Draft Order laid before Parliament under section 2(9) of the Criminal Justice and Police Act 2001, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

CRIMINAL LAW, ENGLAND AND WALES

The Penalties for Disorderly Behaviour (Amendment of Minimum Age) Order 2004

Made - - - -	*2004*
Coming into force - -	*2004*

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by section 2(6) and (7) of the Criminal Justice and Police Act 2001(**1**), hereby makes the following Order, a draft of which has been laid before Parliament and approved by a resolution of each House, in accordance with section 2(9) of the Criminal Justice and Police Act 2001(**2**):

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Penalties for Disorderly Behaviour (Amendment of Minimum Age) Order 2004 and shall come into force on the twenty fourth day after the day on which it is made.

(2) In this Order –

"chief officer of police" in relation to any penalty notice means the chief officer of police for the police area in which the offence to which the notice relates is alleged to have been committed or, if the penalty notice was given by a member of the British Transport Police, the Chief Constable of the British Transport Police(**3**);

"guardian" means a person who has for the time being the care of a young penalty recipient and includes a local authority who have parental responsibility for a young penalty recipient who is in their care or is provided with accommodation by them in the exercise of any social services functions;

"local authority" and "parental responsibility" have the same meanings as in the Children Act 1989(**4**);

(**1**) Sections 2(6) and (7) are inserted by section 87(3) of the Anti-social Behaviour Act 2003 (c. 38).
(**2**) 2001 c. 16; section 2(9) is inserted by section 87(3) of the Anti-social Behaviour Act 2003 (c. 38).
(**3**) Chief officer of police has the meaning given to it in section 101 of the Police Act 1996 (c. 16), by virtue of Schedule 1 to the Interpretation Act 1978 (c. 30), as amended by Schedule 7 to the Police Act 1996 and includes the Chief Constable of the British Transport Police by virtue of the definition in section 11 of the 2001 Act.
(**4**) 1989 c. 41.

"social services functions" in relation to a local authority has the meaning given by section 1A of the Local Authority Social Services Act 1970(**5**);

"young penalty recipient" means a person under the age of 16 who is given a penalty notice(**6**);

"the 2001 Act" means the Criminal Justice and Police Act 2001.

Amendment of section 2 of the Criminal Justice and Police Act 2001

2. In section 2(1) of the 2001 Act(**7**), for "16" there is substituted "10".

Notification of parent or guardian

3.—(1) The chief officer of police must notify such parent or guardian of a young penalty recipient as he thinks fit of the giving of the penalty notice concerned.

(2) A notification under paragraph (1) must be in writing and must include a copy of the penalty notice.

(3) A notification under paragraph (1) may be served –

(a) by giving it to the parent or guardian personally; or

(b) by sending it to the parent or guardian at his usual or last-known address by first-class post.

(4) A notification under paragraph (1) must be served before the end of the period of 28 days beginning with the date on which the penalty notice was given.

(5) Where a notification under paragraph (1) is sent to the parent or guardian by first-class post, service shall be deemed to have been effected on the second day after posting.

Re-issue of notification

4.—(1) This article applies if a notification is served under article 3(1) and –

(a) the chief officer of police decides that the notification should have been served on some other parent or guardian of the young penalty recipient; or

(b) the chief officer of police discovers that the person on whom the notification was served is not a parent or guardian of the young penalty recipient.

(2) The chief officer of police may cancel the original notification at any time before the end of the period of 21 days beginning with the date on which it is served.

(3) If the chief officer of police cancels the original notification under paragraph (2), he must –

(a) as soon as reasonably practicable inform the recipient of the original notification in writing that the original notification has been cancelled; and

(b) notify such other person who is a parent or guardian of the young penalty recipient as he thinks fit of the giving of the penalty notice.

(4) A notification under paragraph (3)(b) must be served before the end of the period of 14 days beginning with the date on which the original notification was cancelled.

(5) Paragraphs (2), (3) and (5) of article 3 apply to a notification under paragraph (3)(b) as they apply to a notification under article 3(1).

Liability of parent or guardian to pay penalty

5. Where a parent or guardian of a young penalty recipient is notified –

(**5**) 1970 c. 42; section 1A is inserted by section 102(3) of the Local Government Act 2000 (c. 22).
(**6**) Penalty notice is defined in section 2(4) of the 2001 Act.
(**7**) Section 2(1) is amended by section 87(2) of the Anti-social Behaviour Act 2003 (c. 38).