



Anti-social Behaviour, Crime and Policing Act 2014

2014 CHAPTER 12

PART 2

CRIMINAL BEHAVIOUR ORDERS

Criminal behaviour orders

22 Power to make orders

- (1) This section applies where a person (“the offender”) is convicted of an offence.
- (2) The court may make a criminal behaviour order against the offender if two conditions are met.
- (3) The first condition is that the court is satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person.
- (4) The second condition is that the court considers that making the order will help in preventing the offender from engaging in such behaviour.
- (5) A criminal behaviour order is an order which, for the purpose of preventing the offender from engaging in such behaviour—
 - (a) prohibits the offender from doing anything described in the order;
 - (b) requires the offender to do anything described in the order.
- (6) The court may make a criminal behaviour order against the offender only if it is made in addition to—
 - (a) a sentence imposed in respect of the offence, or
 - (b) an order discharging the offender conditionally.

- (7) The court may make a criminal behaviour order against the offender only on the application of the prosecution.
- (8) The prosecution must find out the views of the local youth offending team before applying for a criminal behaviour order to be made if the offender will be under the age of 18 when the application is made.
- (9) Prohibitions and requirements in a criminal behaviour order must, so far as practicable, be such as to avoid—
 - (a) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment;
 - (b) any conflict with the requirements of any other court order or injunction to which the offender may be subject.
- (10) In this section “local youth offending team” means—
 - (a) the youth offending team in whose area it appears to the prosecution that the offender lives, or
 - (b) if it appears to the prosecution that the offender lives in more than one such area, whichever one or more of the relevant youth offending teams the prosecution thinks appropriate.

23 Proceedings on an application for an order

- (1) For the purpose of deciding whether to make a criminal behaviour order the court may consider evidence led by the prosecution and evidence led by the offender.
- (2) It does not matter whether the evidence would have been admissible in the proceedings in which the offender was convicted.
- (3) The court may adjourn any proceedings on an application for a criminal behaviour order even after sentencing the offender.
- (4) If the offender does not appear for any adjourned proceedings the court may—
 - (a) further adjourn the proceedings,
 - (b) issue a warrant for the offender’s arrest, or
 - (c) hear the proceedings in the offender’s absence.
- (5) The court may not act under paragraph (b) of subsection (4) unless it is satisfied that the offender has had adequate notice of the time and place of the adjourned proceedings.
- (6) The court may not act under paragraph (c) of subsection (4) unless it is satisfied that the offender—
 - (a) has had adequate notice of the time and place of the adjourned proceedings, and
 - (b) has been informed that if the offender does not appear for those proceedings the court may hear the proceedings in his or her absence.
- (7) Subsection (8) applies in relation to proceedings in which a criminal behaviour order is made against an offender who is under the age of 18.
- (8) In so far as the proceedings relate to the making of the order—
 - (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 offender;

- (b) section 39 of that Act (power to prohibit publication of certain matters) does so apply.

24 Requirements included in orders

- (1) A criminal behaviour order that includes a requirement must specify the person who is to be responsible for supervising compliance with the requirement.

The person may be an individual or an organisation.

- (2) Before including a requirement, the court must receive evidence about its suitability and enforceability from—
 - (a) the individual to be specified under subsection (1), if an individual is to be specified;
 - (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.
- (3) Before including two or more requirements, the court must consider their compatibility with each other.
- (4) It is the duty of a person specified under subsection (1)—
 - (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (the “relevant requirements”);
 - (b) to promote the offender’s compliance with the relevant requirements;
 - (c) if the person considers that the offender—
 - (i) has complied with all the relevant requirements, or
 - (ii) has failed to comply with a relevant requirement,to inform the prosecution and the appropriate chief officer of police.
- (5) In subsection (4)(c) “the appropriate chief officer of police” means—
 - (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the offender lives, or
 - (b) if it appears to that person that the offender lives in more than one police area, whichever of the relevant chief officers of police that person thinks it most appropriate to inform.
- (6) An offender subject to a requirement in a criminal behaviour order must—
 - (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time;
 - (b) notify the person of any change of address.

These obligations have effect as requirements of the order.

25 Duration of order etc

- (1) A criminal behaviour order takes effect on the day it is made, subject to subsection (2).
- (2) If on the day a criminal behaviour order (“the new order”) is made the offender is subject to another criminal behaviour order (“the previous order”), the new order may be made so as to take effect on the day on which the previous order ceases to have effect.

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

- (3) A criminal behaviour order must specify the period (“the order period”) for which it has effect.
- (4) In the case of a criminal behaviour order made before the offender has reached the age of 18, the order period must be a fixed period of—
 - (a) not less than 1 year, and
 - (b) not more than 3 years.
- (5) In the case of a criminal behaviour order made after the offender has reached the age of 18, the order period must be—
 - (a) a fixed period of not less than 2 years, or
 - (b) an indefinite period (so that the order has effect until further order).
- (6) A criminal behaviour order may specify periods for which particular prohibitions or requirements have effect.

Interim orders

26 Interim orders

- (1) This section applies where a court adjourns the hearing of an application for a criminal behaviour order.
- (2) The court may make a criminal behaviour order that lasts until the final hearing of the application or until further order (“an interim order”) if the court thinks it just to do so.
- (3) Section 22(6) to (8) and section 25(3) to (5) do not apply in relation to the making of an interim order.
- (4) Subject to that, the court has the same powers whether or not the criminal behaviour order is an interim order.

Variation and discharge

27 Variation or discharge of orders

- (1) A criminal behaviour order may be varied or discharged by the court which made it on the application of—
 - (a) the offender, or
 - (b) the prosecution.
- (2) If an application by the offender under this section is dismissed, the offender may make no further application under this section without—
 - (a) the consent of the court which made the order, or
 - (b) the agreement of the prosecution.
- (3) If an application by the prosecution under this section is dismissed, the prosecution may make no further application under this section without—
 - (a) the consent of the court which made the order, or
 - (b) the agreement of the offender.

- (4) The power to vary an order includes power to include an additional prohibition or requirement in the order or to extend the period for which a prohibition or requirement has effect.
- (5) Section 24 applies to additional requirements included under subsection (4) as it applies to requirements included in a new order.
- (6) In the case of a criminal behaviour order made by a magistrates' court, the references in this section to the court which made the order include a reference to any magistrates' court acting in the same local justice area as that court.

Review of orders (under-18s)

28 Review of orders

- (1) If—
 - (a) a person subject to a criminal behaviour order will be under the age of 18 at the end of a review period (see subsection (2)),
 - (b) the term of the order runs until the end of that period or beyond, and
 - (c) the order is not discharged before the end of that period,a review of the operation of the order must be carried out before the end of that period.
- (2) The “review periods” are—
 - (a) the period of 12 months beginning with—
 - (i) the day on which the criminal behaviour order takes effect, or
 - (ii) if during that period the order is varied under section 27, the day on which it is varied (or most recently varied, if the order is varied more than once);
 - (b) a period of 12 months beginning with—
 - (i) the day after the end of the previous review period, or
 - (ii) if during that period of 12 months the order is varied under section 27, the day on which it is varied (or most recently varied, if the order is varied more than once).
- (3) A review under this section must include consideration of—
 - (a) the extent to which the offender has complied with the order;
 - (b) the adequacy of any support available to the offender to help him or her comply with it;
 - (c) any matters relevant to the question whether an application should be made for the order to be varied or discharged.
- (4) Those carrying out or participating in a review under this section must have regard to any relevant guidance issued by the Secretary of State under section 32 when considering—
 - (a) how the review should be carried out;
 - (b) what particular matters the review should deal with;
 - (c) what action (if any) it would be appropriate to take as a result of the findings of the review.

29 Carrying out and participating in reviews

- (1) A review under section 28 is to be carried out by the chief officer of police of the police force maintained for the police area in which the offender lives or appears to be living.
- (2) The chief officer, in carrying out a review under section 28, must act in co-operation with the council for the local government area in which the offender lives or appears to be living; and the council must co-operate in the carrying out of the review.
- (3) The chief officer may invite the participation in the review of any other person or body.
- (4) In this section “local government area” means—
 - (a) in relation to England, a district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
 - (b) in relation to Wales, a county or a county borough.

For the purposes of this section, the council for the Inner and Middle Temples is the Common Council of the City of London.

*Breach of orders***30 Breach of order**

- (1) A person who without reasonable excuse—
 - (a) does anything he or she is prohibited from doing by a criminal behaviour order, or
 - (b) fails to do anything he or she is required to do by a criminal behaviour order, commits an offence.
- (2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a period not exceeding 6 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 5 years or to a fine, or to both.
- (3) If a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make an order under subsection (1)(b) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge).
- (4) In proceedings for an offence under this section, a copy of the original criminal behaviour order, certified 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.
- (5) In relation to any proceedings for an offence under this section that are brought against a person under the age of 18—
 - (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 person;
 - (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.

- (6) If, in relation to any proceedings mentioned in subsection (5), the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it must give its reasons for doing so.

Supplemental

31 Special measures for witnesses

- (1) 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) applies to criminal behaviour order proceedings as it applies to criminal proceedings, but with—
- (a) the omission of the provisions of that Act mentioned in subsection (2) (which make provision appropriate only in the context of criminal proceedings), and
 - (b) any other necessary modifications.
- (2) The provisions are—
- (a) section 17(4) to (7);
 - (b) section 21(4C)(e);
 - (c) section 22A;
 - (d) section 27(10);
 - (e) section 32.
- (3) Rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act apply to criminal behaviour order proceedings—
- (a) to the extent provided by rules of court, and
 - (b) subject to any modifications provided by rules of court.
- (4) Section 47 of that Act (restrictions on reporting special measures directions etc) applies with any necessary modifications—
- (a) to a direction under section 19 of that Act as applied by this section;
 - (b) to a direction discharging or varying such a direction.

Sections 49 and 51 of that Act (offences) apply accordingly.

- (5) In this section “criminal behaviour order proceedings” means proceedings in a magistrates’ court or the Crown Court so far as relating to the issue whether to make a criminal behaviour order.

32 Guidance

- (1) The Secretary of State may issue guidance to—
- (a) chief officers of police, and
 - (b) the councils mentioned in section 29(2),
- about the exercise of their functions under this Part.
- (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.

33 Saving and transitional provision

- (1) The repeal or amendment by this Act of provisions about any of the orders specified in subsection (2) does not—
 - (a) prevent an order specified in that subsection from being made in connection with criminal proceedings begun before the commencement day;
 - (b) apply in relation to an order specified in that subsection which is made in connection with criminal proceedings begun before that day;
 - (c) apply in relation to anything done in connection with such an order.
- (2) The orders are—
 - (a) an order under section 1C of the Crime and Disorder Act 1998 (orders on conviction in criminal proceedings);
 - (b) an individual support order under section 1AA of that Act made in connection with an order under section 1C of that Act;
 - (c) a drinking banning order under section 6 of the Violent Crime Reduction Act 2006 (orders on conviction in criminal proceedings).
- (3) As from the commencement day there may be no variation of an order specified in subsection (2) that extends the period of the order or of any provision of the order.
- (4) At the end of the period of 5 years beginning with the commencement day—
 - (a) this Part has effect in relation to any order specified in subsection (2) that is still in force as if the provisions of the order were provisions of a criminal behaviour order;
 - (b) subsections (1) to (3) cease to have effect.

This Part, as it applies by virtue of paragraph (a), has effect with any necessary modifications (and with any modifications specified in an order under section 185(7)).

- (5) In deciding whether to make a criminal behaviour order a court may take account of conduct occurring up to 1 year before the commencement day.
- (6) In this section “commencement day” means the day on which this Part comes into force.