



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 13

MISCELLANEOUS AND GENERAL

Miscellaneous

138 Privacy of certain proceedings

- (1) Subject to subsection (2)—
- (a) proceedings mentioned in subsection (4) shall be conducted and determined in private; and
 - (b) no person other than a person whose presence is necessary for their proper consideration shall be present.
- (2) The court before which particular proceedings are taking place may direct that the proceedings—
- (a) shall take place in public; or
 - (b) shall take place in the presence of such additional persons as the court may direct.
- (3) A direction under subsection (2) may be given in respect of the whole, or any part, of proceedings.
- (4) The proceedings referred to in subsection (1) are—
- (a) proceedings before a sheriff on an application for—
 - (i) an order under section 4(1) in respect of a child;
 - (ii) the variation, or revocation, under section 5(1) of such an order;
 - (iii) an order under section 102(1); or
 - (iv) the variation, or revocation, under section 105(1) of an order made under section 13(1) or 102(1);
 - (b) proceedings before a sheriff for the purpose of considering whether—
 - (i) to make an order under section 7(2) in respect of a child;

Status: Point in time view as at 01/04/2015.

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- (ii) to recall such an order;
- (iii) to make a requirement under section 12(1);
- (iv) to make an order under section 13(1); or
- (v) to make an order under section 105(5); and
- (c) an appeal arising from proceedings mentioned in paragraph (a) or (b).

139 Disclosure and sharing of information

- (1) Where subsection (2) applies, any person who, apart from this subsection—
 - (a) would not have power to disclose information to a relevant authority; or
 - (b) would be by virtue of any enactment (including subsection (3)) or rule of law susceptible to a sanction or other remedy if the person disclosed the information,
 shall have that power or shall not be susceptible to that sanction or remedy.
- (2) This subsection applies if the disclosure is necessary or expedient for the purposes of any provision of—
 - (a) this Act; or
 - (b) any other enactment the purpose of which is to make provision for or in connection with antisocial behaviour or its effects.
- (3) Subject to subsection (4), where—
 - (a) by virtue of subsection (1) a person discloses to a relevant authority information in respect of which the person is subject to a duty of confidentiality; and
 - (b) on disclosing the information, the person informs the authority of the breach of the duty,
 the authority shall not disclose the information.
- (4) Subsection (3) shall not prevent disclosure in any case where disclosure is permitted or required by virtue of any enactment or rule of law.
- (5) In subsections (1) and (3), “relevant authority” means—
 - (a) a local authority;
 - [^{F1}(b) the chief constable of the Police Service of Scotland;]
 - (c) the Principal Reporter;
 - (d) a registered social landlord;
 - (e) an authority administering housing benefit;
 - (f) a person providing services relating to housing benefit to, or authorised to discharge any function relating to housing benefit of—
 - (i) a local authority; or
 - (ii) an authority administering housing benefit.
- (6) Any person who, by virtue of this Act, must or may provide information or who provides or receives information for the purposes of any provision of this Act shall have regard to any relevant guidance given by the Scottish Ministers.
- (7) The Scottish Ministers may, by order, modify the meaning of “relevant authority” in subsection (5).

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Textual Amendments

- F1** S. 139(5)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 24\(9\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

140 Equal opportunities

- (1) Any person discharging a function by virtue of this Act shall discharge that function in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements.
- (2) In subsection (1), “equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 of Part II of Schedule 5 to the Scotland Act 1998 (c. 46).

Status:

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