



Anti-social Behaviour, Crime and Policing Act 2014

2014 CHAPTER 12

PART 4

COMMUNITY PROTECTION

CHAPTER 1

COMMUNITY PROTECTION NOTICES

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

Status: This is the original version (as it was originally enacted).

- (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.

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.
- (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.
- (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.
- (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.