



# Serious Organised Crime and Police Act 2005

## 2005 CHAPTER 15

### PART 4

#### PUBLIC ORDER AND CONDUCT IN PUBLIC PLACES ETC.

##### *Anti-social behaviour*

#### **139 Orders about anti-social behaviour etc.**

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as provided in subsections (2) to (9).
- (2) In section 1 (anti-social behaviour orders), after subsection (10B) insert—
  - “(10C) In proceedings for an offence under subsection (10), a copy of the original anti-social behaviour order, certified as such by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.”
- (3) The existing text of section 1A (power of Secretary of State to add to relevant authorities) is to be subsection (1) of that section, and after that subsection add—
  - “(2) The Secretary of State may by order—
    - (a) provide that a person or body of any other description specified in the order is, in such cases and circumstances as may be prescribed by the order, to be a relevant authority for the purposes of such of sections 1 above and 1B, 1CA and 1E below as are specified in the order; and
    - (b) prescribe the description of persons who are to be “relevant persons” in relation to that person or body.”

*Status: Point in time view as at 01/07/2011.*

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- (4) In section 1C (orders about anti-social behaviour on conviction in criminal proceedings)—
- (a) after subsection (4) insert—
- “(4A) The court may adjourn any proceedings in relation to an order under this section even after sentencing the offender.
- (4B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.
- (4C) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.”
- (b) in subsection (9), after “(10)” insert “, (10C) ”.
- (5) Section 1D (interim orders) is amended as provided in subsections (6) to (9).
- (6) For subsections (1) and (2) substitute—
- “(1) This section applies where—
- (a) an application is made for an anti-social behaviour order;
- (b) an application is made for an order under section 1B;
- (c) a request is made by the prosecution for an order under section 1C; or
- (d) the court is minded to make an order under section 1C of its own motion.
- (2) If, before determining the application or request, or before deciding whether to make an order under section 1C of its own motion, the court considers that it is just to make an order under this section pending the determination of that application or request or before making that decision, it may make such an order.”
- (7) In subsection (4)(c), for “main application” substitute “ application or request mentioned in subsection (1), or on the court's making a decision as to whether or not to make an order under section 1C of its own motion. ”
- (8) In subsection (5), at the beginning insert “ In relation to cases to which this section applies by virtue of paragraph (a) or (b) of subsection (1), ”.
- (9) After subsection (5) add—
- “(6) In relation to cases to which this section applies by virtue of paragraph (c) or (d) of subsection (1)—
- (a) subsections (6) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders under this section as they apply for the purposes of the making and effect of anti-social behaviour orders; and
- (b) section 1CA applies for the purposes of the variation or discharge of an order under this section as it applies for the purposes of the variation or discharge of an order under section 1C.”
- (10) In section 14A of the Football Spectators Act 1989 (c. 37) (banning orders on conviction of an offence), after subsection (4) insert—

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- “(4A) The court may adjourn any proceedings in relation to an order under this section even after sentencing the offender.
- (4B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.
- (4C) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.”

#### Commencement Information

II S. 139 in force at 1.7.2005 by S.I. 2005/1521, art. 3(1)(s)

### 140 Variation and discharge of anti-social behaviour orders made on conviction

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 1 (anti-social behaviour orders), in subsection (1A), after “1B” insert “ , 1CA ”.
- (3) In section 1C (orders on conviction), omit subsections (6) to (8).
- (4) After section 1C insert—

#### “1CA Variation and discharge of orders under section 1C

- (1) An offender subject to an order under section 1C may apply to the court which made it for it to be varied or discharged.
- (2) If he does so, he must also send written notice of his application to the Director of Public Prosecutions.
- (3) The Director of Public Prosecutions may apply to the court which made an order under section 1C for it to be varied or discharged.
- (4) A relevant authority may also apply to the court which made an order under section 1C for it to be varied or discharged if it appears to it that—
  - (a) in the case of variation, the protection of relevant persons from anti-social acts by the person subject to the order would be more appropriately effected by a variation of the order;
  - (b) in the case of discharge, that it is no longer necessary to protect relevant persons from anti-social acts by him by means of such an order.
- (5) If the Director of Public Prosecutions or a relevant authority applies for the variation or discharge of an order under section 1C, he or it must also send written notice of the application to the person subject to the order.
- (6) In the case of an order under section 1C made by a magistrates' court, the references in subsections (1), (3) and (4) to the court by which the order was made include a reference to any magistrates' court acting in the same local justice area as that court.

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- (7) No order under section 1C shall be discharged on an application under this section before the end of the period of two years beginning with the day on which the order takes effect, unless—
- (a) in the case of an application under subsection (1), the Director of Public Prosecutions consents, or
  - (b) in the case of an application under subsection (3) or (4), the offender consents.”
- (5) In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2), after paragraph (fa) insert—
- “(fb) where it appears to him appropriate to do so, to have the conduct of applications under section 1CA(3) of the Crime and Disorder Act 1998 for the variation or discharge of orders made under section 1C of that Act;
  - (fc) where it appears to him appropriate to do so, to appear on any application under section 1CA of that Act made by a person subject to an order under section 1C of that Act for the variation or discharge of the order.”

#### **Commencement Information**

**I2** S. 140 in force at 1.7.2005 by S.I. 2005/1521, art. 3(1)(s)

### **141 Anti-social behaviour orders etc: reporting restrictions**

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 1 (anti-social behaviour orders)—
- (a) after subsection (10C) (inserted by section 139(2) of this Act), insert—
 

“(10D) In relation to proceedings brought against a child or a young person for an offence under subsection (10)—

    - (a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the child or young person against whom the proceedings are brought;
    - (b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (power to restrict reporting of criminal proceedings involving persons under 18) does so apply.

(10E) If, in relation to any such proceedings, the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it shall give its reasons for doing so.”,
  - (b) in subsection (12), before the definition of “the commencement date” insert—
 

““child” and “young person” shall have the same meaning as in the Children and Young Persons Act 1933;”.
- (3) In section 1C (orders about anti-social behaviour on conviction in criminal proceedings), in subsection (9), after “(10C)” (inserted by section 139(4)(b) of this Act) insert “, (10D), (10E) ”.

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- (4) Subject to paragraph 2(2) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999 (c. 23), until section 45 of that Act comes into force, the references to it in section 1(10D)(b) and (10E) of the Crime and Disorder Act 1998 (c. 37) (inserted by subsection (2) of this section) shall be read as references to section 39 of the Children and Young Persons Act 1933 (c. 12).

#### Commencement Information

I3 S. 141 in force at 1.7.2005 by S.I. 2005/1521, art. 3(1)(s)

### 142 Contracting out of local authority functions relating to anti-social behaviour orders

- (1) In the Crime and Disorder Act 1998 after section 1E (consultation requirements relating to individual support orders) insert—

#### “1F Contracting out of local authority functions

- (1) The Secretary of State may by order provide that a relevant authority which is a local authority may make arrangements with a person specified (or of a description specified) in the order for the exercise of any function it has under sections 1 to 1E above—
- by such a person, or
  - by an employee of his.
- (2) The order may provide—
- that the power of the relevant authority to make the arrangements is subject to such conditions as are specified in the order;
  - that the arrangements must be subject to such conditions as are so specified;
  - that the arrangements may be made subject to such other conditions as the relevant authority thinks appropriate.
- (3) The order may provide that the arrangements may authorise the exercise of the function—
- either wholly or to such extent as may be specified in the order or arrangements;
  - either generally or in such cases or areas as may be so specified.
- (4) An order may provide that the person with whom arrangements are made in pursuance of the order is to be treated as if he were a public body for the purposes of section 1 of the Local Authorities (Goods and Services) Act 1970.
- (5) The Secretary of State must not make an order under this section unless he first consults—
- the National Assembly for Wales, if the order relates to a relevant authority in Wales;
  - such representatives of local government as he thinks appropriate;
  - such other persons as he thinks appropriate.

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- (6) Any arrangements made by a relevant authority in pursuance of an order under this section do not prevent the relevant authority from exercising the function to which the arrangements relate.
  - (7) The following provisions of the Deregulation and Contracting Out Act 1994 apply for the purposes of arrangements made in pursuance of an order under this section as they apply for the purposes of an authorisation to exercise functions by virtue of an order under section 70(2) of that Act—
    - (a) section 72 (effect of contracting out);
    - (b) section 73 (termination of contracting out);
    - (c) section 75 and Schedule 15 (provision relating to disclosure of information);
    - (d) paragraph 3 of Schedule 16 (authorised persons to be treated as officers of local authority).
  - (8) For the purposes of subsection (7), any reference in the provisions specified in paragraphs (a) to (d) to a person authorised to exercise a function must be construed as a reference to a person with whom an arrangement is made for the exercise of the function in pursuance of an order under this section.
  - (9) Relevant authorities and any person with whom arrangements are made in pursuance of an order under this section must have regard to any guidance issued by the Secretary of State for the purposes of this section.
  - (10) An order under this section may make different provision for different purposes.
  - (11) An order under this section may contain—
    - (a) such consequential, supplemental or incidental provisions (including provision modifying any enactment), or
    - (b) such transitional provisions or savings,
 as the person making the order thinks appropriate.
  - (12) Each of the following is a local authority—
    - (a) a local authority within the meaning of section 270 of the Local Government Act 1972;
    - (b) the Common Council of the City of London;
    - (c) the Council of the Isles of Scilly.”
- (2) In <sup>F1</sup>subsection (1A) of section 1 of that Act (anti-social behaviour orders)] for “and 1E” substitute “, 1E and 1F ”.
- (3) In section 114(3) of that Act (orders and regulations) after “section” insert “ 1F, ”.

#### Textual Amendments

**F1** Words in s. 142(2) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(Amendment\) Order 2005 \(S.I. 2005/3496\)](#), arts. 1(1), 2

#### Commencement Information

**I4** S. 142 in force at 1.7.2005 by [S.I. 2005/1521](#), art. 3(1)(s)

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## **143 Special measures for witnesses in proceedings for anti-social behaviour orders etc.**

After section 1H of the Crime and Disorder Act 1998 (c. 37) (as amended by the Drugs Act 2005 (c. 17)) insert—

### **“1I Special measures for witnesses**

- (1) This section applies to the following proceedings—
  - (a) any proceedings in a magistrates' court on an application for an anti-social behaviour order,
  - (b) any proceedings in a magistrates' court or the Crown Court so far as relating to the issue whether to make an order under section 1C, and
  - (c) any proceedings in a magistrates' court so far as relating to the issue whether to make an order under section 1D.
- (2) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in the case of vulnerable and intimidated witnesses) shall apply in relation to any such proceedings as it applies in relation to criminal proceedings, but with—
  - (a) the omission of the provisions of that Act mentioned in subsection (3) (which make provision appropriate only in the context of criminal proceedings), and
  - (b) any other necessary modifications.
- (3) The provisions are—
  - (a) section 17(4),
  - (b) section 21(1)(b) and (5) to (7),
  - (c) section 22(1)(b) and (2)(b) and (c),
  - (d) section 27(10), and
  - (e) section 32.
- (4) Any rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act shall apply in relation to proceedings to which this section applies—
  - (a) to such extent as may be provided by rules of court, and
  - (b) subject to such modifications as may be so provided.
- (5) Section 47 of that Act (restrictions on reporting special measures directions etc.) applies, with any necessary modifications, in relation to—
  - (a) a direction under section 19 of the Act as applied by this section, or
  - (b) a direction discharging or varying such a direction,and sections 49 and 51 of that Act (offences) apply accordingly.”

#### **Commencement Information**

**I5** S. 143 in force at 1.7.2005 by S.I. 2005/1521, art. 3(1)(s)

**Status:**

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