officer;
  - (b) the chief officer of police for the area in which the premises are situated, in the case of an application by a local authority.
- (5) Where an application is made under this section, the justice of the peace may issue a summons directed to—
- (a) any person on whom the closure notice was served under section 79, or
  - (b) any other person who appears to the justice to have an interest in the premises but on whom the closure notice was not served,
- requiring the person to appear before the magistrates’ court to respond to the application.
- (6) If a summons is issued under subsection
- (5)
- , a notice stating the date, time and place of the hearing of the application must be served on the persons to whom the summons is directed.
- (7) If the magistrates’ court is satisfied as mentioned in subsection
- (3)(a)
- ,
- (b)
- or
- (c)
- , it may make an order extending (or further extending) the period of the closure order by a period not exceeding 3 months.
- (8) The period of a closure order may not be extended so that the order lasts for more than 6 months.

### 83 Discharge of closure orders

- (1) At any time before the expiry of a closure order, an application may be made to a justice of the peace, by complaint, for the order to be discharged.
- (2) Those entitled to make an application under this section are—
  - (a) a constable, where the closure order was made on the application of a constable;
  - (b) the authority that applied for the closure order, where the order was made on the application of a local authority;
  - (c) a person on whom the closure notice was served under section 79;
  - (d) anyone else who has an interest in the premises but on whom the closure notice was not served.
- (3) Where a person other than a constable makes an application under this section for the discharge of an order that was made on the application of a constable, the justice may issue a summons directed to a constable considered appropriate by the justice requiring him or her to appear before the magistrates' court to respond to the application.
- (4) If a summons is issued under subsection (3), a notice stating the date, time and place of the hearing of the application must be served on—
  - (a) the constable to whom the summons is directed;
  - (b) the persons mentioned in subsection (2)(c) and (d) (other than the complainant).
- (5) Where—
  - (a) the order in question was made on the application of a local authority, and
  - (b) a person other than that authority makes an application under this section for the discharge of the order,the justice may issue a summons directed to that authority requiring it to appear before the magistrates' court to respond to the application.
- (6) If a summons is issued under subsection (5), a notice stating the date, time and place of the hearing of the application must be served on—
  - (a) the authority mentioned in that subsection;
  - (b) the persons mentioned in subsection (2)(c) and (d) (other than the complainant).
- (7) The magistrates' court may not make an order discharging the closure order unless satisfied that the closure order is no longer necessary to prevent the occurrence, recurrence or continuance of—
  - (a) disorderly, offensive or criminal behaviour on the premises,

- (b) serious nuisance to members of the public resulting from the use of the premises, or
- (c) disorder near the premises associated with the use of the premises.

*Appeals***84 Appeals**

- (1) An appeal against a decision to make or extend a closure order may be made by—
  - (a) a person on whom the closure notice was served under section 79;
  - (b) anyone else who has an interest in the premises but on whom the closure notice was not served.
- (2) A constable may appeal against—
  - (a) a decision not to make a closure order applied for by a constable;
  - (b) a decision not to extend a closure order made on the application of a constable;
  - (c) a decision (under section 81) not to order the continuation in force of a closure notice issued by a constable.
- (3) A local authority may appeal against—
  - (a) a decision not to make a closure order applied for by that authority;
  - (b) a decision not to extend a closure order made on the application of that authority;
  - (c) a decision (under section 81) not to order the continuation in force of a closure notice issued by that authority.
- (4) An appeal under this section is to the Crown Court.
- (5) An appeal under this section must be made within the period of 21 days beginning with the date of the decision to which it relates.
- (6) On an appeal under this section the Crown Court may make whatever order it thinks appropriate.
- (7) The Crown Court must notify the relevant licensing authority if it makes a closure order in relation to premises in respect of which a premises licence is in force.

*Enforcement***85 Enforcement of closure orders**

- (1) An authorised person may—
  - (a) enter premises in respect of which a closure order is in force;
  - (b) do anything necessary to secure the premises against entry.
- (2) In this section “authorised person”—
  - (a) in relation to a closure order made on the application of a constable, means a constable or a person authorised by the chief officer of police for the area in which the premises are situated;
  - (b) in relation to a closure order made on the application of a local authority, means a person authorised by that authority.

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- (3) A person acting under subsection (1) may use reasonable force.
- (4) A person seeking to enter premises under subsection (1) must, if required to do so by or on behalf of the owner, occupier or other person in charge of the premises, produce evidence of his or her identity and authority before entering the premises.
- (5) An authorised person may also enter premises in respect of which a closure order is in force to carry out essential maintenance or repairs to the premises.

## 86 Offences

- (1) A person who without reasonable excuse remains on or enters premises in contravention of a closure notice (including a notice continued in force under section 81) commits an offence.
- (2) A person who without reasonable excuse remains on or enters premises in contravention of a closure order commits an offence.
- (3) A person who without reasonable excuse obstructs a person acting under section 79 or 85 (1) commits an offence.
- (4) A person guilty of an offence under subsection (1) or (3) is liable on summary conviction—
  - (a) to imprisonment for a period not exceeding 3 months, or
  - (b) to a fine,or to both.
- (5) A person guilty of an offence under subsection (2) is liable on summary conviction—
  - (a) to imprisonment for a period not exceeding 51 weeks, or
  - (b) to a fine,or to both.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (5)(a) to 51 weeks is to be read as a reference to 6 months.

*Supplemental***87 Access to other premises**

## (1) Where—

- (a) access to premises is prohibited or restricted by, or as a result of, an order under section 80, 81, 82 or 84,
- (b) those premises are part of a building or structure, and
- (c) there is another part of that building or structure that is not subject to the prohibition or restriction,

an occupier or owner of that other part may apply to the appropriate court for an order under this section.

## (2) The appropriate court is—

- (a) the magistrates' court, in the case of an order under section 80, 81 or 82;
- (b) the Crown Court, in the case of an order under section 84.

## (3) Notice of an application under this section must be given to—

- (a) whatever constable the court thinks appropriate;
- (b) the local authority;
- (c) a person on whom the closure notice was served under section 79;
- (d) anyone else who has an interest in the premises but on whom the closure notice was not served.

## (4) On an application under this section the court may make whatever order it thinks appropriate in relation to access to any part of the building or structure mentioned in subsection

(1)

.

It does not matter whether provision has been made under section 80

(8)(b)

.

**88 Reimbursement of costs**

## (1) A local policing body or a local authority that incurs expenditure for the purpose of clearing, securing or maintaining premises in respect of which a closure order is in force may apply to the court that made the order for an order under this section.

## (2) On an application under this section the court may make whatever order it thinks appropriate for the reimbursement (in full or in part) by the owner or occupier of the premises of the expenditure mentioned in subsection

(1)

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## (3) An application for an order under this section may not be heard unless it is made before the end of the period of 3 months starting with the day on which the closure order ceases to have effect.

## (4) An order under this section may be made only against a person who has been served with the application for the order.

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- (5) An application under this section must also be served on—
- (a) the local policing body for the area in which the premises are situated, if the application is made by a local authority;
  - (b) the local authority, if the application is made by a local policing body.

## **89 Exemption from liability**

- (1) A police officer, or the chief officer of police under whose direction or control he or she acts, is not liable for damages in proceedings for—
- (a) judicial review, or
  - (b) the tort of negligence or misfeasance in public office,
- arising out of anything done or omitted to be done by the police officer in the exercise or purported exercise of a power under this Chapter.
- (2) A local authority is not liable for damages in proceedings for—
- (a) judicial review, or
  - (b) the tort of negligence or misfeasance in public office,
- arising out of anything done or omitted to be done by the authority in the exercise or purported exercise of a power under this Chapter.
- (3) Subsections  
(1)  
and  
(2)  
do not apply to an act or omission shown to have been in bad faith.
- (4) Subsections  
(1)  
and  
(2)  
do not apply so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.
- (5) This section does not affect any other exemption from liability (whether at common law or otherwise).

## **90 Compensation**

- (1) A person who claims to have incurred financial loss in consequence of a closure notice or a closure order may apply to the appropriate court for compensation.
- (2) The appropriate court is—
- (a) the magistrates' court that considered the application for a closure order (except where paragraph (b) applies);
  - (b) the Crown Court, in the case of a closure order that was made or extended by an order of that Court on an appeal under section 84.
- (3) An application under this section may not be heard unless it is made before the end of the period of 3 months starting with whichever of the following is applicable—

- (a) the day on which the closure notice was cancelled under section 78;
  - (b) the day on which a closure order was refused;
  - (c) the day on which the closure order ceased to have effect.
- (4) For the purposes of subsection (3)(b) the day on which a closure order was refused is—
- (a) the day on which the magistrates’ court decided not to make a closure order (except where paragraph (b) applies);
  - (b) the day on which the Crown Court dismissed an appeal against a decision not to make a closure order.
- (5) On an application under this section the court may order the payment of compensation out of central funds if it is satisfied—
- (a) that the applicant is not associated with the use of the premises, or the behaviour on the premises, on the basis of which the closure notice was issued or the closure order made,
  - (b) if the applicant is the owner or occupier of the premises, that the applicant took reasonable steps to prevent that use or behaviour,
  - (c) that the applicant has incurred financial loss in consequence of the notice or order, and
  - (d) that having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss.
- (6) In this section “central funds” has the same meaning as in enactments providing for the payment of costs.

## 91 Guidance

- (1) The Secretary of State may issue—
- (a) guidance to chief officers of police about the exercise, by officers under their direction or control, of those officers’ functions under this Chapter;
  - (b) guidance to local authorities about the exercise of their functions under this Chapter and those of their representatives (within the meaning of section 79).
- (2) The Secretary of State may revise any guidance issued under this section.
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.

## 92 Interpretation of Chapter 3

- (1) In this Chapter—
- “cancellation notice” has the meaning given by section 78
  - (2)
  - ;
  - “criminal behaviour” means behaviour that constitutes a criminal offence;
  - “extension notice” has the meaning given by section 77
  - (5)
  - ;

“local authority” means—

(a) in relation to England, a district council, a county council for an area for which there is no district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) in relation to Wales, a county council or a county borough council;

“offensive behaviour” means behaviour by a person that causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as that person;

“owner”, in relation to premises, means—

(a) a person (other than a mortgagee not in possession) entitled to dispose of the fee simple of the premises, whether in possession or in reversion;

(b) a person who holds or is entitled to the rents and profits of the premises under a lease that (when granted) was for a term of not less than 3 years;

“premises” includes—

(a) any land or other place (whether enclosed or not);

(b) any outbuildings that are, or are used as, part of premises;

“premises licence” has the meaning given by section 11 of the Licensing Act 2003;

“relevant licensing authority” has the meaning given by section 12 of that Act;

“variation notice” has the meaning given by section 78

(3)

(2) A reference in this Chapter to “the local authority”, in relation to any premises or a notice or order relating to any premises, is a reference to the local authority (or, as the case may be, any of the local authorities) within whose area the premises are situated.

(3) A reference in this Chapter to “the premises”, in relation to a closure notice or a closure order, is a reference to the premises to which the notice or order relates.

### 93 Saving and transitional provision

(1) The repeal or amendment by this Act of provisions about any of the notices specified in subsection

(2)

or orders specified in subsection

(3)

does not apply in relation to—

(a) any such notice issued or order made before the commencement day;

(b) anything done in connection with any such notice or order.

(2) The notices are—

(a) a notice issued under section 1 of the Anti-social Behaviour Act 2003;

(b) a notice issued under section 11A of that Act.

(3) The orders are—

(a) an order made under section 2 of the Anti-social Behaviour Act 2003;

(b) an order made under section 11B of that Act;

(c) an order made under section 40 of that Act;

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- (d) an order made under section 161 of the Licensing Act 2003;
  - (e) an order made under section 165(2)(b), (c) or (d) of that Act.
- (4) A person deciding whether to issue a closure notice may take into account things that—
- (a) happened before the commencement day, and
  - (b) would have given rise to the power to issue one of the notices specified in subsection (2) or to make an order specified in subsection (3)(c) or (d).
- (5) A court deciding whether to make a closure order may take into account things that—
- (a) happened before the commencement day, and
  - (b) would have given rise to the power to make an order specified in subsection (3)(a), (b) or (e).
- (6) Subsections (4) and (5) apply only during the period of 3 months beginning with the commencement day.
- (7) In this section “commencement day” means the day on which this Chapter comes into force.