

2002 No. 2784 (L. 14)

**MAGISTRATES' COURTS, ENGLAND AND WALES
PROCEDURE**

**The Magistrates' Courts (Anti-Social Behaviour Orders)
Rules 2002**

Made - - - - - 8th November 2002

Laid before Parliament 11th November 2002

Coming into force - - 2nd December 2002

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(a), and after consultation with the rule committee appointed under that section, hereby makes the following Rules:

Citation, interpretation and commencement

2.—(1) These Rules may be cited as the Magistrates' Courts (Anti-Social Behaviour Orders) Rules 2002 and shall come into force on 2nd December 2002.

(2) In these Rules any reference to a numbered section is a reference to the section so numbered in the Crime and Disorder Act 1998(b), any reference to a "form" includes a form to like effect, and, unless otherwise stated, reference to a "Schedule" is a reference to a Schedule hereto.

Transitional Provisions

3. After these Rules come into force, rules 6 and 7 of, and Schedules 5 and 6 to the Magistrates' Courts (Sex Offender and Anti-Social Behaviour Orders) Rules 1998(c) shall (notwithstanding their revocation) continue to apply to proceedings commenced prior to the commencement of these Rules.

(a) 1980 (c. 43).

(b) 1998 (c. 37). Relevant amendments were made by sections 61 to 66 of the Police Reform Act 2002 (c. 30).

(c) S.I. 1998/2682 (L.10). Those Rules are revoked by the Magistrates' Courts (Sex Offender Orders) Rules S.I. 2002/2784 (L. 14).

Forms

4.—(1) An application for an anti-social behaviour order shall be in the form set out in Schedule 1.

(2) Any summons directed to the defendant requiring him to appear before a magistrates' court to answer such an application shall be in the form set out in Schedule 2.

(3) An anti-social behaviour order made under section 1 shall be in the form set out in Schedule 3.

(4) An order made under section 1C(a) on conviction in criminal proceedings shall be in the form set out in Schedule 4.

(5) An application for an interim anti-social behaviour order made under section 1D(b) shall be in the form set out in Schedule 5.

(6) An interim anti-social behaviour order made under section 1D shall be in the form set out in Schedule 6.

Interim Orders

5.—(1) An application for an interim order under section 1D, may, with leave of the justices' clerk, be made without notice being given to the defendant.

(2) The justices' clerk shall only grant leave under paragraph (1) of this rule if he is satisfied that it is necessary for the application to be made without notice being given to the defendant.

(3) If an application made under paragraph (2) is granted, then the interim order and the application for an anti-social behaviour order under section 1 (together with a summons giving a date for the defendant to attend court) shall be served on the defendant in person as soon as practicable after the making of the interim order.

(4) An interim order which is made at the hearing of an application without notice shall not take effect until it has been served on the defendant.

(5) If such an interim order made without notice is not served on the defendant within seven days of being made, then it shall cease to have effect.

(6) An interim order shall cease to have effect if the application for an anti-social behaviour order is withdrawn.

(7) Where the court refuses to make an interim order without notice being given to the defendant it may direct that the application be made on notice.

(8) If an interim order is made without notice being given to the defendant, and the defendant subsequently applies to the court for the order to be discharged or varied, his application shall not be dismissed without the opportunity for him to make oral representations to the court.

Application for variation or discharge

6.—(1) This rule applies to the making of an application for the variation or discharge of an order made under section 1, 1C or, subject to rule 5(8) above, 1D.

(2) An application to which this rule applies shall be made in writing to the magistrates' court which made the order, or in the case of an application under section 1C to any magistrates' court in the same petty sessions area, and shall specify the reason why the applicant for variation or discharge believes the court should vary or discharge the order, as the case may be.

(3) Subject to rule 5(8) above, where the court considers that there are no grounds upon which it might conclude that the order should be varied or discharged, as the case may be, it may determine the application without hearing representations from the applicant for variation or discharge or from any other person.

(a) Section 1C was inserted by section 64 of the Police Reform Act 2002.

(b) Section 1D was inserted by section 65 of the Police Reform Act 2002.

(4) Where the court considers that there are grounds upon which it might conclude that the order should be varied or discharged, as the case may be, the justices' chief executive shall, unless the application is withdrawn, issue a summons giving not less than 14 days' notice in writing of the date, time and place appointed for the hearing.

(5) The justices' chief executive shall send with the summons under paragraph 4 above a copy of the application for variation or discharge of the anti-social behaviour order.

Service

7.—(1) Subject to rule 5(3), any summons, or copy of an order or application required to be sent under these Rules to the defendant shall be either given to him in person or sent by post to the last known address, and, if so given or sent, shall be deemed to have been received by him unless he proves otherwise.

(2) Any summons, copy of an order or application required to be sent to the defendant under these Rules shall also be sent by the justices' chief executive to the applicant authority, and to any relevant authority whom the applicant is required by section 1E(a) to have consulted before making the application and, where appropriate, shall invite them to make observations and advise them of their right to be heard at the hearing.

Delegation by justices' clerk

8.—(1) In this rule, "employed as a clerk of the court" has the same meaning as in rule 2(1) of the Justices' Clerks (Qualifications of Assistants) Rules 1979(b).

(2) Anything authorised to be done by, to or before a justices' clerk under these Rules, may be done instead by, to or before a person employed as a clerk of the court where that person is appointed by the magistrates' courts committee to assist him and where that person has been specifically authorised by the justices' clerk for that purpose.

(3) Any authorisation by the justices' clerk under paragraph (2) shall be recorded in writing at the time the authority is given or as soon as practicable thereafter.

Dated 8th November 2002

Irvine of Lairg, C.

SCHEDULE 1

Rule 4(1)

FORM

**Application for Anti-Social Behaviour Order
(Crime and Disorder Act 1998, s.1(1))**

.....Magistrates' Court
(Code)

Date:
Defendant:
Address:
.....
Applicant Authority:
Relevant authorities consulted:

And it is alleged

(a) that the defendant has acted on [dates(s)] at [place(s)] in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and

(a) Section 1E was inserted by section 66 of the Police Reform Act 2002.
(b) S.I. 1979/570 as amended by S.I. 1998/3107, 1999/2814, and 2001/2269.

(b) that an anti-social behaviour order is necessary to protect relevant persons from further anti-social acts by him, and accordingly application is made for an anti-social behaviour order containing the following prohibition(s):—

Short description of acts:
.....
The complaint of:
Name of Applicant Authority:
Address of Applicant Authority:
.....

who [upon oath] states that the defendant was responsible for the acts of which particulars are given above, in respect of which this complaint is made.

Taken [and sworn] before me

Justice of the Peace
[By order of the clerk of the court]

SCHEDULE 2

Rule 4(2)

FORM

Summons on Application for Anti-Social Behaviour Order
(Crime and Disorder Act 1998, s.1)

.....Magistrates' Court
(Code)

Date:
To the defendant: [name]
Address:
.....

You are hereby summoned to appear on.....[date]
at before the magistrates' court at to answer an
application for an anti-social behaviour order, which application is attached to this summons.

Justice of the Peace
[By order of the clerk of the court]

NOTE: Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing, it may issue a warrant for your arrest or proceed in your absence.

If an anti-social behaviour order is made against you and if, without reasonable excuse, you do anything you are prohibited from doing by such an order, you shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine, or to both.

SCHEDULE 3

Rule 4(3)

FORM

Anti-Social Behaviour Order
(Crime and Disorder Act 1998, s.1)

.....Magistrates' Court
(Code)

Date:
Defendant:
Address:
.....

On the complaint of

Complainant:
Applicant Authority:
Address of Applicant Authority:

The court found that:

(i) the defendant acted in the following anti-social manner, which caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself:

And (ii) this order is necessary to protect persons from further anti-social acts by him.

And it is ordered that the defendant [NAME] is prohibited from ...
Until [...] [further order]

Justice of the Peace
[By order of the clerk of the court]

NOTE: If, without reasonable excuse, the defendant does anything which he is prohibited from doing by this order, he shall be liable on conviction to a term of imprisonment not exceeding five years or to a fine or to both.

SCHEDULE 4

Rule 4(4)

FORM

Order on Conviction
(Crime and Disorder Act 1998, s.1C)

.....Magistrates' Court
(Code)

1. On the [date] the Magistrates' Court sitting at convicted

Name: [defendant]
Address:

Date of Birth:of

Offence(s) [relevant offence(s)]

and imposed the following sentence/conditional discharge

2. The court found that:

(i) the defendant had acted in the following anti-social manner, which caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself, [details of behaviour]

and that

(ii) an order was necessary to protect persons in England and Wales from further anti-social acts by him.

3. It is ordered that the defendant [name] is prohibited from:

.....

[Where appropriate, the court must specify whether any of the requirements of the order are suspended until the defendant's release from custody]

Until [] [further order].

Justice of the Peace
[By order of the clerk of the court]

NOTE: If without reasonable excuse the defendant does anything which he is prohibited from doing by this order, he shall be liable on conviction to a term of imprisonment not exceeding five years or to a fine or to both.

SCHEDULE 5

Rule 4(5)

FORM

**Application for an Interim Order
(Crime and Disorder Act 1998, s.1D)**

.....Magistrates' Court
(Code)

Date:
Defendant:
Address:

Applicant Authority:
Relevant Authorities
Consulted:

Reasons for applying
for an interim order:

Do you wish this application to be heard: without notice being given to the defendant
 with notice being given to the defendant

If you wish the application to be heard without notice state reasons:—
.....
.....

The complaint of:
Address of Applicant Authority:

Who [upon oath] states that the information given above is correct.

Taken [and sworn] before me.

Justice of the Peace
[By order of the clerk of the court]

NOTE: This application must be accompanied by an application for an anti-social behaviour order (Crime and Disorder Act 1998, s.1).

FORM

Interim Order
(Crime and Disorder Act 1998, s.1D)

Magistrates' Court
(Code)

Date:
Defendant:
Address:

On the complaint of
Complainant:
Applicant Authority:
Address of Applicant:
Authority:

The court makes an Interim Anti-Social Behaviour Order against the defendant.

The reasons for making this order are

And the court found that it is just to make this order pending the determination of the application for an anti-social behaviour order, which application is attached to this order.

This order has/has not been made without notice.

The court orders that the defendant is prohibited from

Until [] [further order].

This order will end on

The court also orders all parties to attend at on or/A hearing will take place in respect of the main application on at

A summons requiring your attendance at that hearing is attached.

Justice of the Peace
[Justices' Clerk]

NOTE: If, without reasonable excuse, the defendant does anything which he is prohibited from doing by this order, he shall be liable on conviction to a term of imprisonment not exceeding five years or to a fine or to both.

About this Order

This is an interim anti-social behaviour order. The court has made this order because it considers it just to do so pending the determination of an application for an anti-social behaviour order against you. The court believes that you have acted in an anti-social manner, and that this order is necessary to protect people from further anti-social acts by you. Anti-social behaviour is behaviour which caused or was likely to cause harassment, alarm or distress to people outside of your household.

If, without reasonable excuse, you do anything which is prohibited by this order you will be guilty of an offence, for which you could be punished by a term of imprisonment or by a fine or by both.

The order will end on the date specified unless a further order is made.

You may apply to the court to end or to vary this order. You should consult a solicitor or the court office to find out how to do this.

You must attend court for the next hearing date, which is specified in the summons accompanying this order.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules provide forms in relation to anti-social behaviour orders and set out the procedure for applying for interim orders, or for variation or discharge of anti-social behaviour orders, and make provision for service.

Section 1 of the Crime and Disorder Act 1998 enables certain ‘relevant authorities’ – councils for local government areas, chief officers of police, British Transport Police and registered social landlords – to apply for anti-social behaviour orders. These orders can be made in relation to persons of the age of ten years or over if the court finds that they have acted in an anti-social manner and that the order is necessary to protect the public from further anti-social acts. Similar orders can be made by the court on its own initiative, under section 1C, after conviction in criminal proceedings, if it finds that the defendant has behaved in an anti-social manner.

These Rules will come into force on 2nd December 2002.

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