



2015 CHAPTER 9

PART 8

VIOLENT OFFENCES PREVENTION ORDERS

Violent offences prevention orders

Violent offences prevention orders

55.—(1) A violent offences prevention order is an order made under section 56 or 57 in respect of a person (“D”) which—

- (a) contains such prohibitions or requirements authorised by section 59 as the court making the order considers necessary for the purpose of protecting the public from the risk of serious violent harm caused by D, and
- (b) has effect for such period of not less than 2, nor more than 5, years as is specified in the order (unless renewed or discharged under section 60).

(2) For the purposes of this Part any reference to protecting the public from the risk of serious violent harm caused by a person is a reference to protecting—

- (a) the public, or
- (b) any particular members of the public,

from a current risk of serious physical or psychological harm caused by that person committing one or more specified offences.

(3) In this Part “specified offence” means an offence for the time being listed in Part 1 of Schedule 2 to the Criminal Justice (Northern Ireland) Order 2008 (violent offences).

(4) But the offence mentioned in paragraph 7 of that Part (assault occasioning actual bodily harm) is not a specified offence for the purposes of sections 56(2) or (3) or 58(2) or (3) unless—

- (a) it was committed against—
 - (i) a vulnerable adult (within the meaning of Article 2(2) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007);
 - (ii) a person under the age of 18; or
 - (iii) a person living in the same household as the offender; or
- (b) the court in sentencing the offender for the offence treated the offence as aggravated by hostility (within the meaning of Article 2 of the Criminal Justice (No. 2) (Northern Ireland) Order 2004).

Violent offences prevention order made on conviction, etc.

56.—(1) A court may make a violent offences prevention order in respect of D where subsection (2) or (3) applies to D and the court is satisfied that it is necessary to make such an order for the purpose of protecting the public from the risk of serious violent harm caused by D.

(2) This subsection applies to D where the court deals with D in respect of a specified offence.

(3) This subsection applies to D where the court deals with D in respect of a finding—

- (a) that D is not guilty of a specified offence by reason of insanity, or
- (b) that D is unfit to plead and has done the act charged against D in respect of such an offence.

(4) Subsections (2) and (3) apply whether the specified offence was committed (or alleged to have been committed) before or after commencement.

Violent offences prevention order made on application of Chief Constable

57.—(1) A court of summary jurisdiction may make a violent offences prevention order in respect of D where subsection (2) applies to D and the court is satisfied that D's behaviour since the appropriate date makes it necessary to make such an order for the purpose of protecting the public from the risk of serious violent harm caused by D.

(2) This subsection applies to D where—

- (a) an application under subsection (3) has been made to the court in respect of D, and
- (b) on the application, it is proved that D is a qualifying offender.

(3) The Chief Constable may by complaint apply for a violent offences prevention order to be made in respect of a person who resides in Northern

Ireland or who the Chief Constable believes is in, or is intending to come to, Northern Ireland if it appears to the Chief Constable that—

- (a) the person is a qualifying offender, and
 - (b) the person has, since the appropriate date, acted in such a way as to give reasonable cause to believe that it is necessary for a violent offences prevention order to be made in respect of the person.
- (4) In this section “the appropriate date” means the date (or, as the case may be, the first date) on which the person became a person within any of paragraphs (a) to (c) of section 58(2) or (3).
- (5) On an application under subsection (3) in respect of D the court must—
- (a) afford D an opportunity of making representations; and
 - (b) in deciding whether it is necessary to make a violent offences prevention order for the purpose of protecting the public from the risk of serious violent harm caused by D, have regard to whether D would, at any time when such an order would be in force, be subject under any other statutory provision to any measures that would operate to protect the public from the risk of such harm.

Qualifying offenders

58.—(1) In this Part “qualifying offender” means a person who is within subsection (2) or (3).

(2) A person is within this subsection if (whether before or after commencement)—

- (a) the person has been convicted of a specified offence;
- (b) the person has been found not guilty of a specified offence by reason of insanity, or
- (c) the person has been found to be unfit to be tried and to have done the act charged in respect of a specified offence.

(3) A person is within this subsection if, under the law in force in a country outside Northern Ireland (and whether before or after commencement)—

- (a) the person has been convicted of a relevant offence,
- (b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that the person was not guilty by reason of insanity, or
- (c) such a court has, in respect of a relevant offence, made a finding equivalent to a finding that the person was unfit to be tried and did the act charged in respect of the offence.

(4) In subsection (3) “relevant offence” means an act which—

- (a) constituted an offence under the law in force in the country concerned, and

(b) would have constituted a specified offence if it had been done in Northern Ireland.

(5) An act punishable under the law in force in a country outside Northern Ireland constitutes an offence under that law for the purposes of subsection (4) however it is described in that law.

(6) Subject to subsection (7), on an application under section 57, the condition in subsection (4)(b) (where relevant) is to be taken as met in relation to the person to whom the application relates unless, not later than magistrates' court rules may provide, that person serves on the Chief Constable a notice—

- (a) denying that, on the facts as alleged with respect to the act in question, the condition is met,
- (b) giving the reasons for denying that it is met, and
- (c) requiring the Chief Constable to prove that it is met.

(7) If the court thinks fit, it may permit that person to require the Chief Constable to prove that the condition is met even though no notice has been served under subsection (6).

Provisions that violent offences prevention orders may contain

59.—(1) A violent offences prevention order may contain provisions prohibiting D from doing anything described in the order or requiring D to do anything described in the order (or both).

(2) The only prohibitions or requirements that may be included in the order are those necessary for the purpose of protecting the public from the risk of serious violent harm caused by D.

Variation, renewal or discharge of violent offences prevention orders

60.—(1) D or the Chief Constable may apply to the appropriate court—

- (a) for an order varying or discharging a violent offences prevention order;
- (b) for an order renewing a violent offences prevention order for such period of not more than 5 years as is specified in the renewal order.

(2) Subject to subsections (3) to (5), on an application under this section the court may, after hearing—

- (a) the applicant, and
- (b) the other person mentioned in subsection (1), if that person wishes to be heard,

make such order varying, renewing or discharging the violent offences prevention order as the court considers appropriate.

(3) A violent offences prevention order may only be—

(a) renewed, or
(b) varied so as to impose additional prohibitions or requirements on D,
if the court considers that it is necessary to do so for the purpose of protecting the public from the risk of serious violent harm caused by D (and any renewed or varied order may contain only such prohibitions or requirements as the court considers necessary for this purpose).

(4) References in subsection (3) to prohibitions or requirements are to prohibitions or requirements authorised by section 59.

(5) The court may not discharge a violent offences prevention order before the end of the period of 2 years beginning with the date on which it comes into force unless consent to its discharge is given by D and the Chief Constable.

(6) In this section “the appropriate court” means—

- (a) where the violent offences prevention order was made under section 56 by (or on appeal from) the Crown Court, that court; and
- (b) in any other case, a court of summary jurisdiction.

(7) An application under this section may be made—

- (a) where the appropriate court is the Crown Court, in accordance with Crown Court rules;
- (b) in any other case by complaint under Part 7 of the Magistrates’ Court (Northern Ireland) Order 1981 and in accordance with magistrates’ court rules.

Interim violent offences prevention orders

61.—(1) This section applies where an application under section 57 (“the main application”) in respect of D has not yet been determined.

(2) An application for an order under this section (“an interim violent offences prevention order”) may be made—

- (a) by the complaint by which the main application is made, or
- (b) if the main application has already been made to a court, by means of a further complaint made to that court by the Chief Constable.

(3) If it appears to the court—

- (a) that D is a qualifying offender,
- (b) that, if the court were determining that application, it would be likely to make a violent offences prevention order in respect of D, and
- (c) that it is desirable to act before that application is determined, with a view to securing the immediate protection of the public from the risk of serious violent harm caused by D,

the court may make an interim violent offences prevention order in respect of that person that contains such prohibitions or requirements as it considers necessary for the purpose of protecting the public from the risk of such harm.

(4) The reference in subsection (3) to prohibitions or requirements is to prohibitions or requirements authorised by section 59 in the case of a violent offences prevention order.

(5) An interim violent offences prevention order—

- (a) has effect only for such period as is specified in the order, and
- (b) ceases to have effect (if it has not already done so) at the appropriate time.

(6) “The appropriate time” means—

- (a) if the court grants the main application, the time when a violent offences prevention order made in pursuance of it comes into force;
- (b) if the court decides not to grant the main application or it is withdrawn, the time when the court so decides or the application is withdrawn.

(7) Section 60 applies in relation to the variation or discharge of an interim violent offences prevention order as it applies in relation to the variation or discharge of a violent offences prevention order, but with the omission of subsection (5).

Notice of applications

62.—(1) This section applies to—

- (a) any application under section 57 for a violent offences prevention order in respect of D,
- (b) any application under section 61 for an interim violent offences prevention order in respect of D, and
- (c) any application under section 60 for the variation, discharge or renewal of a violent offences prevention order made in respect of D, or for the variation or discharge of an interim violent offences prevention order so made.

(2) A court may not begin hearing such an application unless it is satisfied that D has been given notice of—

- (a) the application, and
- (b) the time and place of the hearing,

a reasonable time before the hearing.

Appeals

63.—(1) D may appeal against the making of a violent offences prevention order under section 56—

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

- (a) where subsection (2) of that section applied to D, as if the order were a sentence passed on D for the offence;
 - (b) where subsection (3) (but not subsection (2)) of that section applied to D, as if D had been convicted of the offence and the order were a sentence passed on D for that offence.
- (2) D may appeal to the county court against—
- (a) the making of a violent offences prevention order under section 57;
 - (b) the making of an interim violent offences prevention order.
- (3) D may appeal against the making of an order under section 60 or the refusal to make such an order—
- (a) where the application for such an order was made to the Crown Court, to the Court of Appeal;
 - (b) in any other case to the county court.
- (4) On an appeal under subsection (2) or (3)(b), the county court—
- (a) may make such orders as may be necessary to give effect to its determination of the appeal; and
 - (b) may also make such incidental or consequential orders as appear to it to be just.