



# Anti-social Behaviour, Crime and Policing Act 2014

## 2014 CHAPTER 12

### PART 4

#### COMMUNITY PROTECTION

### CHAPTER 2

#### PUBLIC SPACES PROTECTION ORDERS

#### *Supplemental*

#### **69 Powers of community support officers**

- (1) In Part 1 of Schedule 4 to the Police Reform Act 2002 (powers exercisable by community support officers), for paragraph 5 there is substituted—

#### *“Alcohol consumption in restricted areas*

- 5 Where a designation applies this paragraph to any person, that person shall, within the relevant police area, have the powers of a constable under section 63 of the Anti-social Behaviour, Crime and Policing Act 2014 (consumption of alcohol in breach of prohibition in public spaces protection order)—

- (a) to impose a requirement under subsection (2) of that section; and
- (b) to dispose under subsection (5) of that section of anything surrendered to the person;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable were references to that person.”

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*Status: This is the original version (as it was originally enacted).*

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

“(f) the power of a constable to issue a fixed penalty notice under section 68 of the Anti-social Behaviour, Crime and Policing Act 2014 (fixed penalty notice in respect of failure to comply with public spaces protection order).”

## 70 Byelaws

A byelaw that prohibits, by the creation of an offence, an activity regulated by a public spaces protection order is of no effect in relation to the restricted area during the currency of the order.

## 71 Bodies other than local authorities with statutory functions in relation to land

(1) The Secretary of State may by order—

- (a) designate a person or body (other than a local authority) that has power to make byelaws in relation to particular land, and
- (b) specify land in England to which the power relates.

(2) This Chapter has effect as if—

- (a) a person or body designated under subsection (1) (a “designated person”) were a local authority, and
- (b) land specified under that subsection were within its area.

But references in the rest of this section to a local authority are to a local authority that is not a designated person.

(3) The only prohibitions or requirements that may be imposed in a public spaces protection order made by a designated person are ones that it has power to impose (or would, but for section 70, have power to impose) by making a byelaw in respect of the restricted area.

(4) A public spaces protection order made by a designated person may not include provision regulating, in relation to a particular public space, an activity that is already regulated in relation to that space by a public spaces protection order made by a local authority.

(5) Where a public spaces protection order made by a local authority regulates, in relation to a particular public space, an activity that a public spaces protection order made by a designated person already regulates, the order made by the designated person ceases to have that effect.

(6) If a person or body that may be designated under subsection (1)(a) gives a notice in writing under this subsection, in respect of land in relation to which it has power to make byelaws, to a local authority in whose area the land is situated—

- (a) no part of the land may form, or fall within, the restricted area of any public spaces protection order made by the local authority;
- (b) if any part of the land—
  - (i) forms the restricted area of a public spaces protection order already made by the local authority, or
  - (ii) falls within such an area,

the order has ceases to have effect (where sub-paragraph (i) applies), or has effect as if the restricted area did not include the land in question (where sub-paragraph (ii) applies).

## 72 Convention rights, consultation, publicity and notification

- (1) A local authority, in deciding—
  - (a) whether to make a public spaces protection order (under section 59) and if so what it should include,
  - (b) whether to extend the period for which a public spaces protection order has effect (under section 60) and if so for how long,
  - (c) whether to vary a public spaces protection order (under section 61) and if so how, or
  - (d) whether to discharge a public spaces protection order (under section 61),
 must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.
- (2) In subsection (1) “Convention” has the meaning given by section 21(1) of the Human Rights Act 1998.
- (3) A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before—
  - (a) making a public spaces protection order,
  - (b) extending the period for which a public spaces protection order has effect, or
  - (c) varying or discharging a public spaces protection order.
- (4) In subsection (3)—
 

“the necessary consultation” means consulting with—

  - (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
  - (b) whatever community representatives the local authority thinks it appropriate to consult;
  - (c) the owner or occupier of land within the restricted area;

“the necessary publicity” means—

  - (a) in the case of a proposed order or variation, publishing the text of it;
  - (b) in the case of a proposed extension or discharge, publicising the proposal;

“the necessary notification” means notifying the following authorities of the proposed order, extension, variation or discharge—

  - (a) the parish council or community council (if any) for the area that includes the restricted area;
  - (b) in the case of a public spaces protection order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area.
- (5) The requirement to consult with the owner or occupier of land within the restricted area—
  - (a) does not apply to land that is owned and occupied by the local authority;
  - (b) applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.

- (6) In the case of a person or body designated under section 71, the necessary consultation also includes consultation with the local authority which (ignoring subsection (2) of that section) is the authority for the area that includes the restricted area.
- (7) In relation to a variation of a public spaces protection order that would increase the restricted area, the restricted area for the purposes of this section is the increased area.

### **73 Guidance**

- (1) The Secretary of State may issue—
- (a) guidance to local authorities about the exercise of their functions under this Chapter and those of persons authorised by local authorities under section 63 or 68;
  - (b) guidance to chief officers of police about the exercise, by officers under their direction or control, of those officers' 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.

### **74 Interpretation of Chapter 2**

- (1) In this Chapter—
- “alcohol” has the meaning given by section 191 of the Licensing Act 2003;
- “community representative”, in relation to a public spaces protection order that a local authority proposes to make or has made, means any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area;
- “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 (in its capacity as a local authority) or the Council of the Isles of Scilly;
  - (b) in relation to Wales, a county council or a county borough council;
- “public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;
- “restricted area” has the meaning given by section 59(4).
- (2) For the purposes of this Chapter, a public spaces protection order “regulates” an activity if the activity is—
- (a) prohibited by virtue of section 59(4)(a), or
  - (b) subjected to requirements by virtue of section 59(4)(b),
- whether or not for all persons and at all times.

### **75 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 apply in relation to—
- (a) an order specified in that subsection made before the commencement day;

- (b) anything done in connection with such an order.
- (2) The orders are—
- (a) a gating order under Part 8A of the Highways Act 1980;
  - (b) an order under section 13(2) of the Criminal Justice and Police Act 2001 (power of local authority to designate public place for restrictions on alcohol consumption);
  - (c) a dog control order under Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005.
- (3) At the end of the period of 3 years beginning with the commencement day—
- (a) this Chapter 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 public spaces protection order;
  - (b) subsection (1) ceases 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)).

- (4) In this section “commencement day” means the day on which this Chapter comes into force.