



# Policing and Crime Act 2009

## 2009 CHAPTER 26

### PART 4

#### INJUNCTIONS: GANG-RELATED VIOLENCE [<sup>F1</sup>AND DRUG-DEALING ACTIVITY]

##### Textual Amendments

- F1** Words in Pt. 4 heading inserted (1.6.2015) by *Serious Crime Act 2015* (c. 9), s. 88(1), Sch. 4 para. 83; S.I. 2015/820, reg. 3(q)(ix)

#### *Power to grant injunctions*

#### [<sup>F2</sup> 34 Injunctions to prevent gang-related violence and drug-dealing activity

- (1) A court may grant an injunction under this section against a respondent aged 14 or over if the first and second conditions are met.
- (2) The first condition is that the court is satisfied on the balance of probabilities that the respondent has engaged in or has encouraged or assisted—
  - (a) gang-related violence, or
  - (b) gang-related drug-dealing activity.
- (3) The second condition is that the court thinks it is necessary to grant the injunction for either or both of the following purposes—
  - (a) to prevent the respondent from engaging in, or encouraging or assisting, gang-related violence or gang-related drug-dealing activity;
  - (b) to protect the respondent from gang-related violence or gang-related drug-dealing activity.
- (4) An injunction under this section may (for either or both of those purposes)—
  - (a) prohibit the respondent from doing anything described in the injunction;
  - (b) require the respondent to do anything described in the injunction.

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

- (5) For the purposes of this section, something is “gang-related” if it occurs in the course of, or is otherwise related to, the activities of a group that—
- (a) consists of at least three people, and
  - (b) has one or more characteristics that enable its members to be identified by others as a group.
- (6) In this section “ violence ” includes a threat of violence.
- (7) In this Part “ drug-dealing activity ” means the unlawful production, supply, importation or exportation of a controlled drug.
- “Production”, “supply” and “controlled drug” here have the meanings given by section 37(1) of the Misuse of Drugs Act 1971.]

#### **Textual Amendments**

**F2** S. 34 substituted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#) , **ss. 51** , 88(1) ; [S.I. 2015/820](#) , **reg. 3(n)**

#### **Commencement Information**

**II** S. 34 in force at 31.1.2011 by [S.I. 2010/2988](#) , **art. 2**

### *Contents of injunctions*

## **35 Contents of injunctions**

- (1) This section applies in relation to an injunction under section 34.
- (2) The prohibitions included in the injunction may, in particular, have the effect of prohibiting the respondent from—
- (a) being in a particular place;
  - (b) being with particular persons in a particular place;
  - (c) being in charge of a particular species of animal in a particular place;
  - (d) wearing particular descriptions of articles of clothing in a particular place;
  - (e) using the internet to facilitate or encourage violence [<sup>F3</sup>or drug-dealing activity].
- (3) The requirements included in the injunction may, in particular, have the effect of requiring the respondent to—
- (a) notify the person who applied for the injunction of the respondent's address and of any change to that address;
  - (b) be at a particular place between particular times on particular days;
  - (c) present himself or herself to a particular person at a place where he or she is required to be between particular times on particular days;
  - (d) participate in particular activities between particular times on particular days.
- (4) A requirement of the kind mentioned in subsection (3)(b) may not be such as to require the respondent to be at a particular place for more than 8 hours in any day.
- (5) The prohibitions and requirements included in the injunction must, so far as practicable, be such as to avoid—
- (a) any conflict with the respondent's religious beliefs, and

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

- (b) any interference with the times, if any, at which the respondent normally works or attends any educational establishment.
- (6) Nothing in subsection (2) or (3) affects the generality of section 34(4).
- (7) In subsection (2) “place” includes an area.

#### Textual Amendments

**F3** Words in s. 35(2)(e) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 84](#); [S.I. 2015/820](#), reg. 3(q)(ix)

#### Commencement Information

**I2** S. 35 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

### 36 Contents of injunctions: supplemental

- (1) This section applies in relation to an injunction under section 34.
- (2) The injunction may not include a prohibition or requirement that has effect after the end of the period of 2 years beginning with the day on which the injunction is granted (“the injunction date”).
- (3) The court may order the applicant and the respondent to attend one or more review hearings on a specified date or dates.
- (4) If any prohibition or requirement in the injunction is to have effect after the end of the period of 1 year beginning with the injunction date, the court must order the applicant and the respondent to attend a review hearing on a specified date within the last 4 weeks of the 1 year period (whether or not the court orders them to attend any other review hearings).

[<sup>F4</sup>(4A) Where—

- (a) the respondent is under the age of 18 on the injunction date, and
- (b) any prohibition or requirement in the injunction is to have effect after the respondent reaches that age and for at least the period of four weeks beginning with the respondent's 18th birthday,

the court must order the applicant and the respondent to attend a review hearing on a specified date within that period.]

- (5) A review hearing is a hearing held for the purpose of considering whether the injunction should be varied or discharged.
- (6) The court may attach a power of arrest in relation to—
  - (a) any prohibition in the injunction, or
  - (b) any requirement in the injunction, other than one which has the effect of requiring the respondent to participate in particular activities.
- (7) If the court attaches a power of arrest, it may specify that the power is to have effect for a shorter period than the prohibition or requirement to which it relates.

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

#### Textual Amendments

**F4** S. 36(4A) inserted (9.1.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 35(2)**, 59(1); S.I. 2011/3016, [art. 2\(b\)](#)

#### Commencement Information

**I3** S. 36 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

### *Applications*

#### **37 Applications for injunctions under section 34**

- (1) An application for an injunction under section 34 may be made by—
  - (a) the chief officer of police for a police area,
  - (b) the chief constable of the British Transport Police Force, or
  - (c) a local authority.
- (2) In this Part “local authority” means—
  - (a) in relation to England, a district council, a county 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.

#### Commencement Information

**I4** S. 37 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

#### **38 Consultation by applicants for injunctions**

- (1) Before applying for an injunction under section 37, the applicant must comply with the consultation requirement.
- (2) The consultation requirement is that the applicant must consult—
  - (a) any local authority, and any chief police officer, that the applicant thinks it appropriate to consult, and
    - <sup>F5</sup>(aa) where the respondent is under the age of 18 (and will be under that age when the application is made), the youth offending team established under section 39 of the Crime and Disorder Act 1998 in whose area it appears to the applicant that the respondent resides, and]
  - (b) any other body or individual that the applicant thinks it appropriate to consult.
- <sup>F6</sup>(3) If it appears to the applicant that the respondent resides in the area of two or more youth offending teams, the obligation in subsection (2)(aa) is to consult such of those teams as the applicant thinks appropriate.]

#### Textual Amendments

**F5** S. 38(2)(aa) inserted (9.1.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 36(2)**, 59(1); S.I. 2011/3016, [art. 2\(c\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

**F6** S. 38(3) inserted (9.1.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 36(3)**, 59(1); [S.I. 2011/3016](#), [art. 2\(c\)](#)

**Commencement Information**

**I5** S. 38 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

**39 Applications without notice**

- (1) An application under section 37 may be made without the respondent being given notice.
- (2) In this Part, such an application is referred to as an application without notice.
- (3) Section 38(1) does not apply in relation to an application without notice.
- (4) If an application without notice is made the court must either—
  - (a) dismiss the application, or
  - (b) adjourn the proceedings.
- (5) If the court acts under subsection (4)(b), the applicant must comply with the consultation requirement before the date of the first full hearing.
- (6) In this section “full hearing” means a hearing of which notice has been given to the applicant and respondent in accordance with rules of court.

**Commencement Information**

**I6** S. 39 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

*Interim injunctions*

**40 Interim injunctions: adjournment of on notice hearing**

- (1) This section applies if—
  - (a) the court adjourns the hearing of an application for an injunction under section 34, and
  - (b) the respondent was notified of the hearing in accordance with rules of court.
- (2) The court may grant an interim injunction if it thinks that it is just and convenient to do so.
- (3) An interim injunction under this section may include any provision which the court has power to include in an injunction granted under section 34 (including a power of arrest).

**Commencement Information**

**I7** S. 40 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

*Status: Point in time view as at 01/06/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

#### **41 Interim injunctions: adjournment of without notice hearing**

- (1) This section applies if—
  - (a) an application without notice is made by virtue of section 39, and
  - (b) the proceedings are adjourned (otherwise than at a full hearing within the meaning of that section).
- (2) The court may grant an interim injunction if it thinks that it is necessary to do so.
- (3) An interim injunction under this section may not have the effect of requiring the respondent to participate in particular activities.
- (4) Except as provided by subsection (3), an interim injunction under this section may include any provision which the court has power to include in an injunction granted under section 34 (including a power of arrest).

#### **Commencement Information**

**18** S. 41 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

#### *Variation and discharge*

#### **42 Variation or discharge of injunctions**

- (1) The court may vary or discharge an injunction under this Part if—
  - (a) a review hearing is held, or
  - (b) an application to vary or discharge the injunction is made.
- (2) An application to vary or discharge the injunction may be made by—
  - (a) the person who applied for the injunction;
  - (b) the respondent.
- (3) The power to vary an injunction includes power to—
  - (a) include an additional prohibition or requirement in the injunction;
  - (b) extend the period for which a prohibition or requirement in the injunction has effect (subject to section 36(2));
  - (c) attach a power of arrest or extend the period for which a power of arrest attached to the injunction has effect.
- (4) Section 36(4) does not apply where an injunction is varied to include a prohibition or requirement which is to have effect as mentioned in that provision but the variation is made within (or at any time after) the period of 4 weeks mentioned in it.

[<sup>F7</sup>(4A) Where—

- (a) the respondent is under the age of 18 on the injunction date, and
- (b) any prohibition or requirement in the injunction is to have effect after the respondent reaches that age and for at least the period of four weeks beginning with the respondent's 18th birthday,

the court must order the applicant and the respondent to attend a review hearing on a specified date within that period.]

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(5) Before applying for the variation or discharge of an injunction, a person mentioned in subsection (2)(a) must notify the persons consulted under section 38(1) or 39(5).

[<sup>F8</sup>(6) If an application to vary or discharge an injunction under this Part is dismissed, no further application to vary or discharge it may be made by any person without the consent of the court.]

#### Textual Amendments

**F7** S. 42(4A) inserted (9.1.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 35(3)**, 59(1); S.I. 2011/3016, art. 2(b)

**F8** S. 42(6) inserted (31.1.2011) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 37**, 59(1); S.I. 2010/2989, art. 2(a)

#### Commencement Information

**I9** S. 42 in force at 31.1.2011 by [S.I. 2010/2988](#), **art. 2**

### *Arrest and remand*

#### **43 Arrest without warrant**

- (1) This section applies if a power of arrest is attached to a provision of an injunction under this Part.
- (2) A constable may arrest without warrant a person whom the constable has reasonable cause to suspect to be in breach of the provision.
- (3) If a constable arrests a person under subsection (2), the constable must inform the person who applied for the injunction.
- (4) A person arrested under subsection (2) must be brought before a relevant judge within the period of 24 hours beginning with the time of the arrest.
- (5) If the matter is not disposed of when the person is brought before the judge, the judge may remand the person.
- (6) In calculating when the period of 24 hours mentioned in subsection (4) ends, Christmas Day, Good Friday and any Sunday are to be disregarded.
- (7) In this Part “relevant judge”, in relation to an injunction, [<sup>F9</sup>means a judge of the court that granted the injunction, except that where—
  - (a) the respondent is aged 18 or over, but
  - (b) the injunction was granted by a youth court,it means a judge of the county court. ]

#### Textual Amendments

**F9** Words in s. 43(7) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 18(3)**, 61(2) (with s. 18(6)); S.I. 2015/813, art. 3(a)

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

#### Commencement Information

**I10** S. 43 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

#### 44 Issue of warrant of arrest

- (1) This section applies in relation to an injunction under this Part.
- (2) If the person who applied for the injunction considers that the respondent is in breach of any of its provisions, the person may apply to a relevant judge for the issue of a warrant for the arrest of the respondent.
- (3) A relevant judge may not issue a warrant on an application under subsection (2) unless the judge has reasonable grounds for believing that the respondent is in breach of any provision of the injunction.
- (4) If a person is brought before a court by virtue of a warrant under subsection (3), but the matter is not disposed of, the court may remand the person.

#### Commencement Information

**I11** S. 44 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

#### 45 Remand for medical examination and report

- (1) This section applies in relation to a person who is brought before the relevant judge or the court under section 43 or 44.
- (2) If the relevant judge or the court has reason to consider that a medical report will be required, the judge or the court may remand the person under section 43(5) or (as the case may be) 44(4) for the purpose of enabling a medical examination to take place and a report to be made.
- (3) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.
- (4) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.
- (5) If the relevant judge or the court has reason to suspect that the person is suffering from a mental disorder within the meaning of the Mental Health Act 1983, the judge or the court has the same power to make an order under section 35 of that Act (remand for report on accused's medical condition) as the Crown Court has under that section in the case of an accused person (within the meaning of that section).

#### Commencement Information

**I12** S. 45 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

#### 46 Further provision about remands

Schedule 5 (which makes further provision about the remand of a person under sections 43(5) and 44(4)) has effect.



*Status: Point in time view as at 01/06/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

#### Commencement Information

**I13** S. 46 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

### [<sup>F10</sup> **46A Breach of injunction: supplementary powers in respect of under-18s**

Schedule 5A (which makes provision about the powers of the court in relation to breach of an injunction by a respondent aged under 18) has effect.]

#### Textual Amendments

**F10** S. 46A inserted (E.W.) (9.1.2012) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 39\(2\)](#), 59(1); [S.I. 2011/3016](#), [art. 2\(d\)](#)

### *[<sup>F11</sup> Appeals*

#### Textual Amendments

**F11** S. 46B and cross-heading inserted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 12 para. 2](#) (with [s. 18\(6\)](#)); [S.I. 2015/813](#), [art. 3\(c\)](#)

### **46B Appeals against decisions of youth courts**

- (1) An appeal lies to the Crown Court against a decision of a youth court made under this Part.
- (2) On an appeal under this section the Crown Court may make—
  - (a) whatever orders are necessary to give effect to its determination of the appeal;
  - (b) whatever incidental or consequential orders appear to it to be just.
- (3) An order of the Crown Court made on an appeal under this section (other than one directing that an application be re-heard by a youth court) is to be treated for the purposes of section 42 as an order of a youth court.]

### *Miscellaneous*

### **47 Guidance**

- (1) The Secretary of State must issue guidance relating to injunctions under this Part.
- (2) The Secretary of State may revise any guidance issued under subsection (1).
- (3) Before issuing or revising any guidance under this section the Secretary of State must consult the Lord Chief Justice of England and Wales and such other persons as the Secretary of State thinks appropriate.
- (4) The Secretary of State must lay any guidance issued or revised under this section before Parliament.
- (5) The Secretary of State must publish any guidance issued or revised under this section.

*Status: Point in time view as at 01/06/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

- (6) Each of the following must have regard to any guidance published under subsection (5)
- (a) a chief officer of police for a police area;
  - (b) the chief constable of the British Transport Police Force;
  - (c) a local authority.

#### Commencement Information

**I14** S. 47 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

## 48 Supplemental

<sup>F12</sup>(1) .....

(2) Rules of court may provide that an appeal from a decision <sup>F13</sup>... to which this subsection applies may be made without notice being given to the respondent.

(3) Subsection (2) [<sup>F14</sup>applies—

- (a) to a decision under section 39(4)(a) that an application without notice be dismissed, and
- (b) to a decision] to refuse to grant an interim injunction under section 41.

[<sup>F15</sup>(4) In relation to a respondent attaining the age of 18 after the commencement of proceedings under this Part, rules of court may—

- (a) provide for the transfer of the proceedings from a youth court to the High Court or the county court;
- (b) prescribe circumstances in which the proceedings may or must remain in a youth court.]

#### Textual Amendments

**F12** S. 48(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 51\(2\)](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**F13** Words in s. 48(2) omitted (1.6.2015) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 3\(a\)](#) (with [s. 18\(6\)](#)); [S.I. 2015/813](#), [art. 3\(c\)](#)

**F14** Words in s. 48(3) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 3\(b\)](#) (with [s. 18\(6\)](#)); [S.I. 2015/813](#), [art. 3\(c\)](#)

**F15** S. 48(4) inserted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), [ss. 18\(4\)](#), 61(2) (with [s. 18\(6\)](#)); [S.I. 2015/813](#), [art. 3\(a\)](#)

#### Commencement Information

**I15** S. 48 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

## 49 Interpretation

(1) In this Part—

- “application without notice” has the meaning given by section 39(2);
- “consultation requirement” has the meaning given by section 38(2);

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4. (See end of Document for details)*

[<sup>F16</sup>“court” (except in Schedule 5A)—

(a) in the case of a respondent aged under 18, means a youth court, and

(b) in any other case, means the High Court or the county court,

but this is subject to any provision in rules of court that is or could be made under section 48(4);]

[<sup>F17</sup> “ drug-dealing activity ” has the meaning given by section 34(7); ]

[<sup>F18</sup> “ judge ”, in relation to a youth court, means a person qualified to sit as a member of that court; ]

“local authority” has the meaning given by section 37(2);

“relevant judge” has the meaning given by section 43(7);

“respondent” means the person in respect of whom an application for an injunction is made or (as the context requires) the person against whom such an injunction is granted;

“review hearing” has the meaning given by section 36(5);

“specify”, in relation to an injunction, means specify in the injunction;

“violence” includes violence against property.

- (2) Any reference in this Part to an injunction under this Part includes a reference to an interim injunction.

#### Textual Amendments

**F16** Definition “court” in s. 49(1) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 18(2), 61(2)** (with [s. 18\(6\)](#)); [S.I. 2015/813](#), **art. 3(a)**

**F17** Definition “drug-dealing activity” in s. 49(1) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **s. 88(1), Sch. 4 para. 85**; [S.I. 2015/820](#), **reg. 3(q)(ix)**

**F18** Definition “judge” in s. 49(1) inserted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), **s. 61(2), Sch. 12 para. 4** (with [s. 18\(6\)](#)); [S.I. 2015/813](#), **art. 3(c)**

#### Commencement Information

**I16** S. 49 in force at 31.1.2011 by [S.I. 2010/2988](#), **art. 2**

## 50 Review of operation of this Part

(1) The Secretary of State must—

(a) review the operation of this Part, and

(b) prepare and publish a report on the outcome of the review.

(2) The report must be published before the end of the period of 3 years beginning with the day on which this Part comes into force.

(3) The Secretary of State must lay the report before Parliament.

#### Commencement Information

**I17** S. 50 in force at 31.1.2011 by [S.I. 2010/2988](#), **art. 2**

**Status:**

Point in time view as at 01/06/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 4.