

ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Antisocial Behaviour Strategies

Section 1 – Antisocial behaviour strategies

7. This section places certain duties on local authorities and chief constables in relation to antisocial behaviour strategies. It replaces section 22A of the [Crime and Disorder Act 1998 \(c.37\)](#) which is repealed by schedule 5.
8. **Section 1** places each local authority under a duty to prepare, publish and keep under review an antisocial behaviour strategy for its area. The strategy is to be prepared jointly with the “relevant chief constable”, who is defined in subsection (11) as being the chief constable for the police area which forms all or part of the area of the local authority. “Local authority” is defined in section 143 as a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 and “area”, in relation to a local authority, means the local government area for which the council is constituted.
9. Subsection (3) sets out a number of things which the strategy must contain. The list is not exhaustive. Subsection (3)(c) mentions consulting “community bodies”. “Community bodies” is defined in subsection (11) by reference to section 15(4) of the Local Government in Scotland Act 2003. Section 15(4) of that Act defines “community bodies” as bodies or other groupings, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities resident or otherwise present in the area of the local authority.
10. Subsections (4) and (5) deal with the review and revision of strategies.
11. Subsection (6) introduces a requirement for the local authority to consult in preparing, reviewing and revising the strategy. The local authority is under a duty to consult the Principal Reporter (as established under section 127 of the Local Government etc (Scotland) Act 1994), registered social landlords which provide or manage property in their area and such community bodies and other persons as they consider appropriate. “Registered social landlord” is defined at section 143(2) as a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001. Subsection (7) provides that the local authority must seek to include those bodies and persons which are representative of persons adversely affected by antisocial behaviour in considering which persons to consult.
12. Subsection (8) provides that the local authority and chief constable shall have regard to any guidance given by the Scottish Ministers in exercising their functions under this section and in implementing a strategy. Subsection (9) requires Ministers to consult such persons as they see fit before giving any such guidance.

13. Subsection (10) provides that for the purposes of preparing a strategy, the Scottish Ministers may, by directions, require persons who appear to them to hold information relating to antisocial behaviour to supply that information to the appropriate local authority and chief constable.

Section 2 – Reports and information

14. Subsection (1) requires each local authority to publish from time to time reports on how the authority and chief constable have implemented the antisocial behaviour strategy and what the results of that implementation have been. Subsection (3) provides that the Scottish Ministers may make regulations determining the form, content, frequency and timing of reports made under subsection (1). Before making such regulations, the Scottish Ministers shall consult such associations of local authorities and other persons as they think fit. Subsection (5) enables the Scottish Ministers to require a local authority to submit reports or information to them on the implementation and results of implementation of the strategy.
15. Subsection (2) places a duty on registered social landlords and the Principal Reporter, as well as the chief constable, to provide such information as the local authority may reasonably require to enable the local authority to comply with the duty under subsection (1).

Section 3 – Scottish Ministers’ power to apply sections 1 and 2 to registered social landlords

16. Section 3 provides that the Scottish Ministers may make regulations to secure the participation of any registered social landlord in the preparation, review or revision of an antisocial behaviour strategy. These regulations are subject to negative resolution procedure.
17. Subsection (2) provides that these regulations may modify subsections (1), (3), (4), (6) and (8) of section 1 and subsection (1) of section 2 for the purpose of ensuring the registered social landlord is appropriately involved in the preparation, review or revision of the strategy. This may be necessary if the requirements in those subsections, which relate to the duty to prepare a strategy and the content, review and consultation requirements relating to a strategy need to be changed in light of the decision to regulate to secure the participation of a registered social landlord.