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Anti-social Behaviour, Crime and Policing Act 2014

2014 CHAPTER 12

PART 4

COMMUNITY PROTECTION

VALID FROM 20/10/2014

CHAPTER 1

COMMUNITY PROTECTION NOTICES

Community protection notices

43 Power to issue notices

- (1) An authorised person may issue a community protection notice to an individual aged 16 or over, or a body, if satisfied on reasonable grounds that—
 - (a) the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and
 - (b) the conduct is unreasonable.
- (2) In subsection (1) “authorised person” means a person on whom section 53 (or an enactment amended by that section) confers power to issue community protection notices.
- (3) A community protection notice is a notice that imposes any of the following requirements on the individual or body issued with it—
 - (a) a requirement to stop doing specified things;

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- (b) a requirement to do specified things;
 - (c) a requirement to take reasonable steps to achieve specified results.
- (4) The only requirements that may be imposed are ones that are reasonable to impose in order—
- (a) to prevent the detrimental effect referred to in subsection (1) from continuing or recurring, or
 - (b) to reduce that detrimental effect or to reduce the risk of its continuance or recurrence.
- (5) A person (A) may issue a community protection notice to an individual or body (B) only if—
- (a) B has been given a written warning that the notice will be issued unless B's conduct ceases to have the detrimental effect referred to in subsection (1), and
 - (b) A is satisfied that, despite B having had enough time to deal with the matter, B's conduct is still having that effect.
- (6) A person issuing a community protection notice must before doing so inform any body or individual the person thinks appropriate.
- (7) A community protection notice must—
- (a) identify the conduct referred to in subsection (1);
 - (b) explain the effect of sections 46 to 51.
- (8) A community protection notice may specify periods within which, or times by which, requirements within subsection (3)(b) or (c) are to be complied with.

44 Occupiers of premises etc

- (1) Conduct on, or affecting, premises (other than premises within subsection (2)) that a particular person—
- (a) owns,
 - (b) leases,
 - (c) occupies,
 - (d) controls,
 - (e) operates, or
 - (f) maintains,
- is treated for the purposes of section 43 as conduct of that person.
- (2) Conduct on, or affecting, premises occupied for the purposes of a government department is treated for the purposes of section 43 as conduct of the Minister in charge of that department.
- (3) This section does not treat an individual's conduct as that of another person if that person cannot reasonably be expected to control or affect it.

45 Occupier or owner unascertainable

- (1) This section applies where—
- (a) an authorised person has power to issue a community protection notice,

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- (b) the detrimental effect referred to in section 43(1) arises from the condition of premises or the use to which premises have been put, and
 - (c) the authorised person has made reasonable enquiries to find out the name or proper address of the occupier of the premises (or, if the premises are unoccupied, the owner) but without success.
- (2) The authorised person may—
- (a) post the community protection notice on the premises;
 - (b) enter the premises, or other premises, to the extent reasonably necessary for that purpose.
- (3) The community protection notice is treated as having been issued to the occupier of the premises (or, if the premises are unoccupied, the owner) at the time the notice is posted.
- (4) In this section “authorised person” has the same meaning as in section 43(1).

46 Appeals against notices

- (1) A person issued with a community protection notice may appeal to a magistrates' court against the notice on any of the following grounds.
- (1) That the conduct specified in the community protection notice—
 - (a) did not take place,
 - (b) has not had a detrimental effect on the quality of life of those in the locality,
 - (c) has not been of a persistent or continuing nature,
 - (d) is not unreasonable, or
 - (e) is conduct that the person cannot reasonably be expected to control or affect.
 - (2) That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable.
 - (3) That there is a material defect or error in, or in connection with, the notice.
 - (4) That the notice was issued to the wrong person.
- (2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice.
- (3) While an appeal against a community protection notice is in progress—
- (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but
 - (b) any other requirement imposed by the notice is of no effect.
- For this purpose an appeal is “in progress” until it is finally determined or is withdrawn.
- (4) A magistrates' court hearing an appeal against a community protection notice must—
- (a) quash the notice,
 - (b) modify the notice (for example by extending a period specified in it), or
 - (c) dismiss the appeal.

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Failure to comply with notice

47 Remedial action by local authority

- (1) Where a person issued with a community protection notice (“the defaulter”) fails to comply with a requirement of the notice, the relevant local authority may take action under subsection (2) or subsection (3) (or both).
- (2) The relevant local authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air.
- (3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice—
 - (a) specifying work it intends to have carried out to ensure that the failure is remedied,
 - (b) specifying the estimated cost of the work, and
 - (c) inviting the defaulter to consent to the work being carried out,
 the authority may have the work carried out if the necessary consent is given.
- (4) In subsection (3) “the necessary consent” means the consent of—
 - (a) the defaulter, and
 - (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter).

Paragraph (b) does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success.

- (5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air.
- (6) If work is carried out under subsection (2) or (3) and the relevant local authority issues a notice to the defaulter—
 - (a) giving details of the work that was carried out, and
 - (b) specifying an amount that is no more than the cost to the authority of having the work carried out,
 the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).
- (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive.
- (8) A magistrates' court hearing an appeal under subsection (7) must—
 - (a) confirm the amount, or
 - (b) substitute a lower amount.
- (9) In this section “the relevant local authority” means—
 - (a) the local authority that issued the community protection notice;
 - (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

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48 Offence of failing to comply with notice

- (1) A person issued with a community protection notice who fails to comply with it commits an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction—
 - (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual;
 - (b) to a fine not exceeding £20,000, in the case of a body.
- (3) A person does not commit an offence under this section if—
 - (a) the person took all reasonable steps to comply with the notice, or
 - (b) there is some other reasonable excuse for the failure to comply with it.

49 Remedial orders

- (1) A court before which a person is convicted of an offence under section 48 in respect of a community protection notice may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done.
- (2) An order under this section may in particular require the defendant—
 - (a) to carry out specified work, or
 - (b) to allow specified work to be carried out by or on behalf of a specified local authority.
- (3) To be specified under subsection (2)(b) a local authority must be—
 - (a) the local authority that issued the community protection notice;
 - (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.
- (4) A requirement imposed under subsection (2)(b) does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent.
But this does not prevent a defendant who fails to give that consent from being in breach of the court's order.
- (5) In subsection (4) “the defendant's home” means the house, flat, vehicle or other accommodation where the defendant—
 - (a) usually lives, or
 - (b) is living at the time when the work is or would be carried out.
- (6) If work is carried out under subsection (2)(b) and the local authority specified under that subsection issues a notice to the defaulter—
 - (a) giving details of the work that was carried out, and
 - (b) specifying an amount that is no more than the cost to the authority of having the work carried out,the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).
- (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive.

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- (8) A magistrates' court hearing an appeal under subsection (7) must—
- (a) confirm the amount, or
 - (b) substitute a lower amount.

50 Forfeiture of item used in commission of offence

- (1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence.
- (2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable—
 - (a) to a constable, or
 - (b) to a person employed by a local authority or designated by a local authority under section 53(1)(c).
- (3) An order under this section may require the item—
 - (a) to be destroyed, or
 - (b) to be disposed of in whatever way the order specifies.
- (4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either—
 - (a) in accordance with the order, or
 - (b) if no arrangements are specified in the order, in whatever way seems appropriate to the police force.
- (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2)(b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either—
 - (a) in accordance with the order, or
 - (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

51 Seizure of item used in commission of offence

- (1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting—
 - (a) that an offence under section 48 has been committed, and
 - (b) that there is an item used in the commission of the offence on premises specified in the information,
 the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item.
- (2) In this section “designated person” means a person designated by a local authority under section 53(1)(c).
- (3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section.

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- (4) A constable or designated person who has seized an item under a warrant under this section—
- (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized;
 - (b) otherwise, must before the end of that period return the item to the person from whom it was seized.
- (5) In subsection (4) “relevant criminal proceedings” means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.

52 Fixed penalty notices

- (1) An authorised person may issue a fixed penalty notice to anyone who that person has reason to believe has committed an offence under section 48.
- (2) In subsection (1) “authorised person” means a person on whom section 53 (or an enactment amended by that section) confers power to issue fixed penalty notices under this section.
- (3) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice.
- (4) The local authority specified under subsection (3) must be—
- (a) the local authority that issued the community protection notice to which the fixed penalty notice relates;
 - (b) if the community protection notice was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.
- (5) Where a person is issued with a notice under this section in respect of an offence—
- (a) no proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice;
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (6) A fixed penalty notice must—
- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
 - (b) state the period during which (because of subsection (5)(a)) proceedings will not be taken for the offence;
 - (c) specify the amount of the fixed penalty;
 - (d) state the name and address of the person to whom the fixed penalty may be paid;
 - (e) specify permissible methods of payment.
- (7) An amount specified under subsection (6)(c) must not be more than £100.
- (8) A fixed penalty notice may specify two amounts under subsection (6)(c) and specify that, if the lower of those amounts is paid within a specified period (of less than 14 days), that is the amount of the fixed penalty.

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- (9) Whatever other method may be specified under subsection (6)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under subsection (6)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).
- (10) Where a letter is sent as mentioned in subsection (9), payment is regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (11) In any proceedings, a certificate that—
- (a) purports to be signed by or on behalf of the chief finance officer of the local authority concerned, and
 - (b) states that payment of a fixed penalty was, or was not, received by the dated specified in the certificate,
- is evidence of the facts stated.
- (12) In this section “chief finance officer”, in relation to a local authority, means the person with responsibility for the authority's financial affairs.

Who may issue notices

53 Authorised persons

- (1) A community protection notice or a fixed penalty notice may be issued by—
- (a) a constable;
 - (b) the relevant local authority (see subsections (2) and (3));
 - (c) a person designated by the relevant local authority for the purposes of this section.
- (2) For a community protection notice, “the relevant local authority” means the local authority (or, as the case may be, any of the local authorities) within whose area the conduct specified in the notice has, according to the notice, been taking place.
- (3) For a fixed penalty notice, “the relevant local authority” means the local authority (or, as the case may be, any of the local authorities) within whose area the offence in question is alleged to have taken place.
- (4) Only a person of a description specified in an order made by the Secretary of State for the purposes of subsection (1)(c) may be designated under that subsection.
- (5) In Part 1 of Schedule 4 to the Police Reform Act 2002 (powers exercisable by community support officers), after paragraph 1ZA there is inserted—

“Power to issue community protection notices

- 1ZB A person shall have the power of a constable to issue a community protection notice under section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 if—
- (a) a designation applies this paragraph to that person, and
 - (b) the conduct specified in the notice has (according to the notice) been taking place within the relevant police area.”

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(6) In paragraph 1 of that Schedule (power of community support officers to issue fixed penalty notices), after paragraph (ab) of sub-paragraph (2) there is inserted—

“(ac) the power of a constable to issue a fixed penalty notice under section 52 of the Anti-social Behaviour, Crime and Policing Act 2014 (fixed penalty notice in respect of failure to comply with community protection notice);”.

Supplemental

54 Exemption from liability

- (1) A local authority exercising or purporting to exercise a power under section 47(2) is not liable to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of that power.
- (2) A person carrying out work under section 47(2), or a person by or on whose behalf work is carried out under section 49(2)(b), is not liable to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in carrying out that work.
- (3) Subsections (1) and (2) do not apply—
 - (a) to an act or omission shown to have been in bad faith, or
 - (b) to liability arising out of a failure to exercise due care and attention.
- (4) Subsections (1) and (2) do not apply 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 (whether at common law or otherwise).

55 Issuing of notices

- (1) A notice under this Chapter may be issued to a person by—
 - (a) handing it to the person,
 - (b) leaving it at the person's proper address, or
 - (c) sending it by post to the person at that address.
- (2) A notice under this Chapter to a body corporate may be issued to the secretary or clerk of that body.
- (3) A notice under this Chapter to a partnership may be issued to a partner or a person who has the control or management of the partnership business.
- (4) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is the person's last known address, except that—
 - (a) in the case of a body corporate or its secretary or clerk, it is the address of the body's registered or principal office;
 - (b) in the case of a partnership or person having the control or the management of the partnership business, it is the principal office of the partnership.

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- (5) For the purposes of subsection (4) the principal office of a company registered outside the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is its principal office within the United Kingdom.
- (6) If a person has specified an address in the United Kingdom, other than the person's proper address within the meaning of subsection (4), as the one at which the person or someone on the person's behalf will accept notices of the same description as a notice under this Chapter, that address is also treated for the purposes of this section and section 7 of the Interpretation Act 1978 as the person's proper address.

56 Guidance

- (1) The Secretary of State may issue—
- (a) guidance to chief officers of police about the exercise, by officers under their direction or control, of those officers' functions under this Chapter;
 - (b) guidance to local authorities about the exercise of their functions under this Chapter and those of persons designated under section 53(1)(c).
- (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.

57 Interpretation of Chapter 1

In this Chapter—

“conduct” includes a failure to act;

“local authority” means—

- (a) in relation to England, a district council, a county council for an area for which there is no district 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;

“owner”, in relation to premises, means—

- (a) a person (other than a mortgagee not in possession) entitled to dispose of the fee simple of the premises, whether in possession or in reversion;
- (b) a person who holds or is entitled to the rents and profits of the premises under a lease that (when granted) was for a term of not less than 3 years;

“premises” includes any land.

58 Saving and transitional provision

- (1) The repeal or amendment by this Act of provisions about any of the notices specified in subsection (2) does not apply in relation to—
- (a) a notice specified in that subsection served before the commencement day;
 - (b) anything done in connection with such a notice.
- (2) The notices are—
- (a) a litter abatement notice under section 92 of the Environmental Protection Act 1990;

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- (b) a litter clearing notice under section 92A of that Act;
 - (c) a street litter control notice under section 93 of that Act;
 - (d) a defacement removal notice under section 48 of the Anti-social Behaviour Act 2003.
- (3) A community protection notice that contains no requirement that could not have been contained in one of the notices specified in subsection (2) may be issued in respect of conduct before the commencement day.
- (4) Subsection (3) applies only during the period of 3 months beginning with the commencement day.
- (5) In this section “commencement day” means the day on which this Chapter comes into force.

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