

CHILDREN ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Advisory and Support Services for Family Proceedings

Other provisions

Section 60: Child safety orders

242. This section extends the existing circumstances in section 8 of the Crime and Disorder Act 1998 in which courts can make parenting orders and amends the power to make child safety orders contained in sections 11-13 of the 1998 Act. At present, the only sanction for breach of a child safety order is a care order. That sanction is being removed by *subsection (4)*. Instead, we are creating (by *subsection (2)*) the possibility of the making of a parenting order.
243. Child safety orders can be made in a Family Proceedings Court when: a) a child below 10 has committed an act that would have been an offence were he 10 or over, b) imposing the order is necessary to prevent a child below 10 committing such an act, c) a child below 10 has contravened a ban imposed by a local child curfew scheme, or d) a child below 10 has behaved 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 the child.
244. The order places the child under the supervision of a responsible officer from either a social services department or youth offending team, and requires the child to comply with specified requirements. The purpose of the requirements is to ensure the child receives appropriate care, protection, and support, is subject to proper control, and to prevent the repetition of the kind of behaviour which led to the order being made.
245. Courts may already make a parenting order under section 8 of the 1998 Act when they make a child safety order. *Subsection (2)* creates an additional circumstance in which a court can make a parenting order. This is when a court determines that a child has failed to comply with a requirement of a child safety order. The court will only be able to make a parenting order in this circumstance where it is desirable in the interests of preventing a repetition of the kind of behaviour which led to the child safety order being made. All other provisions currently relating to parenting orders made in the same proceedings as child safety orders under section 8(1)(a) of the 1998 Act will apply equally to these new parenting orders.
246. This new power allows a parenting order to be made at a later stage. It could be used when there were insufficient grounds to make a parenting order when the child safety order was made, for example, where it appeared that the parent had done everything he could to prevent the child misbehaving but it had since emerged that one would be desirable in the interests of preventing repetition of the behaviour which led to the child safety order being made. This may be because a parent is no longer co-operating, or that co-operation from a different parent or guardian is needed to secure the child's compliance in meeting the requirements of the child safety order.

*These notes refer to the Children Act 2004 (c.31)
which received Royal Assent on 15th November 2004*

247. Section 11(4) of the 1998 Act restricts the maximum duration of a child safety order to three months other than in exceptional circumstances. *Subsection (3)* extends the maximum duration to 12 months. This gives more time to address the child's problems and is also in line with the maximum duration of a parenting order, with which the child safety order is usually linked. By making the permitted duration the same, an order on a child can be supported by a matching order on the parent over the same period to address the behaviour of the child.
248. *Subsection (4)* removes from the court the power, when a child safety order is breached, to make a care order at a lower threshold than is required by section 31 of the Children Act 1989. This power had been seen as a barrier to the use of the child safety order. If the court believes that the parents, with appropriate support, could secure the child's compliance with the order, it could make a parenting order under *subsection (2)*. If a parenting order had already been made with requirements mirroring the child safety order's requirements, the court could fine or impose a community sentence on the parent for breach of the parenting order. If the court concluded that the child is beyond parental control it could, under section 37 of the Children Act 1989, direct the local authority to consider applying for a care order. The court would also retain its power to vary or discharge the order.
249. All other provisions relating to child safety orders under the 1998 Act will remain the same.