Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2004 No. (N.I.)

NORTHERN IRELAND

The Anti-social Behaviour (Northern Ireland) Order 2004

Made - - - - 2004

Coming into operation in accordance with Article 1(2)

At the Court at Buckingham Palace, the ** day of ** 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Anti-social Behaviour (Northern Ireland) Order 2004.

(2) Articles 3 to 8 shall come into operation on such day as the Secretary of State may by order appoint.

(3) An order under paragraph (2) may contain such transitional provisions as the Secretary of State thinks necessary or expedient.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"anti-social behaviour order" means an order under Article 3, 4 or 6;

"the commencement date" means the date on which Article 3 comes into operation.

(3) In this Order "a relevant authority" means—

(a) a district council;

(b) the Chief Constable; or

(c) the Northern Ireland Housing Executive.

(4) In this Order "relevant persons" means—

(a) in relation to a district council, persons within the district of the council;

(b) in relation to the Chief Constable, persons within Northern Ireland;

(c) in relation to the Northern Ireland Housing Executive—

(i) persons who are residing in or who are otherwise on or likely to be on premises provided or managed by the Executive; or

(ii) persons who are in the vicinity of or likely to be in the vicinity of such premises.

(5) In this Order, in relation to an anti-social behaviour order—

(a) references to "the relevant authority" are references to the relevant authority on whose application the order is made; and

(b) references to "the defendant" are references to the person in respect of whom the order is made.

(6) The Chief Constable may direct in writing that such of his functions under this Order as are specified in the direction may be exercised by such police officers as are specified in the direction.

Anti-social behaviour orders on application by relevant authority

Anti-social behaviour orders on application to magistrates' court

3.—(1) An application for an order under this Article may be made by a relevant authority if it appears to the authority that the following conditions are fulfilled with respect to any person aged 10 or over, namely—

(a) that the person has acted, since the commencement date, 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

(b) that such an order is necessary to protect relevant persons from further anti-social acts by him.

(2) Such an application shall be made by complaint to a magistrates' court for the county court division in which it is alleged that the harassment, alarm or distress was caused or was likely to be caused.

(3) If, on such an application, it is proved that the conditions mentioned in paragraph (1) are fulfilled, the magistrates' court may make an order which prohibits the defendant from doing anything described in the order.

(4) For the purpose of determining whether the condition mentioned in paragraph (1)(a) is fulfilled with respect to any person, the court shall disregard any act of that person which he shows was reasonable in the circumstances.

(5) The prohibitions that may be imposed by an order under this Article are those necessary for the purpose of protecting persons (whether relevant persons or not) from further anti-social acts by the defendant.

(6) An order under this Article shall have effect for a period (not less than two years) specified in the order or until further order.

(7) Subject to paragraph (8), the relevant authority or the defendant may apply by complaint to the court which made an order under this Article for it to be varied or discharged by a further order.

(8) Except with the consent of the relevant authority and the defendant, no order under this Article shall be discharged before the end of the period of two years beginning with the date of service of the order.

(9) An appeal shall lie to the county court against the making by a magistrates' court of an order under this Article.

(10) On such an appeal the county court—

(a) may make such orders as may be necessary to give effect to its determination of the appeal; and

(b) may also make such incidental or consequential orders as appear to it to be just.

(11) Any order of the county court made on such an appeal (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of paragraph (7), be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the county court.

Interim anti-social behaviour orders on applications under Article 3

4.—(1) If, before determining an application for an order under Article 3, the court considers that it is just to make an order under this Article pending the determination of that application ("the main application"), it may make such an order.

(2) An order under this Article is an order which prohibits the defendant from doing anything described in the order.

(3) An order under this Article—

(a) shall be for a fixed period;

(b) may be varied, renewed or discharged;

(c) shall, if it has not previously ceased to have effect, cease to have effect on the determination of the main application.

(4) The prohibitions that may be imposed by an order under this Article are those necessary for the purpose of protecting persons (whether relevant persons or not) from further anti-social acts by the defendant.

(5) The relevant authority or the defendant may apply by complaint to the court which made an order under this Article for it to be varied or discharged by a further order.

(6) An appeal shall lie to the county court against the making by a magistrates' court of an order under this Article.

(7) On such an appeal the county court—

(a) may make such orders as may be necessary to give effect to its determination of the appeal; and

(b) may also make such incidental or consequential orders as appear to it to be just.

(8) Any order of the county court made on an appeal under this Article (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of paragraph (5), be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the county court.