

**EXPLANATORY MEMORANDUM TO
THE MAGISTRATES' COURTS (PARENTING ORDERS) RULES 2007**

2007 No. 2222 (L.21)

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Rules amend the Magistrates' Courts (Parenting Orders) Rules 2004 (S.I. 2004/247(L. 3) ("the principal Rules"). They amend Schedules 1 and 2 of the principal Rules consequent upon the amendment of section 20 of the Anti-social Behaviour Act 2003 ("the 2003 Act") by section 98 of the Education and Inspections Act 2006 ("the 2006 Act", rules 4 and 5 respectively). They amend Schedule 3 of the principal Rules (rule 6). Rule 3 inserts rules 7 to 10 of, and rule 7 inserts Schedules 5 to 8 to, the principal Rules. These provisions set out the procedure in relation to parenting orders under sections 26A and 26B of the 2003 Act, and provide forms in relation to these parenting orders.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Parenting orders were introduced by the Crime and Disorder Act 1998¹ and their availability extended by the Anti-Social Behaviour Act 2003² ("the 2003 Act"). The 2004 Rules (S.I. 2004/247) were made following the enactment of the 2003 Act which, inter alia, enables youth offending teams and local education authorities to apply directly to the court for free-standing Parenting Orders provided certain conditions are met.

4.2 The proposed amendments to the Rules arise from the passage of further primary legislation (the Education and Inspections Act 2006³ and the Police and Justice Act 2006⁴) and feedback from practitioners. The draft instrument simply updates the relevant forms rather than making any substantial changes.

4.3 Amendments to schedules 1 and 2 of the Rules primarily arise from provisions in sections 97 to 99 of the Education and Inspections Act 2006 which will, in

¹ 1998 (c. 37)

² 2003 (c. 38)

³ 2006 (c. 40)

⁴ 2006 (c. 48)

relation to free-standing education related parenting orders:

- enable schools as well as local authorities to bring applications;
- introduce as an alternative condition to be satisfied, behaviour which would warrant exclusion from school; and,
- require magistrates to take into account any failure by parents without reasonable excuse to attend a reintegration interview following exclusion.

4.4 A Commencement Order (S.I. 2007/1801) has been laid to bring these provisions into force from 1 September 2007.

4.5 New schedules 5, 6, 7 and 8 in the proposed amendments to the Rules arise from provisions in the Police and Justice Act 2006 (sections 23 and 24) which will enable local authorities and registered social landlords to apply for free standing parenting orders for anti-social behaviour (in the case of the latter, only where the behaviour in question directly or indirectly relates to or affects their housing management function). The relevant provisions came into force on 29 June 2007.

4.6 Other amendments to schedules 1, 2 and 3 arise from feedback from practitioners and are intended to clarify certain matters such as the child or young person's date of birth, and the fact that it is for the responsible officer to specify, in directions, details of the counselling and guidance programme to be attended by the parent.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 It is important that children behave well in school so that they can learn and raise their attainment levels. Generally pupils are well behaved in schools, however, there is evidence that a minority of pupils are disruptive, which impacts on teaching and learning in the classroom. Parental engagement is important if poor behaviour by pupils is to be tackled effectively. That is why the Government introduced parenting orders in the Anti-social Behaviour Act 2003, as a package of support and compulsion, where necessary, to tackle poor behaviour and ensure that parents play their part in supporting pupils.

7.2 Parenting orders have been available to schools and local authorities since March 2004. Parenting orders can be applied for by an LA where a pupil has been excluded (for any duration) for serious misbehaviour. LAs can apply direct to Magistrates Court.

7.3 In 2005 the Department published a report *Learning Behaviour: The Report of the Practitioners' Group on School Behaviour and Discipline* (Steer Group) with

recommendations to improve behaviour and discipline in schools. The group consisted of head teachers and other practitioners. The report recommended that parenting orders should be used for serious misbehaviour that would warrant an exclusion; and schools should be able to apply for parenting orders direct. The Department accepted these key recommendations in its response “*Higher Standards Better Schools for All*” *White Paper in 2005 (Cm 6077 October 2005)*. The provisions were encapsulated in the Education and Inspections Bill 2006, which was approved in Parliament.

7.4 The Magistrates’ Rules Committee have been consulted on these changes and had no comments.

8. Impact

8.1 The amended Rules take account of the additional bodies that are or will be empowered to apply for free-standing Parenting Orders and of the alternative grounds for application that are or will be available. This will underpin efficiency in the application process.

8.2 Full Regulatory Impact Assessments (RIAs) were carried out to accompany the passage of primary legislation.

8.3 The impact on the public sector is in relation to local authorities and maintained primary and secondary schools in England. We expect only a small increase in burdens since these provisions already exist and the extension should not result in high costs/administrative burdens. We expect local authorities and schools with delegated budgets to be able to meet the small additional costs from within their current budget allocations.

9. Contact

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