



# Offensive Weapons Act 2019

## 2019 CHAPTER 17

### PART 2

#### KNIFE CRIME PREVENTION ORDERS

##### *Supplementary provisions*

#### **26 Review of knife crime prevention order**

- (1) This section applies where a court has made a knife crime prevention order in respect of a defendant.
- (2) The court may order the applicant and the defendant to attend one or more review hearings on a specified date or dates.
- (3) Subsection (4) applies if any requirement or prohibition imposed by the knife crime prevention order is to have effect after the end of the period of 1 year beginning with the day on which the order takes effect.
- (4) The court must order the applicant and the defendant 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).
- (5) A review hearing under this section is a hearing held for the purpose of considering whether the knife crime prevention order should be varied or discharged.
- (6) Subsections (7) to (9) of section 27 (variation, renewal or discharge) apply to the variation of a knife crime prevention order under this section as they apply to the variation of an order under that section.

#### **27 Variation, renewal or discharge of knife crime prevention order etc**

- (1) A person within subsection (2) may apply to the appropriate court for—
  - (a) an order varying, renewing or discharging a knife crime prevention order, or
  - (b) an order varying or discharging an interim knife crime prevention order.

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- (2) Those persons are—
  - (a) the defendant;
  - (b) the chief officer of police for a police area in which the defendant lives;
  - (c) a chief officer of police who believes that the defendant is in, or is intending to come to, the chief officer's police area;
  - (d) if the application for the order was made by a chief officer of police other than one within paragraph (b) or (c), the chief officer by whom the application was made;
  - (e) if the order was made on an application by the chief constable of the British Transport Police Force, that chief constable;
  - (f) if the order was made on an application by the chief constable of the Ministry of Defence Police, that chief constable.
- (3) An application under subsection (1) may be made—
  - (a) where the appropriate court is the Crown Court, in accordance with rules of court;
  - (b) in any other case, by complaint.
- (4) Before a person other than the defendant makes an application under subsection (1), the person must notify the persons consulted under section 15(5) or section 20(2).
- (5) Before making a decision on an application under subsection (1), the court must hear—
  - (a) the person making the application, and
  - (b) any other person within subsection (2) who wishes to be heard.
- (6) Subject as follows, on an application under subsection (1)—
  - (a) the court may make such order varying or discharging the order as it thinks appropriate;
  - (b) in the case of an application under paragraph (a) of that subsection, the court may make such order renewing the order as it thinks appropriate.
- (7) The court may renew a knife crime prevention order, or vary such an order or an interim knife crime prevention order so as to impose an additional prohibition or requirement on a defendant, only if it is satisfied that it is necessary to do so—
  - (a) to protect the public in England and Wales from the risk of harm involving a bladed article,
  - (b) to protect any particular members of the public in England and Wales (including the defendant) from such risk, or
  - (c) to prevent the defendant from committing an offence involving a bladed article.
- (8) The provisions mentioned in subsection (9) have effect in relation to the renewal of a knife crime prevention order, or the variation of a knife crime prevention order or interim knife crime prevention order so as to impose a new requirement or prohibition, as they have effect in relation to the making of such an order.
- (9) Those provisions are—
  - (a) section 21 (provisions of knife crime prevention order),
  - (b) section 22 (requirements included in knife crime prevention order etc), and
  - (c) section 23 (duration of knife crime prevention order etc).

- (10) The court may not discharge a knife crime prevention order before the end of the period of 6 months beginning with the day on which the order takes effect without the consent of the defendant and—
- (a) where the application under this section is made by a chief officer of police, that chief officer,
  - (b) if paragraph (a) does not apply but the application for the order was made by a chief officer of police, that chief officer and (if different) each chief officer of police for an area in which the defendant lives, or
  - (c) in any other case, each chief officer of police for an area in which the defendant lives.
- (11) In this section the “appropriate court” means—
- (a) where the Crown Court or the Court of Appeal made the knife crime prevention order or the interim knife crime prevention order, the Crown Court;
  - (b) where an adult magistrates’ court made the order, that court, an adult magistrates’ court for the area in which the defendant lives or, where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area;
  - (c) where a youth court made the order and the defendant is under the age of 18, that court, a youth court for the area in which the defendant lives or, where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer’s police area;
  - (d) where a youth court made the order and the defendant is aged 18 or over, an adult magistrates’ court for the area in which the defendant lives or, where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area.
- (12) In subsection (11) “adult magistrates’ court” means a magistrates’ court that is not a youth court.

## **28 Appeal against knife crime prevention order etc**

- (1) A defendant may appeal to the Crown Court against—
- (a) the making of a knife crime prevention order under section 14 (order made otherwise than on conviction), or
  - (b) the making of an interim knife crime prevention order.
- (2) A person who applied for a knife crime prevention order under section 14 or an interim knife crime prevention order may appeal to the Crown Court against a refusal to make the order.
- (3) A defendant may appeal against the making of a knife crime prevention order under section 19 (order made on conviction) as if the order were a sentence passed on the defendant for the offence.
- (4) Where an application is made for an order under section 27 (variation, renewal or discharge)—
- (a) the person who made the application may appeal against a refusal to make an order under that section;

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- (b) the defendant may appeal against the making of an order under that section which was made on the application of a person other than the defendant;
  - (c) a person within subsection (2) of that section other than the defendant may appeal against the making of an order under that section which was made on the application of the defendant.
- (5) An appeal under subsection (4)—
- (a) is to be made to the Court of Appeal if the application for the order under section 27 was made to the Crown Court;
  - (b) is to be made to the Crown Court in any other case.
- (6) On an appeal under subsection (1) or (2), or an appeal under subsection (4) to which subsection (5)(b) applies, the Crown Court may make—
- (a) such orders as may be necessary to give effect to its determination of the appeal, and
  - (b) such incidental and consequential orders as appear to it to be appropriate.

## **29 Offence of breaching knife crime prevention order etc**

- (1) A person commits an offence if, without reasonable excuse, the person breaches a knife crime prevention order or an interim knife crime prevention order.
- (2) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both.
- (3) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (maximum sentence that may be imposed on summary conviction of offence triable either way) the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (4) Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.

## **30 Guidance**

- (1) The Secretary of State may from time to time issue guidance relating to the exercise by a relevant person of functions in relation to knife crime prevention orders and interim knife crime prevention orders.
- (2) In this section “relevant person” means a person who is capable of making an application for a knife crime prevention order or an interim knife crime prevention order.
- (3) A relevant person must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.
- (4) The Secretary of State must arrange for any guidance issued under this section to be published in such manner as the Secretary of State thinks appropriate.

### **31 Piloting**

- (1) The Secretary of State may exercise the power in section 70(1) so as to bring all of the provisions of this Part into force for all purposes and in relation to the whole of England and Wales only if the following conditions are met.
- (2) The first condition is that the Secretary of State has brought some or all of the provisions of this Part into force only—
  - (a) for one or more specified purposes, or
  - (b) in relation to one or more specified areas in England and Wales.
- (3) The second condition is that the Secretary of State has laid before Parliament a report on the operation of some or all of the provisions of this Part—
  - (a) for one or more of those purposes, or
  - (b) in relation to one or more of those areas.
- (4) Regulations under section 70(1) which bring any provision of this Part into force only for a specified purpose or in relation to a specified area may—
  - (a) provide for that provision to be in force for that purpose or in relation to that area for a specified period;
  - (b) make transitional or saving provision in relation to that provision ceasing to be in force at the end of the specified period.
- (5) Regulations containing provision by virtue of subsection (4)(a) may be amended by subsequent regulations under section 70(1) so as to continue any provision of this Part in force for the specified purpose or in relation to the specified area for a further specified period.
- (6) In this section “specified” means specified in regulations under section 70(1).
- (7) References in this section to this Part do not include section 30 or this section (which by virtue of section 70(5)(a) come into force on the day on which this Act is passed).

### **32 Consequential amendments**

- (1) In section 3(2) of the Prosecution of Offences Act 1985 (functions of the Director of Public Prosecutions) after paragraph (ff) insert—
  - “(fg) to have the conduct of applications for orders under section 19 of the Offensive Weapons Act 2019 (knife crime prevention orders made on conviction);”.
- (2) In the Criminal Legal Aid (General) Regulations 2013 (SI 2013/9), in regulation 9 (criminal proceedings) after paragraph (ub) insert—
  - “(uc) proceedings under Part 2 of the Offensive Weapons Act 2019 in relation to a knife crime prevention order or an interim knife crime prevention order;”.
- (3) The amendment made by subsection (2) is without prejudice to any power to make an order or regulations amending or revoking the regulations mentioned in that subsection.

### **33 Interpretation of Part**

- (1) In this Part—

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“applicant” means an applicant for a knife crime prevention order;

“bladed article” means an article to which section 139 of the Criminal Justice Act 1988 applies;

“defendant”—

(a) in relation to a knife crime prevention order under section 14 (order made otherwise than on conviction), has the meaning given by subsection (1) of that section;

(b) in relation to a knife crime prevention order under section 19 (order made on conviction), has the meaning given by subsection (1) of that section;

“harm” includes physical and psychological harm;

“home address”, in relation to a defendant, means—

(a) the address of the defendant’s sole or main residence, or

(b) if the defendant has no such residence, the address or location of a place where the defendant can regularly be found and, if there is more than one such place, such one of those places as the defendant may select.

(2) A reference in this Part to a knife crime prevention order which is not expressed as a reference to an order under section 14 or 19 is a reference to an order under either of those sections.

(3) A reference in this Part to an interim knife crime prevention order which is not expressed as a reference to an order under section 17 or 18 is a reference to an order under either of those sections.