
STATUTORY INSTRUMENTS

1998 No. 2682 (L. 10)

**MAGISTRATES' COURTS
PROCEDURE**

**The Magistrates' Courts (Sex Offender and
Anti-social Behaviour Orders) Rules 1998**

Made - - - - 30th October 1998

Laid before Parliament 2nd November 1998

Coming into force in accordance with rule 1

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(1), and after consultation with the Rule Committee appointed under that section 144, makes the following Rules:

Citation, interpretation and commencement

1.—(1) These Rules may be cited as the Magistrates' Courts (Sex Offender and Anti-social Behaviour Orders) Rules 1998.

(2) In these Rules any reference to a numbered section is a reference to the section so numbered in the Crime and Disorder Act 1998(2).

(3) These Rules, except rules 6 and 7 below and Schedules 4 to 6, shall come into force on 1st December 1998.

(4) Rules 6 and 7 below and Schedules 4 to 6 shall come into force on 1st April 1999.

Sex offender orders

2.—(1) An application for a sex offender order under section 2 shall be in the form set out in Schedule 1 to these Rules or a form to the like effect.

(2) Any summons directed to the defendant requiring him to appear before a magistrates' court to answer such an application shall be in the form set out in Schedule 2 to these Rules or a form to the like effect.

(3) A sex offender order shall be in the form set out in Schedule 3 to these Rules or a form to the like effect.

(1) 1980 c. 43.

(2) 1998 c. 37.

3.—(1) This rule applies to the making of an application for the variation or discharge of a sex offender order.

(2) An application to which this rule applies shall be made in writing to the magistrates' court which made the order and shall specify the reason why the applicant for variation or discharge believes the court should vary or discharge the order, as the case may be.

(3) Where the court considers that there are no grounds upon which it might conclude that the sex offender order should be varied or discharged, as the case may be, it may determine the application without hearing representations from the applicant for variation or discharge or any other person.

(4) Where the court considers that there are grounds upon which it might conclude that the order should be varied or discharged, as the case may be, the clerk to that magistrates' court shall, unless the application is withdrawn, issue a summons giving not less than fourteen days' notice in writing of the date, time and place appointed for the hearing of the application to the applicant for the sex offender order and the defendant, inviting them to make observations and advising them of their right to be heard at the hearing.

(5) The clerk shall send with the summons under paragraph (4) above a copy of the application for variation or discharge of the sex offender order to the recipients of that summons, apart from the applicant for variation or discharge.

4. Where, after the hearing of an application to which rule 3 above applies, the court either dismisses the application, varies the sex offender order or discharges it by further order, the clerk of the court shall send a copy of the order dismissing the application, or varying or discharging the sex offender order, as the case may be, to each of the recipients of the notice under rule 3(4) above.

5. Any summons or copy of an order required to be sent under these Rules to the defendant shall be either given to him in person or sent by first class post to his last known address and, if so given or sent, shall be deemed to have been received by him.

Anti-social behaviour orders

6.—(1) An application for an anti-social behaviour order under section 1 shall be in the form set out in Schedule 4 to these Rules or a form to the like effect.

(2) Any summons directed to the defendant requiring him to appear before a magistrates' court to answer such an application shall be in the form set out in Schedule 5 to these Rules or a form to the like effect.

(3) An anti-social behaviour order shall be in the form set out in Schedule 6 to these Rules or a form to the like effect.

7.—(1) Rules 3 to 5 above shall apply in respect of an anti-social behaviour order or an application for such an order as they apply in respect of a sex offender order or an application for such an order, subject to paragraph (2) below.

(2) In the application under paragraph (1) above of rules 3 to 5 above, the summons under rule 3(4) shall also be sent to any relevant authority, within the meaning of section 1, other than the applicant for the order, and any reference in those rules to the recipients of that summons shall be taken to include such an authority.

Dated 30th October 1998

Irvine of Lairg, C.

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SCHEDULE 1

Rule 2(1)

FORM

Application for Sex Offender Order (Crime and Disorder Act 1998, s2(1))

..... Magistrates' Court
(Code)

Date:
Defendant:
Address:
.....

The defendant is a sex offender by virtue of the following:

Offence:
.....

Date of conviction/finding/caution/punishment
.....

[Court] [Police Station]

And it is alleged that the defendant on [date(s)] at [place(s)] has acted in such a way as to give reasonable cause to believe that an order under section 2 of the Crime and Disorder Act 1998 is necessary to protect the public from serious harm from him, and accordingly application is made for a sex offender order containing the following prohibition(s):-

Short description of acts:
.....

The complaint of
Address:

who [upon oath] states that the defendant was responsible for the acts of which particulars are given above, in respect of which this complaint is made.

Taken [and sworn] before me

Justice of the Peace
[Justices' Clerk]

SCHEDULE 2

Rule 2(2)

FORM

Summons on Application for Sex Offender Order (Crime and Disorder Act 1998, s2)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

..... Magistrates' Court
(Code)

Date:
To the defendant:
Address:
.....

You are hereby summoned to appear on (date)
at before the Magistrates' Court at
to answer to an application for a sex offender order, which application is
attached to this summons.

Justice of the Peace
[Justices' Clerk]

NOTE: Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing, it may issue a warrant for your arrest or proceed in your absence.

If a sex offender order is made against you, you will be subject to the notification requirements of Part I of the Sex Offenders Act 1997, which oblige you to notify the police of your name and address.

If, without reasonable excuse, you do anything you are prohibited from doing by such an order, you shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine, or to both.

SCHEDULE 3

Rule 2(3)

FORM

Sex Offender Order (Crime and Disorder Act 1998, s2)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

..... Magistrates' Court
(Code)

Date:
Defendant:
Address:
.....

On the complaint of

Complainant:
Address:
.....

It is adjudged that the defendant is a sex offender and acted in the following manner, which gave reasonable cause to believe that this order is necessary to protect the public from serious harm from him

And it is ordered that the defendant is prohibited from

Until [.....] [further order]

And, by virtue of section 2(5) of the Crime and Disorder Act 1998, while this Order has effect, Part I of the Sex Offenders Act 1997 shall have effect as if:

- (a) the defendant were subject to the notification requirement of that Part; and
- (b) in relation to the defendant, the relevant date (within the meaning of that Part) were the date of service of the Order.

Justice of the Peace
[Justices' Clerk]

NOTE: If without reasonable excuse the defendant does anything which he is prohibited from doing by this Order, he shall be liable on conviction to a term of imprisonment not exceeding five years or to a fine or both.

SCHEDULE 4

FORM

Application for Anti-social Behaviour Order (Crime and Disorder Act 1998, s1(1))

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

..... Magistrates' Court
(Code)

Date:
Address:
.....
Defendant:
Local government area(s) in
respect of which application
is made
Relevant authorities
consulted
.....

And it is alleged

- (a) that the defendant has acted on [date(s)] at [place(s)] in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and
- (b) that an anti-social behaviour order is necessary to protect persons in the [] local government area(s) in which the harassment, alarm or distress was caused or was likely to be caused from further anti-social acts by him, and accordingly application is made for an anti-social behaviour order containing the following prohibition(s):-

Short description of acts:
.....
The complaint of:
Address:
.....

who [upon oath] states that the defendant was responsible for the acts of which particulars are given above, in respect of which this complaint is made.

Taken [and sworn] before me

Justice of the Peace
[Justices' Clerk]

SCHEDULE 5

Rule 6(2)

FORM

Summons on Application for Anti-social Behaviour Order (Crime and Disorder Act 1998, s1)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

..... Magistrates' Court
(Code)

Date:
To the defendant:
Address:
.....

You are hereby summoned to appear on (date)
at before the magistrates' court at
to answer an application for an anti-social behaviour order, which application is attached to this summons.

Justice of the Peace
[Justices' Clerk]

NOTE: Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing, it may issue a warrant for your arrest or proceed in your absence.

If an anti-social behaviour order is made against you and if, without reasonable excuse, you do anything you are prohibited from doing by such an order you shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine, or to both.

SCHEDULE 6

Rule 6(3)

FORM

Anti-social Behaviour Order (Crime and Disorder Act 1998, s1)

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**Anti-social Behaviour Order
(Crime and Disorder Act 1998, s1)**

..... Magistrates' Court
(Code)

Date:
Defendant:
Address:
.....

On the complaint of

Complainant:
Address:
.....

It is adjudged that the defendant acted in the following manner, which caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself:

.....
.....

And it is further adjudged that this order is necessary to protect persons in the following local government area(s)
from further anti-social acts by him.

And it is ordered that the defendant is prohibited from
.....
Until [.....] [further order]

NOTE: If without reasonable excuse the defendant does anything which he is prohibited from doing by this order, he shall be liable on conviction to a term of imprisonment not exceeding five years or to a fine or to both.

Justice of the Peace
[Justices' Clerk]

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules provide forms in relation to anti-social behaviour orders (from 1st April 1999) and sex offender orders (from 1st December 1998) under sections 1 and 2, respectively, of the Crime and Disorder Act 1998, and make provision for applications to vary or discharge such orders.

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