



# Anti-social Behaviour, Crime and Policing Act 2014

## 2014 CHAPTER 12

### PART 3

#### DISPERSAL POWERS

#### **34 Authorisations to use powers under section 35**

- (1) A police officer of at least the rank of inspector may authorise the use in a specified locality, during a specified period of not more than 48 hours, of the powers given by section 35.

“Specified” means specified in the authorisation.

- (2) An officer may give such an authorisation only if satisfied on reasonable grounds that the use of those powers in the locality during that period may be necessary for the purpose of removing or reducing the likelihood of—
- (a) members of the public in the locality being harassed, alarmed or distressed, or
  - (b) the occurrence in the locality of crime or disorder.

- (3) In deciding whether to give such an authorisation an officer must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.

“Convention” has the meaning given by section 21(1) of the Human Rights Act 1998.

- (4) An authorisation under this section—
- (a) must be in writing,
  - (b) must be signed by the officer giving it, and
  - (c) must specify the grounds on which it is given.

### 35 Directions excluding a person from an area

- (1) If the conditions in subsections (2) and (3) are met and an authorisation is in force under section 34, a constable in uniform may direct a person who is in a public place in the locality specified in the authorisation—
  - (a) to leave the locality (or part of the locality), and
  - (b) not to return to the locality (or part of the locality) for the period specified in the direction (“the exclusion period”).
- (2) The first condition is that the constable has reasonable grounds to suspect that the behaviour of the person in the locality has contributed or is likely to contribute to—
  - (a) members of the public in the locality being harassed, alarmed or distressed, or
  - (b) the occurrence in the locality of crime or disorder.
- (3) The second condition is that the constable considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of the events mentioned in subsection (2)(a) or (b).
- (4) The exclusion period may not exceed 48 hours.

The period may expire after (as long as it begins during) the period specified in the authorisation under section 34.
- (5) A direction under this section—
  - (a) must be given in writing, unless that is not reasonably practicable;
  - (b) must specify the area to which it relates;
  - (c) may impose requirements as to the time by which the person must leave the area and the manner in which the person must do so (including the route).
- (6) The constable must (unless it is not reasonably practicable) tell the person to whom the direction is given that failing without reasonable excuse to comply with the direction is an offence.
- (7) If the constable reasonably believes that the person to whom the direction is given is under the age of 16, the constable may remove the person to a place where the person lives or a place of safety.
- (8) Any constable may withdraw or vary a direction under this section; but a variation must not extend the duration of a direction beyond 48 hours from when it was first given.
- (9) Notice of a withdrawal or variation of a direction—
  - (a) must be given to the person to whom the direction was given, unless that is not reasonably practicable, and
  - (b) if given, must be given in writing unless that is not reasonably practicable.
- (10) In this section “public place” means a place to which at the material time the public or a section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- (11) In this Part “exclusion period” has the meaning given by subsection (1)(b).

### **36 Restrictions**

- (1) A constable may not give a direction under section 35 to a person who appears to the constable to be under the age of 10.
- (2) A constable may not give a direction under section 35 that prevents the person to whom it is given having access to a place where the person lives.
- (3) A constable may not give a direction under section 35 that prevents the person to whom it is given attending at a place which the person is—
  - (a) required to attend for the purposes of the person’s employment, or a contract of services to which the person is a party,
  - (b) required to attend by an obligation imposed by or under an enactment or by the order of a court or tribunal, or
  - (c) expected to attend for the purposes of education or training or for the purposes of receiving medical treatment,at a time when the person is required or expected (as the case may be) to attend there.
- (4) A constable may not give a direction to a person under section 35 if the person is one of a group of persons who are—
  - (a) engaged in conduct that is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (peaceful picketing), or
  - (b) taking part in a public procession of the kind mentioned in subsection (1) of section 11 of the Public Order Act 1986 in respect of which—
    - (i) written notice has been given in accordance with that section, or
    - (ii) written notice is not required to be given as provided by subsections (1) and (2) of that section.
- (5) In deciding whether to give a direction under section 35 a constable must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.

“Convention” has the meaning given by section 21(1) of the Human Rights Act 1998.

### **37 Surrender of property**

- (1) A constable who gives a person a direction under section 35 may also direct the person to surrender to the constable any item in the person’s possession or control that the constable reasonably believes has been used or is likely to be used in behaviour that harasses, alarms or distresses members of the public.
- (2) A direction under this section must be given in writing, unless that is not reasonably practicable.
- (3) A constable who gives a person a direction under this section must (unless it is not reasonably practicable)—
  - (a) tell the person that failing without reasonable excuse to comply with the direction is an offence, and
  - (b) give the person information in writing about when and how the person may recover the surrendered item.
- (4) The surrendered item must not be returned to the person before the end of the exclusion period.

- (5) If after the end of that period the person asks for the item to be returned, it must be returned (unless there is power to retain it under another enactment).
- (6) But if it appears to a constable that the person is under the age of 16 and is not accompanied by a parent or other responsible adult, the item may be retained until the person is so accompanied.
- (7) If the person has not asked for the return of the item before the end of the period of 28 days beginning with the day on which the direction was given, the item may be destroyed or otherwise disposed of.

### **38 Record-keeping**

- (1) A constable who gives a direction under section 35 must make a record of—
  - (a) the individual to whom the direction is given,
  - (b) the time at which the direction is given, and
  - (c) the terms of the direction (including in particular the area to which it relates and the exclusion period).
- (2) A constable who withdraws or varies a direction under section 35 must make a record of—
  - (a) the time at which the direction is withdrawn or varied,
  - (b) whether notice of the withdrawal or variation is given to the person to whom the direction was given and if it is, at what time, and
  - (c) if the direction is varied, the terms of the variation.
- (3) A constable who gives a direction under section 37 must make a record of—
  - (a) the individual to whom the direction is given,
  - (b) the time at which the direction is given, and
  - (c) the item to which the direction relates.

### **39 Offences**

- (1) A person given a direction under section 35 who fails without reasonable excuse to comply with it commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
  - (a) to imprisonment for a period not exceeding 3 months, or
  - (b) to a fine not exceeding level 4 on the standard scale,
- (3) A person given a direction under section 37 who fails without reasonable excuse to comply with it commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **40 Powers of community support officers**

- (1) Schedule 4 to the Police Reform Act 2002 (powers of community support officers) is amended as follows.
- (2) In paragraph 2(6), for paragraph (aa) there is substituted—

“(aa) an offence under section 39 of the Anti-social Behaviour, Crime and Policing Act 2014;”.

(3) For paragraph 4A of Schedule 4 there is substituted—

“4A Where a designation applies this paragraph to a person, that person has within the relevant police area the powers conferred on a constable by section 35 of the Anti-social Behaviour, Crime and Policing Act 2014.

4AB (1) Where a designation applies this paragraph to a person, that person has within the relevant police area the powers conferred on a constable by section 37 of the Anti-social Behaviour, Crime and Policing Act 2014.

(2) A designation may not apply this paragraph to a person unless a designation also applies paragraph 4A to that person.”

#### **41 Guidance**

- (1) The Secretary of State may issue guidance to chief officers of police about the exercise, by officers under their direction or control, of those officers’ functions under this Part.
- (2) The Secretary of State may revise any guidance issued under this section.
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.

#### **42 Saving and transitional provision**

- (1) The repeal by this Act of Part 4 of the Anti-social Behaviour Act 2003, and the repeal or amendment by this Act of provisions related to that Part, do not apply in relation to—
  - (a) an authorisation given under section 30(2) of that Act before the commencement day, or
  - (b) anything done in connection with such an authorisation.
- (2) The repeal by this Act of section 27 of the Violent Crime Reduction Act 2006, and the repeal or amendment by this Act of provisions related to that section, do not apply in relation to—
  - (a) a direction given under that section before the commencement day, or
  - (b) anything done in connection with such a direction.
- (3) In this section “commencement day” means the day on which this Part comes into force.