

STATUTORY INSTRUMENTS

2005 No. 1965 (N.I. 15)

The Criminal Justice (Northern Ireland) Order 2005

19th July 2005

Modifications etc. (not altering text)

- C1** Order: transfer of functions from Secretary of State to Department of Justice (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 4(1)(2), [Sch. 1](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)

Introductory

Title, commencement and interpretation

- 1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 2005.
- (2) The following provisions come into operation on such day or days as the Secretary of State may by order appoint—
- (a) Articles 2 to 8;
 - (b) Article 13;
 - (c) Articles 20 to 22;
 - (d) Article 24;
 - (e) Article 27 and Schedule 2 so far as relating to the Extradition Act 2003 (c.41) and the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12).
- (3) Article 16 comes into operation on the day appointed for the coming into force of section 63 of the Justice (Northern Ireland) Act 2002 (c.26).
- (4) The remaining provisions of this Order (except Article 26) come into operation one month after the day on which this Order is made.
- (5) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.

Subordinate Legislation Made

- P1** [Art. 1\(2\)](#) power partly exercised: 19.8.2005 appointed for specified provisions by [S.R. 2005/382](#), [art. 2](#);
- 18.9.2006 appointed for specified provisions by [{S.R. 2006/368}](#), art. 2;
- 12.3.2007 appointed for specified provision by [{S.R. 2007/55}](#), art. 2

Changes to legislation: The Criminal Justice (Northern Ireland) Order 2005 is up to date with all changes known to be in force on or before 05 April 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Anti-social behaviour orders

“Relevant authorities”, “relevant persons”, etc.

2.—(1) Article 2 of the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12) (interpretation) is amended as follows.

(2) After paragraph (4) insert—

“(4A) The Secretary of State may by order amend paragraph (3) by adding any person or body specified in the order to the list of relevant authorities in that paragraph.

(4B) An order under paragraph (4A) may—

- (a) amend paragraph (4) so as to specify the persons who are to be “relevant persons” in relation to any person or body added to the list of relevant authorities;
- (b) amend Article 5 so as to require consultation by or with any person or body so added before the making of an application for an order under Article 3; and
- (c) amend Article 7 so as to enable proceedings for an offence under paragraph (1) of that Article to be brought by any person or body so added.

(4C) An order under paragraph (4A) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c.36) shall apply accordingly.”

(3) In paragraph (5) after “anti-social behaviour order” insert “ under Article 3 or 4 ”.

Anti-social behaviour orders on conviction of criminal offence

3.—(1) Article 6 of the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12) (anti-social behaviour orders on conviction of criminal offence) is amended as follows.

(2) After paragraph (6) insert—

“(6A) The court may adjourn any proceedings in relation to an order under this Article even after sentencing the offender.

(6B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.

(6C) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.”

(3) In paragraph (8) at the beginning insert “ Subject to Article 6B, ”

(4) Omit paragraphs (9) to (11) and (12)(a).

Interim anti-social behaviour order on conviction in criminal proceedings

4.—(1) After Article 6 of the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12) insert—

“Interim anti-social behaviour order on conviction in criminal proceedings

6A.—(1) This Article applies where—

- (a) a request is made by the prosecution for an order under Article 6; or
- (b) the court is minded to make an order under that Article of its own motion.

(2) If, before determining the request or deciding whether to make the order of its own motion, the court considers that it is just to make an order under this Article pending the determination of the request or before making that decision, it may make such an order.

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

(4) Subject to Article 6B, 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 request or on the court's making a decision as to whether to make an order under Article 6 of its own motion.

(5) The prohibitions that may be imposed by an order under this Article are those necessary for the purpose of protecting persons in Northern Ireland from further anti-social acts by the offender.

(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.” .

(2) In Article 2(2) of that Order in the definition of “anti-social behaviour order” for “or 6” substitute “6 or 6A”.

Variation or discharge of orders under Article 6 or 6A

5. After Article 6A of the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12) (inserted by Article 4) insert—

“Variation or discharge of orders under Article 6 or 6A

6B.—(1) An order under Article 6 or 6A may specify one or more relevant authorities (other than the Chief Constable) for the purposes of exercising the functions conferred by this Article or Article 7 on a specified authority; and, in relation to any such order, any relevant authority so specified is referred to in this Article and Article 7 as a “specified authority”.

(2) Where—

- (a) an order under Article 6 is made in the circumstances mentioned in paragraph (3) (a) of that Article; or
- (b) an order under Article 6A is made in the circumstances mentioned in paragraph (1)(a) of that Article,

the relevant authority or authorities to be specified in the order shall be such as may be requested by the prosecution.

(3) Where—

- (a) an order under Article 6 is made in the circumstances mentioned in paragraph (3) (b) of that Article; or
- (b) an order under Article 6A is made in the circumstances mentioned in paragraph (1)(b) of that Article,

the relevant authority or authorities to be specified in the order shall be such as may be determined by the court.

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(4) Where an order is made under Article 6 or 6A, the prosecution must send a copy of the order to—

- (a) the Director of Public Prosecutions (if the Director is not conducting the prosecution);
- (a) the Chief Constable; and
- (b) any specified authority.

(5) A person subject to an order under Article 6 or 6A may apply to the court which made it for it to be varied or discharged.

(6) If he does so, he must send written notice of his application to—

- (a) the Chief Constable; and
- (b) any specified authority.

(7) If an application under paragraph (5) is successful, the court must serve notice of the variation or discharge on any specified authority.

(8) The Chief Constable may apply to the court which made an order under Article 6 or 6A for it to be varied or discharged.

(9) If the Chief Constable does so, he must send written notice of his application to—

- (a) the person subject to the order; and
- (b) any specified authority.

(10) If an application under paragraph (8) is successful, the Chief Constable must serve notice of the variation or discharge on any specified authority.

(11) A specified authority may apply to the court which made an order under Article 6 or 6A for it to be varied or discharged if it appears to the authority that—

- (a) in the case of variation, the protection of relevant persons from anti-social acts by the person subject to the order would be more appropriately effected by a variation of the order;
- (b) in the case of discharge, that it is no longer necessary to protect relevant persons from anti-social acts by him by means of such an order.

(12) If a specified authority does so, it must send written notice of its application to—

- (a) the person subject to the order;
- (b) the Chief Constable; and
- (c) any other specified authority.

(13) If an application under paragraph (11) is successful, the specified authority which made the application must serve notice of the variation or discharge on—

- (a) the Chief Constable; and
- (b) any other specified authority.

(14) The references in paragraphs (5), (8) and (11) to the court by which an order was made—

- (a) include, in the case of an order made by a magistrates' court, a reference to any magistrates' court acting for the same county court division as that court; and
- (b) shall be treated, in the case of an order made on appeal, as a reference to the court from which the appeal was brought (and not the appellate court).

(15) No order under Article 6 or 6A shall be discharged on an application under this Article before the end of the period of two years beginning with the day on which the order takes effect, unless—

- (a) in the case of an application under paragraph (5), the Chief Constable and any specified authority each consent,
- (b) in the case of an application under paragraph (8), any specified authority and the person subject to the order each consent, and
- (c) in the case of an application under paragraph (11), the Chief Constable, any other specified authority and the person subject to the order each consent.”.

Special measures for witnesses in proceedings for anti-social behaviour orders

6. After Article 6B of the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12) (inserted by Article 5) insert—

“Special measures for witnesses

Special measures for witnesses

6C.—(1) This Article applies—

- (a) to proceedings on an application for, or relating to the issue whether to make, vary or discharge an anti-social behaviour order; and
- (b) to proceedings on an appeal against the making of an anti-social behaviour order.

(2) Part II of the Criminal Evidence (Northern Ireland) Order 1999 (NI 8) (special measures directions in the case of vulnerable and intimidated witnesses) shall apply in relation to any such proceedings as it applies in relation to criminal proceedings, but with—

- (a) the omission of the provisions of that Part mentioned in paragraph (3) (which make provision appropriate only in the context of criminal proceedings), and
- (b) any other necessary modifications.

(3) The provisions are—

- (a) Article 5(4),
- (b) Article 9(1)(b) and (5) to (7),
- (c) Article 10(1)(b) and (2)(b) and (c),
- (d) Article 15(10), and
- (e) Article 20.

(4) Any rules of court made under or for the purposes of Part II of that Order shall apply in relation to proceedings to which this Article applies—

- (a) to such extent as may be provided by rules of court, and
- (b) subject to such modifications as may be so provided.

(5) Section 47 of the Youth Justice and Criminal Evidence Act 1999 (c.23) (restrictions on reporting special measures directions etc.) applies, with any necessary modifications, in relation to—

- (a) a direction under Article 7 of the Criminal Evidence (Northern Ireland) Order 1999, as applied by this Article, or
- (b) an order discharging or varying such a direction,

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