



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 10

FURTHER CRIMINAL MEASURES

Sale of spray paint to children

123 Requirement to display warning statement

- (1) A notice displaying the statement— “ It is illegal to sell a spray paint device to anyone under the age of 16 ”
shall be exhibited at an appropriate place at every premises at which spray paint devices are sold by retail.
- (2) In subsection (1), “appropriate place” means a prominent position where the statement is readily visible to persons at the point of sale of spray paint devices.
- (3) The dimensions of the notice to be exhibited in accordance with subsection (1), and the size of the statement to be displayed on it, shall be such as may be prescribed by regulations made by the Scottish Ministers.
- (4) Where—
 - (a) a person carries on a business involving the retail of spray paint devices at any premises; and
 - (b) no notice is exhibited in accordance with subsection (1) at those premises,
that person shall be guilty of an offence.
- (5) A person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) It shall be a defence for a person charged with an offence under subsection (4) to show that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Changes to legislation: *Antisocial Behaviour etc. (Scotland) Act 2004, Section 123 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (7) Where an offence under subsection (4) is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence.
- (8) In subsection (7), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (9) Where an offence under subsection (4) is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership shall be guilty of that offence.
- (10) In this section—
 - “premises” includes—
 - (a) any place; and
 - (b) any vehicle, vessel, aircraft, hovercraft, stall or moveable structure; and
 - “spray paint device” has (except where it appears in the statement set out in subsection (1)) the same meaning as in section 122(1).

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 85B inserted by [2014 asp 14 s. 21\(1\)](#)