

SCHEDULES

SCHEDULE 20

Section 118

CLOSURE ORDERS: PREMISES ASSOCIATED WITH PERSISTENT DISORDER OR NUISANCE

After Part 1 of the Anti-social Behaviour Act 2003 (c. 38) (premises where drugs used unlawfully) insert the following Part.

“PART 1A

PREMISES ASSOCIATED WITH PERSISTENT DISORDER OR NUISANCE

11A Part 1A closure notice

- (1) This section applies to premises if a police officer not below the rank of superintendent (“the authorising officer”) or the local authority has reasonable grounds for believing—
 - (a) that at any time during the relevant period a person has engaged in anti-social behaviour on the premises, and
 - (b) that the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.
- (2) The authorising officer may authorise the issue of a Part 1A closure notice in respect of the premises if the officer is satisfied—
 - (a) that the local authority has been consulted; and
 - (b) that reasonable steps have been taken to establish the identity of any person who lives on the premises or who has control of or responsibility for, or an interest in, the premises.
- (3) The local authority may authorise the issue of a Part 1A closure notice in respect of the premises if it is satisfied—
 - (a) that the appropriate chief officer has been consulted; and
 - (b) that reasonable steps have been taken to establish the identity of any person who lives on the premises or who has control of or responsibility for, or an interest in, the premises.
- (4) An authorisation under subsection (2) or (3) may be given orally or in writing, but if it is given orally the authorising officer or local authority (as the case may be) must confirm it in writing as soon as it is practicable.
- (5) A Part 1A closure notice must—
 - (a) give notice that an application will be made under section 11B for the closure of the premises;
 - (b) state that access to the premises by any person other than a person who habitually resides in the premises or the owner of the premises is prohibited;
 - (c) specify the date and time when, and the place at which, the application will be heard;

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- (d) explain the effects of an order made in pursuance of section 11B;
 - (e) state that failure to comply with the notice amounts to an offence; and
 - (f) give information about relevant advice providers.
- (6) A Part 1A closure notice must be served by—
- (a) a constable if its issue was authorised by the authorising officer, or
 - (b) an employee of the local authority if its issue was authorised by the authority.
- (7) Service is effected by—
- (a) fixing a copy of the notice to at least one prominent place on the premises,
 - (b) fixing a copy of the notice to each normal means of access to the premises,
 - (c) fixing a copy of the notice to any outbuildings which appear to the server of the notice to be used with or as part of the premises,
 - (d) giving a copy of the notice to at least one person who appears to the server of the notice to have control of or responsibility for the premises, and
 - (e) giving a copy of the notice to the persons identified in pursuance of subsection (2)(b) or (3)(b) (as the case may be) and to any other person appearing to the server of the notice to be a person of a description mentioned in that provision.
- (8) The Part 1A closure notice must also be served on any person who occupies any other part of the building or other structure in which the premises are situated if the server of the notice reasonably believes, at the time of serving the notice under subsection (7), that the person’s access to the other part of the building or structure will be impeded if a Part 1A closure order is made under section 11B.
- (9) A person acting under subsection (7) may enter any premises, using reasonable force if necessary, for the purposes of complying with subsection (7)(a).
- (10) The Secretary of State may by regulations specify premises or descriptions of premises to which this section does not apply.
- (11) In this section—
- “information about relevant advice providers” means information about the names of, and means of contacting, persons and organisations in the area that provide advice about housing and legal matters;
 - “the relevant period” means the period of 3 months ending with the day on which the authorising officer or the local authority (as the case may be) considers whether to authorise the issue of a Part 1A closure notice in respect of the premises.

11B Part 1A closure order

- (1) If a Part 1A closure notice has been issued under section 11A an application must be made under this section to a magistrates' court for the making of a Part 1A closure order.
- (2) An application under subsection (1) must be made by—
 - (a) a constable if the issue of the Part 1A closure notice was authorised by the authorising officer, or
 - (b) the local authority if the issue of the Part 1A closure notice was authorised by the authority.

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- (3) The application must be heard by the magistrates' court not later than 48 hours after the notice was served in pursuance of section 11A(7)(a).
- (4) The magistrates' court may make a Part 1A closure order if and only if it is satisfied that each of the following paragraphs applies—
 - (a) a person has engaged in anti-social behaviour on the premises in respect of which the Part 1A closure notice was issued;
 - (b) the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public;
 - (c) the making of the order is necessary to prevent the occurrence of such disorder or nuisance for the period specified in the order.
- (5) A Part 1A closure order is an order that the premises in respect of which the order is made are closed to all persons for such period (not exceeding 3 months) as is specified in the order.
- (6) But the order may include such provision as the court thinks appropriate relating to access to any part of the building or structure of which the premises form part.
- (7) The magistrates' court may adjourn the hearing on the application for a period of not more than 14 days to enable—
 - (a) the occupier of the premises,
 - (b) the person who has control of or responsibility for the premises, or
 - (c) any other person with an interest in the premises,to show why a Part 1A closure order should not be made.
- (8) If the magistrates' court adjourns the hearing under subsection (7) it may order that the Part 1A closure notice continues in effect until the end of the period of the adjournment.
- (9) A Part 1A closure order may be made in respect of the whole or any part of the premises in respect of which the Part 1A closure notice was issued.

11C Part 1A closure order: enforcement

- (1) This section applies if a magistrates' court makes an order under section 11B.
- (2) A relevant person may—
 - (a) enter the premises in respect of which the order is made;
 - (b) do anything reasonably necessary to secure the premises against entry by any person.
- (3) A person acting under subsection (2) may use reasonable force.
- (4) But a relevant person seeking to enter the premises for the purposes of subsection (2) must, if required to do so by or on behalf of the owner, occupier or other person in charge of the premises, produce evidence of his identity and authority before entering the premises.
- (5) A relevant person may also enter the premises at any time while the order has effect for the purpose of carrying out essential maintenance of or repairs to the premises.
- (6) In this section “a relevant person”—
 - (a) in relation to premises in respect of which a police Part 1A closure order has effect, means a constable or a person authorised by the appropriate chief officer;

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- (b) in relation to premises in respect of which a local authority Part 1A closure order has effect, means a person authorised by the local authority.

11D Closure of premises associated with persistent disorder or nuisance: offences

- (1) A person who remains on or enters premises in contravention of a Part 1A closure notice commits an offence.
- (2) A person who—
 - (a) obstructs a person acting under section 11A(7) or 11C(2),
 - (b) remains on closed premises, or
 - (c) enters closed premises,commits an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction—
 - (a) to imprisonment for a period not exceeding 51 weeks, or
 - (b) to a fine not exceeding level 5 on the standard scale,or to both.
- (4) A person who has a reasonable excuse for entering or being on the premises does not commit an offence under subsection (1) or (2)(b) or (c) (as the case may be).
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (3)(a) to 51 weeks is to be read as a reference to 6 months.

11E Part 1A closure order: extension and discharge

- (1) At any time before the end of the period for which a Part 1A closure order is made or extended, a complaint may be made by—
 - (a) a constable if the order is a police Part 1A closure order, or
 - (b) the local authority if the order is a local authority Part 1A closure order,to a justice of the peace for an extension or further extension of the period for which the order has effect.
- (2) A complaint may not be made under subsection (1) in relation to a police Part 1A closure order unless the complaint is authorised by a police officer not below the rank of superintendent—
 - (a) who has reasonable grounds for believing that it is necessary to extend the period for which the order has effect for the purpose of preventing the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public, and
 - (b) who is satisfied that the local authority has been consulted about the intention to make the complaint.
- (3) A complaint may not be made under subsection (1) in relation to a local authority Part 1A closure order unless the local authority—
 - (a) has reasonable grounds for believing that it is necessary to extend the period for which the order has effect for the purpose of preventing the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public, and

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- (b) is satisfied that the appropriate chief officer has been consulted about the intention to make the complaint.
- (4) If a complaint is made to a justice of the peace under subsection (1), the justice may issue a summons directed to—
- (a) any person on whom the Part 1A closure notice relating to the closed premises was served under subsection (7)(d) or (e) or (8) of section 11A, or
 - (b) any other person who appears to the justice to have an interest in the closed premises but on whom the Part 1A closure notice was not served,
- requiring such person to appear before the magistrates' court to answer to the complaint.
- (5) If the court is satisfied that the order is necessary to prevent the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public for a further period, it may make an order extending the period for which the Part 1A closure order has effect by a period not exceeding 3 months.
- (6) But a Part 1A closure order must not have effect for more than 6 months.
- (7) Any of the following persons may make a complaint to a justice of the peace for an order that a Part 1A closure order is discharged—
- (a) a constable if the Part 1A closure order is a police Part 1A closure order;
 - (b) the local authority if the Part 1A closure order is a local authority Part 1A closure order;
 - (c) a person on whom the Part 1A closure notice relating to the closed premises was served under subsection (7)(d) or (e) or (8) of section 11A;
 - (d) a person who has an interest in the closed premises but on whom the Part 1A closure notice was not served.
- (8) If a complaint is made under subsection (7)—
- (a) in relation to a police Part 1A closure order, by a person other than a constable, or
 - (b) in relation to a local authority Part 1A closure order, by a person other than the local authority,
- the justice may issue a summons directed to such constable as the justice thinks appropriate or to the local authority (as the case may be) requiring the constable or authority to appear before the magistrates' court to answer to the complaint.
- (9) The court may not make an order discharging a Part 1A closure order unless it is satisfied that the Part 1A closure order is no longer necessary to prevent the occurrence of significant and persistent disorder or persistent serious nuisance to members of the public.
- (10) If a summons is issued in accordance with subsection (4) or (8), a notice stating the date, time and place at which the complaint will be heard must be served on—
- (a) if the summons is issued under subsection (4), the persons to whom it is directed;
 - (b) if the summons is issued under subsection (8), the persons mentioned in subsection (7)(c) and (d) (other than the complainant);
 - (c) if the complaint relates to a police Part 1A closure order, such constable as the justice thinks appropriate (unless a constable is the complainant);
 - (d) if the complaint relates to a local authority Part 1A closure order, the local authority (unless it is the complainant).

11F Part 1A closure order: appeals

- (1) This section applies to—
 - (a) an order under section 11B or 11E;
 - (b) a decision by a court not to make an order under either of those sections.
- (2) An appeal against an order or decision to which this section applies must be brought to the Crown Court before the end of the period of 21 days beginning with the day on which the order or decision is made.
- (3) An appeal against an order under section 11B or 11E(5) may be brought by—
 - (a) a person on whom the Part 1A closure notice relating to the closed premises was served under section 11A(7)(d) or (e), or
 - (b) a person who has an interest in the closed premises but on whom the Part 1A closure notice was not served.
- (4) An appeal against the decision of a court not to make such an order may be brought by—
 - (a) a constable if the Part 1A closure order is (or, if made, would have been) a police Part 1A closure order, or
 - (b) the local authority if the Part 1A closure order is (or, if made, would have been) a local authority Part 1A closure order.
- (5) On an appeal under this section the Crown Court may make such order as it thinks appropriate.

11G Part 1A closure order: access to other premises

- (1) This section applies to any person who occupies or owns any part of a building or structure—
 - (a) in which closed premises are situated, and
 - (b) in respect of which the Part 1A closure order does not have effect.
- (2) A person to whom this section applies may, at any time while a Part 1A closure order has effect, apply to—
 - (a) the magistrates' court in respect of an order made under section 11B or 11E, or
 - (b) the Crown Court in respect of an order made under section 11F.
- (3) If an application is made under this section notice of the date, time and place of the hearing to consider the application must be given to—
 - (a) such constable as the court thinks appropriate;
 - (b) the local authority;
 - (c) any person on whom the Part 1A closure notice relating to the closed premises was served under subsection (7)(d) or (e) or (8) of section 11A; and
 - (d) any person who has an interest in the closed premises but on whom the Part 1A closure notice was not served.
- (4) On an application under this section the court may make such order as it thinks appropriate in relation to access to any part of a building or structure in which closed premises are situated.
- (5) It is immaterial whether any provision has been made as mentioned in section 11B(6).

11H Part 1A closure order: reimbursement of costs

- (1) A police authority or a local authority which incurs expenditure for the purpose of clearing, securing or maintaining the premises in respect of which a Part 1A closure order has effect may apply to the court which made the order for an order under this section.
- (2) On an application under this section the court may make such order as it thinks appropriate in the circumstances for the reimbursement (in full or in part) by the owner of the premises of the expenditure mentioned in subsection (1).
- (3) But an application for an order under this section must not be entertained unless it is made before the end of the period of 3 months starting with the day the Part 1A closure order ceases to have effect.
- (4) An application under this section must be served on—
 - (a) the police authority for the area in which the premises are situated if the application is made by the local authority;
 - (b) the local authority if the application is made by a police authority; and
 - (c) the owner of the premises.

11I Part 1A closure notice or order: exemption from liability

- (1) A constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of functions under this Part.
- (2) A chief officer of police who has direction or control of a constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of functions under this Part.
- (3) Neither a local authority nor an employee of a local authority is liable for relevant damages in respect of anything done or omitted to be done by or on behalf of the authority in the performance or purported performance of functions under this Part.
- (4) Subsections (1) to (3) do not apply—
 - (a) if the act or omission is shown to have been in bad faith;
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.
- (5) This section does not affect any other exemption from liability for damages (whether at common law or otherwise).
- (6) In this section “relevant damages” means damages in proceedings for judicial review or for the tort of negligence or misfeasance in public office.

11J Part 1A closure notices and orders: compensation

- (1) This section applies to any person who incurs financial loss in consequence of—
 - (a) the issue of a Part 1A closure notice, or
 - (b) a Part 1A closure order having effect.
- (2) A person to whom this section applies may apply to—

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- (a) the magistrates' court which considered the application for a Part 1A closure order;
 - (b) the Crown Court if the Part 1A closure order was made or extended by an order made by that Court on an appeal under section 11F.
- (3) An application under this section must not be entertained unless it is made not later than the end of the period of 3 months starting with whichever is the later of—
- (a) the day the court decides not to make a Part 1A closure order;
 - (b) the day the Crown Court dismisses an appeal against a decision not to make a Part 1A closure order;
 - (c) the day the Part 1A closure order ceases to have effect.
- (4) On an application under this section the court may order the payment of compensation out of central funds if it is satisfied—
- (a) that the person is not associated with such use of the premises as is mentioned in section 11A(1)(b),
 - (b) if the person is the owner or occupier of the premises, that the person took reasonable steps to prevent such use of the premises,
 - (c) that the person has incurred financial loss as mentioned in subsection (1), and
 - (d) having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss.
- (5) In this section “central funds” has the same meaning as in enactments providing for the payment of costs.

11K Guidance

- (1) The Secretary of State may issue guidance relating to the discharge of any functions under or for the purposes of this Part.
- (2) A person discharging a function to which guidance under this section relates must have regard to the guidance in discharging the function.

11L Interpretation

- (1) This section applies for the purposes of this Part.
- (2) “Anti-social behaviour” means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as the person.
- (3) “The appropriate chief officer”, in relation to—
 - (a) any premises, or
 - (b) a Part 1A closure order relating to any premises,
 means the chief officer of police for the area in which the premises are situated.
- (4) “Closed premises” means premises in respect of which a Part 1A closure order has effect.
- (5) “Local authority”, in relation to England, means—
 - (a) a district council;
 - (b) a London borough council;
 - (c) a county council for an area for which there is no district council;

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- (d) the Common Council of the City of London in its capacity as a local authority;
 - (e) the Council of the Isles of Scilly.
- (6) “Local authority”, in relation to Wales, means—
- (a) a county council;
 - (b) a county borough council.
- (7) References to the local authority in relation to—
- (a) any premises,
 - (b) a Part 1A closure notice relating to any premises, or
 - (c) a Part 1A closure order relating to any premises,
- are references to the local authority for the area in which the premises are situated
- (8) “A local authority Part 1A closure order” means a Part 1A closure order made or extended on the application of the local authority.
- (9) “The owner”, in relation to premises, means—
- (a) a person who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion (apart from a mortgagee not in possession), or
 - (b) a person who holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.
- (10) “A Part 1A closure notice” means a notice issued under section 11A.
- (11) “A Part 1A closure order” means—
- (a) an order made under section 11B;
 - (b) an order extended under section 11E;
 - (c) an order made or extended under section 11F which has the like effect as an order made or extended under section 11B or 11E (as the case may be).
- (12) “A police Part 1A closure order” means a Part 1A closure order made or extended on the application of a constable.
- (13) “Premises” includes—
- (a) any land or other place (whether enclosed or not);
 - (b) any outbuildings which are or are used as part of premises.”