

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 6 – Non-Custodial Punishments

Section 44 – Interim anti-social behaviour orders

219. [Section 44](#) amends the Crime and Disorder Act 1998 (the 1998 Act) to empower a sheriff to make an interim anti-social behaviour order in an application for an anti-social behaviour order under section 19 of the 1998 Act.
220. Section 19 of the 1998 Act provides that a local authority may apply to the sheriff for an anti-social behaviour order (ASBO) on the grounds that:
- a person has acted in an anti-social manner (i.e. in a manner that caused or was likely to cause alarm or distress); or
 - a person has pursued a course of anti-social conduct that caused or was likely to cause alarm or distress to one or more persons not of the same household as him or herself and that an order is necessary to protect persons in the authority's area from further anti-social acts or conduct by the person concerned.
221. If satisfied that these conditions are fulfilled the sheriff may make an anti-social behaviour order which will prohibit the person named in the order from doing anything described in the order.
222. There is no provision for interim anti-social behaviours in the 1998 Act. Section 44 amends sections 19, 21 and 22 of the 1998 Act, which makes provision for anti-social behaviour orders.
223. [Section 44](#) inserts new subsection (2A) into section 19 of the 1998 Act which enables interim anti-social behaviour orders ("an interim ASBO") to be made. Subsection (2A) provides that when an anti-social behaviour order is applied for a sheriff may grant an interim order pending the final decision, if satisfied that:
- if the actions complained of were established the criteria for an ASBO would be satisfied; and
 - an interim order is necessary to protect persons in the local authority area from further anti-social acts or conduct by the person against whom the order is sought.
224. The person in respect of whom the application is made must have received intimation of the application for an interim ASBO and it will be open to the court in its discretion to take account of any representations made following intimation.
225. Subsection (2) amends section 21 of the 1998 Act, which regulates the procedural provisions with respect to ASBOs, to make provision for an appeal against the granting of an interim ASBO and provides that the interim ASBO may continue in force whilst subject to an appeal. Subsection (3) makes provision for an amendment to section 22

*These notes relate to the Criminal Justice (Scotland) Act 2003 (asp 7)
which received Royal Assent on 26 March 2003*

of the 1998 Act in order that a breach of an interim ASBO may be treated as a criminal offence.