

**Northern Ireland Office**

**EXPLANATORY DOCUMENT**

**Proposal for a draft  
Anti-Social Behaviour (Northern Ireland) Order 2004**

**May 2004**

**NORTHERN IRELAND OFFICE  
PROPOSAL FOR A DRAFT ORDER IN COUNCIL  
UNDER PARAGRAPH 1(1) OF THE SCHEDULE TO THE  
NORTHERN IRELAND ACT 2000  
DRAFT ANTI-SOCIAL BEHAVIOUR (NORTHERN IRELAND) ORDER 2004**

**EXPLANATORY DOCUMENT**

This Explanatory Document has been prepared by the Northern Ireland Office to assist the understanding of the proposed draft Anti-social Behaviour (Northern Ireland) Order 2004 and to help inform debate on the Proposal. It does not form part of the Order.

The document should be read in conjunction with the Proposal. It is not meant to be a comprehensive description of the Proposal so when a draft Article or part of a draft Article does not require additional explanation or comment, none is given.

Comments on the Proposal are invited and should be forwarded to arrive at the address below no later than 4 June 2004.

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BELFAST  
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Comments may also be sent by email to: [cjpb@nio.x.gsi.gov.uk](mailto:cjpb@nio.x.gsi.gov.uk)

**Unless respondents say otherwise, we may wish to make their comments public.**

Further copies of the Proposal and this Document may be obtained free of charge from the above address. They are also available on the Northern Ireland Office website: [www.nio.gov.uk](http://www.nio.gov.uk).

Translations of this explanatory document are available on request at the above address. As a result of time pressures all requests for translations must be received by Monday 17 May 2004. A textphone facility is also available by phoning 028 9052 7668.

## **PART 1: INTRODUCTION AND BACKGROUND**

### **Introduction**

The draft Anti-social Behaviour (Northern Ireland) Order 2004 proposes new legislation to introduce anti-social behaviour orders (ASBOs) as a statutory measure with the aim of protecting the public from behaviour that causes or is likely to cause harassment, alarm or distress.

It is intended that these orders would be available both in circumstances where there is no associated conviction in respect of the anti-social behaviour in question and on conviction in criminal cases.

The proposals are now being brought forward by way of the draft Anti-social Behaviour (Northern Ireland) Order 2004. This paper describes these proposals.

### **Background**

ASBOs were introduced in England and Wales to meet a gap in dealing with **persistent** unruly behaviour. They were not designed to replace any existing legislation or sanctions but to complement measures that both the police and local authorities already had available to them to combat anti-social behaviour, for example, under existing environmental, housing and noise legislation.

In England and Wales the Crime and Disorder Act 1998 introduced the concept of ASBOs. This Act (as originally enacted) provided that a relevant authority in England and Wales, that is a local authority or the police, could apply by complaint to a magistrates' court for an order (an ASBO) which prohibited a person from doing anything described in that order. An ASBO lasts for two years generally and can be imposed on anyone aged 10 or over. The penalties for breach of the order on summary conviction are 6 months or a fine of the statutory maximum or both, or on indictment 5 years or an unlimited fine or both.

These provisions were expanded by the Police Reform Act 2002 to, amongst other things, give criminal courts the power to issue an ASBO on conviction of a criminal offence. Most recently the Anti-social Behaviour Act 2003 added further amendments to the provisions.

When the 1998 Act was being prepared, consideration was given to extending the provisions relating to anti-social behaviour orders to Northern Ireland. However, in Northern Ireland there was no direct equivalent to the local authorities in England and Wales, which have not only a representative function, but which are also responsible for education, housing and social services. It was therefore decided to monitor the development of ASBOs in England and Wales and consider the Northern Ireland position in light of experience gained.

In April 2002 the then Secretary of State published a consultation paper on community safety in Northern Ireland which used recorded crime data, research

findings on victimisation and fear of crime, and involved consultation with key people working in community safety to identify specific issues which needed to be addressed. These included street violence, low level neighbourhood disorder and anti-social behaviour. The community safety strategy published in March 2003 identified that the legislation in England and Wales on anti-social behaviour needed to be examined to see if it was appropriate for Northern Ireland and suggested that initiatives might include anti-social behaviour orders.

### **In summary**

The Government has a priority to make the Criminal Justice system in Northern Ireland more effective and to ensure that Northern Ireland is a safe society.

Anti-social behaviour is an increasing cause of anxiety and concern in Northern Ireland. Not only are the lives of people and communities blighted by anti-social behaviour but there are well-founded concerns about the links between anti-social behaviour and criminal actions.

This draft legislation is a response to community concerns about anti-social behaviour in general and reinforces the Government's commitment to have a Criminal Justice system that is responsive to public concerns and that increases the community's confidence in the ability of the Criminal Justice System to protect them.

## **PART 2: THE PROVISIONS OF THE PROPOSED DRAFT ORDER**

The proposed draft Order would provide:

- For the introduction of anti-social behaviour orders (ASBOs) as a statutory measure in Northern Ireland, with the aim of protecting the public from behaviour that causes or is likely to cause harassment, alarm or distress;
- That in circumstances where there is no associated conviction the police, the relevant district council or the Northern Ireland Housing Executive would be entitled to seek an ASBO on application to a civil court (i.e. a magistrates' court) in respect of anti-social behaviour where such an order is necessary to protect relevant persons from further anti-social acts by the person who is subject to the ASBO.
- That ASBOs may also be made on conviction in criminal proceedings, where the court is satisfied that the convicted person has acted in an anti-social manner and that an ASBO is necessary to protect persons within Northern Ireland from further anti-social acts by him; and
- That breach of an ASBO would be a criminal offence subject to a penalty of up to five years' imprisonment or a fine or both.

**The detailed provisions of the draft proposed Order are set out in Annex A.**

## **PART 3: OTHER INFORMATION**

### **Perceptions of anti-social behaviour in Northern Ireland**

The most recent Northern Ireland Office research on fear of crime in Northern Ireland identified that from a range of anti-social behaviour categories, approximately one in three respondents to the 2001 Northern Ireland Crime Survey identified teenagers hanging around and vandalism/graffiti as being very or fairly big problems in their area. For all of the categories of respondent in the 1998 survey, the perception was that there had been an increase in anti-social behaviour.

### **Consultation**

A 12 week public consultation entitled “Measures to Tackle Anti-social Behaviour in Northern Ireland” was held, which covered issues relating to Anti-social Behaviour Orders (ASBOs), which require legislation, and Acceptable Behaviour Contracts (ABCs), which do not; the draft Order refers only to ASBOs. This policy consultation attracted 69 responses and closed on 1 April 2004. Whilst some concerns were expressed, the majority of respondents (50) recorded support for proposals for the development of ABCs, ASBOs linked to a criminal conviction and ASBOs by application to a civil court. A summary of the responses to this consultation exercise will be made available on the Northern Ireland Office website.

### **Comparisons with England and Wales**

To a large extent the proposals contained within the draft Order mirror the position in England and Wales.

As with the proposals for Northern Ireland, anti-social behaviour orders are civil (ie. not criminal) orders in England and Wales. They were created by the Crime and Disorder Act 1998 and modified by the Police Reform Act 2002 and the Anti-social Behaviour Act 2003. They are made by a court to protect the public from behaviour which causes harassment, alarm or distress and contain restrictions on the actions and behaviour of the individual to protect the community from further anti-social acts.

ASBOs are seen as having a number of advantages when compared to existing criminal sanctions in England and Wales. Because they are civil orders, hearsay evidence may be admissible, which means that a court may rely on expert witnesses. This can make it easier for members of the public to make complaints about the anti-social behaviour of individuals without the risk of having to appear in court and the fear of reprisals. Also, when making an ASBO, the court may take into account the full range of anti-social behaviour involved, whereas in dealing with a criminal offence a court can only sentence for specific offences and not for associated behaviour. Under the proposed draft Order, ASBOs would operate in a similar fashion in Northern Ireland.

When ASBOs were first introduced in England and Wales they could be applied for either by police or by a local authority, following consultation the one with the other.

The Police Reform Act 2002 extended the bodies which can apply for ASBOs to include the British Transport Police and registered social landlords. If a body other than the police is making the application the police must always be consulted. Northern Ireland has no direct equivalent to local authorities and instead the relevant authorities who may apply for an ASBO in Northern Ireland are a district council, the police or the Northern Ireland Housing Executive. Under the proposed Order, any relevant authority in Northern Ireland must consult the other relevant authorities before making an application for an ASBO.

The Police Reform Act 2002 provided for criminal courts in England and Wales to be empowered to issue an ASBO on conviction of a criminal offence. The order on conviction is not part of the sentence and can only be issued in addition to a sentence or a conditional discharge. The draft Anti-social Behaviour (Northern Ireland) Order 2004 proposes that ASBOs should also be available in Northern Ireland on conviction in criminal proceedings.

Legislation in England and Wales provides for “interim ASBOs” to be made at an initial court hearing held in advance of the full hearing. This temporary order can impose the same prohibitions and has the same penalties for breach as a normal ASBO. Under the proposed draft Order similar measures for interim ASBOs would also be introduced for Northern Ireland.

Again it is proposed that Northern Ireland legislation should replicate measures in England and Wales in respect of breach of an ASBO, which is a criminal offence attracting a maximum sentence, on indictment, of five years’ imprisonment.

## **Equality**

Section 75 of the Northern Ireland Act 1998 requires public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity in the nine categories set out in the statute.

In addition the Northern Ireland Office is required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

Our initial equality screening of the draft Order to assess whether it might impact adversely on any of the groups mentioned in Section 75 confirmed that the Order is not likely to have an adverse differential impact on any of the groups.

## ANNEX A DETAILS OF PROVISIONS

### Title and commencement

**Article 1** provides the title of the Order and deals with its commencement.

### Interpretation

**Article 2** attracts to the Order the provisions of the Interpretation Act (Northern Ireland) 1954 and defines certain terms used within the Order.

### Anti-social behaviour orders on application to magistrates' court

**Article 3** sets out provisions in respect of anti-social behaviour orders made on application to a magistrates' court.

The effect of paragraph (1) is to enable a relevant authority, that is a district council, the Chief Constable of the Police Service of Northern Ireland or the Northern Ireland Housing Executive ("the NIHE"), to apply for an anti-social behaviour order to be made in respect of any person aged 10 or over, provided that certain conditions are fulfilled. These conditions are that the person has acted 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 that such an order is necessary to protect relevant persons from further anti-social acts by him. "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 NIHE persons residing in premises provided or managed by the NIHE or persons in the vicinity of such premises.

As these orders will be civil orders, hearsay or professional evidence will be admissible, therefore it will not be necessary for those who have been directly affected by the behaviour to give evidence of the effect of the behaviour on themselves. It will be sufficient for a witness with appropriate expertise to observe events and produce evidence of the events which would illustrate that the behaviour would be likely to cause, for example, harassment to anyone subject to it. This is an important safeguard because often those directly affected by anti-social behaviour are reluctant to give evidence, because of fear that they may be targeted in the future.

Under paragraph (3) a magistrates' court is enabled to make an order which prohibits the defendant from doing anything in the order. Prohibitions should be reasonable, proportionate, realistic and practical. It is intended that conditions should be specific, for example in matters of time, if someone is being prohibited from an area at certain times, or when referring to exclusion from an area, boundaries should be made clear by use of street names. Prohibitions should also cover acts which are pre-cursors to criminal acts, such as entering a shopping centre, and situations where the defendant may incite others to engage in anti-social behaviour.

Paragraph (5) ensures that the prohibitions imposed by an order should be those which are necessary for the purpose of protecting persons in a defined area, or indeed the whole of, Northern Ireland from anti-social acts by the defendant. It is intended that the court will decide the duration of an order, although, under paragraph (6) the minimum duration is set at two years. The duration of the order should not be a reflection of the nature of the conduct of the defendant, but rather the period of time deemed necessary to protect the community.

Paragraphs (7) and (8) provide that application for early discharge of the order within two years of the date of service of the order will only be possible with the agreement of the relevant authority and the defendant. Under paragraph (7) applications may also be made by either party to vary the ASBO.

Paragraphs (9) to (11) make provision for appeals to the county court against the making of an ASBO.

### Interim anti-social behaviour orders on applications under Article 3

**Article 4** provides that interim orders may be made by a magistrates' court in circumstances where the main application has not been determined. An order under this Article can prohibit a defendant from doing anything described in the order and shall be for a fixed period. Such an order may be varied, renewed or discharged and, if it has not already ceased to have effect, it ceases to have effect on the determination of the main application for an ASBO. A person can appeal to the county court against the making of an interim order under this Article.

### Applications under Article 3: consultation

**Article 5** contains a statutory requirement for the body making the application to consult with its counterparts about whether the application should be made and about the proposed content of the application. This is necessary in order to avoid the possible risk of parallel proceedings being taken in respect of the same behaviour, for example, the anti-social behaviour may be such that it leads to a criminal charge. It is not intended that one of the relevant authorities should bring an application for an ASBO at the same time as criminal proceedings for the same behaviour are underway.

### Anti-social behaviour orders on conviction in criminal proceedings

**Article 6** makes provision for ASBOs to be made on conviction in criminal proceedings where the court is satisfied that the convicted person has acted in an anti-social manner, namely 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 that an ASBO is necessary to protect people within Northern Ireland from further anti-social acts by him. No application from any of the relevant authorities under Article 2 would be necessary. An ASBO can be made by the court either if asked for by the prosecution or of its own motion.

Paragraph (5) provides that it is immaterial whether evidence produced for the purpose of deciding whether to make such an order would have been admissible in the proceedings in which the offender was convicted. This means that hearsay evidence is admissible.

Under paragraph (6) an order made under these circumstances would be made in addition to any sentence or conditional discharge which the court might impose and is not part of the sentence. Paragraph (7) empowers the court to provide for the suspension of certain requirements of an ASBO during a period of detention in legal custody until release from that custody.

The minimum duration of an ASBO under Article 6 is two years, during which period the offender to whom the order applies is unable to make an application to have the order varied or discharged.

#### Breach of anti-social behaviour orders

**Article 7** provides that breach of an ASBO will be a criminal offence for which the normal procedures for prosecution of criminal offences should apply. It is intended that cases should be heard summarily in a magistrates' court and on indictment in the Crown Court.

Under paragraph (1) the maximum penalty available on summary conviction would be six months' imprisonment or a fine of up to the statutory maximum, or both. The maximum penalty on conviction on indictment would be five years imprisonment, or a fine or both.

#### Restrictions on reporting

**Article 8** makes provision whereby a court, when making an anti-social behaviour order against a child, may direct that no report shall be published in a newspaper or any broadcast which reveals the name, address or school of the child or includes any particulars likely to lead to the identification of the child and that no picture is to be published as being or including a picture of the child. If someone breaches a prohibition by the court under this Article he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 5 on the standard scale, that is £5000.

*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*

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DRAFT STATUTORY INSTRUMENTS

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**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)*

**ARRANGEMENT OF ORDER**

*Introductory*

1. Title and commencement
2. Interpretation
  - Anti-social behaviour orders on application by relevant authority*
3. Anti-social behaviour orders on application to magistrates' court
4. Interim anti-social behaviour orders on applications under Article 3
5. Applications under Article 3: consultation
  - Anti-social behaviour orders on conviction in criminal proceedings*
6. Anti-social behaviour orders on conviction in criminal proceedings
  - Breach of anti social-behaviour orders*
7. Breach of anti-social behaviour orders
  - Restrictions on reporting proceedings for orders against children*
8. Restrictions on reporting proceedings for orders against children



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.

### **Applications under Article 3: consultation**

5.—(1) Before making an application for an order under Article 3, a district council shall consult—

- (a) the Chief Constable; and

- (b) if the person in relation to whom the application is to be made resides or appears to reside on premises provided or managed by the Northern Ireland Housing Executive, the Executive.
- (2) Before making such an application, the Chief Constable shall consult—
  - (a) the council for the district in which the person in relation to whom the application is to be made resides or appears to reside; and
  - (b) if that person resides or appears to reside on premises provided or managed by the Northern Ireland Housing Executive, the Executive.
- (3) Before making such an application, the Northern Ireland Housing Executive shall consult—
  - (a) the council for the district in which the person in relation to whom the application is to be made resides or appears to reside; and
  - (b) the Chief Constable.

*Anti-social behaviour orders on conviction in criminal proceedings*

**Anti-social behaviour orders on conviction in criminal proceedings**

6.—(1) This Article applies where a person (the "offender") is convicted of a relevant offence.

- (2) If the court considers—
  - (a) that the offender has acted, at any time 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 an order under this Article is necessary to protect persons within Northern Ireland from further anti-social acts by him,

it may make an order which prohibits the offender from doing anything described in the order.

- (3) The court may make an order under this Article—
  - (a) if the prosecution asks it to do so; or
  - (b) if the court thinks it is appropriate to do so.
- (4) For the purpose of deciding whether to make an order under this Article the court may consider evidence led by the prosecution and the defence.
- (5) It is immaterial whether evidence led in pursuance of paragraph (4) would have been admissible in the proceedings in which the offender was convicted.
- (6) An order under this Article shall not be made except—
  - (a) in addition to a sentence imposed in respect of the relevant offence; or
  - (b) in addition to an order discharging the offender conditionally.
- (7) An order under this Article takes effect on the day on which it is made, but the court may provide in any such order that such requirements of the order as it may specify shall, during any period when the offender is detained in legal custody, be suspended until his release from that custody.

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

(9) An offender subject to an order under this Article may apply to the court which made it for it to be varied or discharged.

(10) In the case of an order under this Article made by a magistrates' court, the reference in paragraph (9) to the court by which the order was made includes a reference to any magistrates' court acting for the same county court division as that court.

(11) No application may be made under paragraph (9) for the discharge of an order before the end of the period of two years beginning with the day on which the order takes effect.

(12) The functions of—

(a) the Director of Public Prosecutions under Article 5 of the Prosecution of Offences (Northern Ireland) Order 1972 (NI 1), and

(b) the Director of Public Prosecutions under section 31 of the Justice (Northern Ireland) Act 2002 (c.36),

include having the conduct of applications for orders under this Article.

(13) In this Article—

"the court" in relation to an offender means the court by or before which he is convicted of the relevant offence;

"relevant offence" means an offence committed after the coming into operation of this Article.

#### *Breach of anti social-behaviour orders*

#### **Breach of anti-social behaviour orders**

7.—(1) If without reasonable excuse a person does anything which he is prohibited from doing by an anti-social behaviour order, he shall be guilty of an offence and liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

(2) Proceedings for an offence under paragraph (1) may be brought by a district council if the order in question was made on the application of that council.

(3) Proceedings for an offence under paragraph (1) may be brought by the Northern Ireland Housing Executive if the order in question was made on the application of the Executive.

(4) Where a person is convicted of an offence under paragraph (1), it shall not be open to the court by or before which he is so convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) in respect of the offence.

*Restrictions on reporting proceedings for orders against children*

**Restrictions on reporting proceedings for orders against children**

**8.**—(1) Where a court makes an anti-social behaviour order against a child, the court may direct that—

- (a) no report shall be published which reveals the name, address or school of the child or includes any particulars likely to lead to the identification of the child; and
- (b) no picture shall be published as being or including a picture of the child.

(2) If a report or picture is published in contravention of a direction under paragraph (1), the following persons—

- (a) in the case of publication of a written report or a picture as part of a newspaper, any proprietor, editor or publisher of the newspaper;
- (b) in the case of the inclusion of a report or picture in a programme service, any body corporate which provides the service and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Paragraph (4) applies in relation to proceedings in which an order is made under Article 6 in respect of a child.

(4) In so far as the proceedings relate to the making of the order, Article 22 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (restrictions on reporting criminal proceedings concerning child) does not apply in respect of the child.

(5) In this Article—

“child” means a person who is under the age of 17;

“picture” means a picture in a newspaper and a picture included in a programme service;

“programme service” has the same meaning as in the Broadcasting Act 1990 (c.42);

“publish” includes—

- (a) include in a programme service;
- (b) cause to be published;

“report” means a report in a newspaper and a report included in a programme service.