

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 10 – Further Criminal Measures**

##### ***Section 118 – Antisocial behaviour orders***

258. [Section 118](#) inserts a new section 234AA into the Criminal Procedure (Scotland) Act 1995 to allow a criminal court to impose an antisocial behaviour order on conviction. The section provides that a court may impose an antisocial behaviour order instead of, or in addition to any sentence where the person is convicted of an offence involving antisocial behaviour. The court must be satisfied, on the balance of probabilities, that the making of an antisocial behaviour order is necessary for the purpose of protecting other persons from further antisocial behaviour by the offender and that the offender was aged 12 years or more at the time of the offence.
259. The definition of antisocial behaviour inserted at section 234AA(3) of the Criminal Procedure (Scotland) Act 1995 is the same as the definition used in the general interpretation section of the Act (section 143(1)).
260. [Subsection 11](#) involves a consequential amendment listed at Schedule 4, paragraph 5(2). This amends the Criminal Procedure (Scotland) Act 1995 to ensure section 9(6) of this Act applies in criminal antisocial behaviour orders.
261. [Section 118](#) also inserts section 234AB to the Criminal Procedure (Scotland) Act 1995 to make provision on notification of antisocial behaviour orders made in the criminal court. Section 234AB provides that where an antisocial behaviour order is made or varied the court by which the order is made or varied shall arrange for a copy of the order to be served on the offender and given to the local authority it considers most appropriate. In this section “offender” means the person in respect of whom the antisocial behaviour order was made.
262. Section 234AB(4) provides that a copy of the order is served on the offender if it is given to them or sent to them by registered post or the recorded delivery service.