

# **ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 3 – Dispersal of Groups**

##### ***Section 21 – Powers exercisable in pursuance of authorisations***

59. Subsection (1) sets out that where a constable has reasonable grounds for believing that the presence or behaviour of a group of two or more persons in any public place in the relevant locality is causing or is likely to cause alarm or distress to any members of the public, the constable may give a direction requiring the persons in the group to disperse. In doing so the constable must have regard to whether the exercise of the power to disperse would be likely to result in the persons in the group causing less harm or distress to members of the public there than if the power were not exercised, subsection (2).
60. In terms of subsection (3), the constable may also give a direction requiring any of those persons who do not live in the locality to leave it or any part of it; or a direction prohibiting any of those persons who do not live in the area from returning to it or any part of it for a specified period of up to 24 hours. Subsection (4) requires that the constable may require the first two of these directions to be complied with either immediately or at such a time and in such a way as is specified in that direction.
61. Subsection (5) sets out that none of the above directions may be given by a constable in respect of a group of persons who are engaged in conduct which is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992. Such conduct is defined as attendance by a person, in contemplation or furtherance of a trade dispute, at or near his own place of work, for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working. If the person is an official of a trade union, then such attendance can take place at or near the place of work of a member of the union whom he is accompanying and whom he represents. Subsection (5) also sets out that none of the above directions may be given by a constable in respect of a group of persons who are taking part in a procession which has been notified in accordance with section 62 of the Civic Government (Scotland) Act 1982 (or which, by virtue of subsection (6) or (7) of that section, does not require to be notified). This Act deals with all processions which take place in a public place, notice of which must be given to the regional or islands council in whose area the procession is to be held.