

ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Antisocial Behaviour Orders

Section 7 – Interim antisocial behaviour orders

27. **Section 7** makes provision for interim antisocial behaviour orders. Interim orders were introduced by the Criminal Justice Act (Scotland) 2003, which amended the Crime and Disorder Act 1998. Interim orders provide more immediate protection from antisocial behaviour as an interim order can be made by the court before it hears the full evidence in relation to an application where the court considers that an order is needed to protect the public from antisocial behaviour. The provisions in the 1998 Act are being repealed.
28. **Section 7(2)** provides that the sheriff must be satisfied that the person is aged 12 years or more, that *prima facie* the specified person has engaged in antisocial behaviour and that an interim order is necessary for the purpose of protecting relevant persons from further antisocial behaviour.
29. Subsection (3) provides that where the specified person is a child, the sheriff shall have regard to any views expressed by the Principal Reporter in determining whether to make an interim order.
30. By applying section 4(6) and (7) to interim orders as they apply to antisocial behaviour orders, section 7(5) has the effect that the prohibitions imposed in an interim order must be necessary for the purposes of protecting persons from further antisocial behaviour by the specified person.
31. Subsection (6) requires the sheriff to explain in ordinary language matters specified in subsection (6) before making an interim order, where the specified person is in court. However, subsection (7) provides that a failure to comply with this requirement shall not affect the validity of the order.
32. Subsection (8) provides that an interim order can be appealed, though the order will continue to have effect pending the outcome of the appeal due to the ordinary operation of law. This is without prejudice to any power of the court to recall the order.