

[2003] 1 AC

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R (McCann) v Manchester Crown Ct (HL(E))
Lord Steyn

- A “(2) A relevant authority shall not make such an application without consulting each other relevant authority.
“(3) Such an application shall be made by complaint to the magistrates’ court . . .
“(4) If, on such an application, it is proved that the conditions mentioned in subsection (1) above are fulfilled, the magistrates’ court
B may make an order under this section (an ‘anti-social behaviour order’) which prohibits the defendant from doing anything described in the order.
“(5) For the purpose of determining whether the condition mentioned in subsection (1)(a) above is fulfilled, the court shall disregard any act of the defendant which he shows was reasonable in the circumstances.
C “(6) The prohibitions that may be imposed by anti-social behaviour order are those necessary for the purpose of protecting from further anti-social acts by the defendant—(a) persons in the local government area; and (b) persons in any adjoining local government area specified in the application for the order . . .
“(7) An anti-social behaviour order shall have effect for a period (not less than two years) specified in the order or until further order.
D “(8) Subject to subsection (9) below, the applicant or the defendant may apply by complaint to the court which made an anti-social behaviour order for it to be varied or discharged by a further order.
“(9) Except with the consent of both parties, no anti-social behaviour order shall be discharged before the end of the period of two years beginning with the date of service of the order.
E “(10) If without reasonable excuse a person does anything which he is prohibited from doing by an anti-social behaviour order, he shall be 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.
F “(11) Where a person is convicted of an offence under subsection (10) above, it shall not be open to the court by or before which he is so convicted to make an order under subsection (1)(b) (conditional discharge) of section 1A of the Powers of Criminal Courts Act 1973 (‘the 1973 Act’) in respect of the offence.”

The section falls into two distinct parts. Subsection (1) deals with the making of the application, the requirements for the making of an order,
G the making of an order, and consequential matters. Subsections (10) and (11) deal with the consequences of a breach of the order.

7 Article 6 of the European Convention provides as follows:

- H “1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion

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