

**EXPLANATORY MEMORANDUM TO  
THE MAGISTRATES' COURTS (INJUNCTIONS: GANG-RELATED  
VIOLENCE) RULES 2015**

**2015 No. 421 (L. 4)**

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 These rules contain provisions to support amendments to the Police and Crime Act 2009 and allow the police and local authorities to apply to the youth court for an injunction against a person aged 14-17 involved in gang-related violence, commonly referred to as a gang injunction.
3. **Matters of Special interest to the Joint Committee on Statutory Instruments.**
  - 3.1 None
4. **Legislative Context**
  - 4.1 Section 144 of the Magistrates' Courts Act 1980 allows the Lord Chief Justice to make rules regulating and prescribing the practice and procedure of Magistrates' Courts, except in relation to any criminal cause or matter, or family proceedings. The Lord Chief Justice may do so with the concurrence of the Lord Chancellor.
  - 4.2 The Policing and Crime Act 2009 introduced powers for police and local authorities to apply to the (County Court or High Court) for gang injunctions, which can impose a range of prohibitions and positive requirements designed to prevent the respondent from engaging in, or being subjected to, gang-related violence. These provisions have been amended twice: firstly by the Crime and Security Act 2010, which extended the provisions to allow applications to be made in respect of persons aged 14-17; and then, by the Crime and Courts Act 2013 to allow Youth Courts to sit in a civil capacity to hear gang injunction applications for 14 to 17 year-olds. These Rules deal with the procedure for those applications in the Youth Court, and in addition allow for the transfer of the proceedings to the County Court or High Court (or retention at the Youth Court in certain cases) upon the respondent turning 18.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy Background**

- 7.1 Moving gang injunction applications in relation to respondents aged 14-17 years old to the Youth Court, will allow the courts with the most appropriate facilities and expertise in dealing with young people to consider applications.
- 7.2 The Rules are intended to operate largely as a self-contained body of rules and to be as simple as possible. In the interests of the latter aim, the Rules do not prescribe any forms, but instead mandate the use of written complaint (the procedure for which is contained in the Magistrates' Courts Act 1980 and Magistrates' Courts Rules 1981) and set out the information which is required to be provided for each sort of application which may be made in gang injunction proceedings.
- 7.3 The Rules make provision for the court to consider, when a respondent to a gang injunction attains the age of 18, whether the proceedings should be transferred to the High Court or County Court (in which case the existing provisions of Part 65 of the Civil Procedure Rules 1998 will apply to any continuing proceedings) or retained in the youth court (for example, if proceedings are almost completed and it is considered appropriate to conclude them in the youth court rather than transfer them).

### ***Consolidation***

- 7.4 These Rules are in themselves largely new and self-contained. They do not directly amend the Magistrates' Courts Rules 1981, and there are no immediate plans to consolidate those rules.

## **8. Consultation outcome**

- 8.1 No formal consultation was undertaken on the Rules, but former members of the Magistrates' Courts Rules Committee were consulted, and provided comments on a technical basis which were taken into account in the development of the Rules.

## **9. Guidance**

- 9.1 Statutory guidance will be published by the Home Office in advance of section 18 of the Crime and Courts Act 2013 coming into force.

## **10 Impact**

- 10.1 These rules have no impact on businesses, charities or voluntary bodies.
- 10.2 These rules have no impact *of themselves* on the public sector.

10.3 The Home Office published an assessment of the impact of extending the use of gang injunctions to 14 to 17 year olds when the Crime and Security Act 2010 amended the original legislation, the Policing and Crime Act 2009. The Home Office are aware of only two gang injunctions that have been taken out in the County Court against young people aged 14-17 years old since 2012. It is envisaged that this number may rise following the change of venue but they still expect numbers of proceedings to be fairly small.

## **11. Regulating small business**

11.1 The legislation does not apply to small businesses.

## **12. Monitoring and review**

12.1 A post-legislative review of the Crime and Courts Act 2013 will take place in 2018.

## **13. Contact**

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