



Policing and Crime Act 2009

2009 CHAPTER 26

PART 4

INJUNCTIONS: GANG-RELATED VIOLENCE

Power to grant injunctions

34 Injunctions to prevent gang-related violence

- (1) A court may grant an injunction under this section if 2 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, gang-related violence.
- (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;
 - (b) to protect the respondent from gang-related violence.
- (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.
- (5) In this section “gang-related violence” means violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that—
 - (a) consists of at least 3 people,
 - (b) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group, and
 - (c) is associated with a particular area.

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.
- (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
 - (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.

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).

- (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.

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.

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
 - (b) any other body or individual that the applicant thinks it appropriate to consult.

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.

Status: This is the original version (as it was originally enacted).

- (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.

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).

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).

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.
- (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).

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, means—
 - (a) where the injunction was granted by the High Court, a judge of that court;
 - (b) where the injunction was granted by a county court, a judge or district judge of that or any other county court.

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.

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).

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.

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.
- (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.

48 Supplemental

- (1) Rules of court may provide that any power conferred on a county court to grant, vary or discharge an injunction under this Part may be exercised by a judge or district judge of that court.

- (2) Rules of court may provide that an appeal from a decision of the High Court or county court to which this subsection applies may be made without notice being given to the respondent.
- (3) Subsection (2) applies to a decision to refuse to grant an interim injunction under section 41.

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);
 - “court” means the High Court or a county 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.

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.