



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 5

NOISE NUISANCE

Noise control provisions

47 Powers of entry and seizure of equipment used to make noise unlawfully

- (1) Subsection (2) applies where—
 - (a) a warning notice has been served in respect of noise emitted from relevant property; and
 - (b) an officer of the local authority in whose area the relevant property is situated has reason to believe that, at any time in the period specified in the notice, noise emitted from the relevant property has exceeded the permitted level as measured from a relevant place.
- (2) An officer of the local authority, or a person authorised by the authority for the purpose, may seize and remove any equipment which appears—
 - (a) to be being; or
 - (b) to have been,used in the emission of the noise.
- (3) If required to do so, a person exercising the power conferred by subsection (2) shall produce the person's authority.
- (4) If a sheriff or justice of the peace is satisfied by evidence on oath—
 - (a) that a warning notice has been served in respect of noise emitted from relevant property;
 - (b) that, at any time in the period specified in the notice, noise emitted from the relevant property has exceeded the permitted level, as measured from a relevant place; and
 - (c) that—

Status: Point in time view as at 01/12/2004.

Changes to legislation: *Antisocial Behaviour etc. (Scotland) Act 2004, Section 47 is up to date with all changes known to be in force on or before 10 May 2023. 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)*

- (i) entry of an officer of the local authority, or of a person authorised by the authority for the purpose, to the relevant property has been refused;
 - (ii) such a refusal is apprehended; or
 - (iii) a request by an officer of the authority, or of such a person, for admission would defeat the object of the entry,the sheriff or justice may grant a warrant under this subsection.
- (5) A warrant under subsection (4) is a warrant authorising the local authority, by any of its officers or any person authorised by it for the purpose—
 - (a) to enter the relevant property for the purpose of seizing and removing any equipment which appears to be being used or to have been used in the emission of the noise; and
 - (b) for the purpose of exercising the power mentioned in paragraph (a), to open lockfast places on the relevant property.
- (6) A person who enters premises by virtue of a warrant granted under subsection (4)—
 - (a) may be accompanied by such persons, and take such equipment, as may be necessary; and
 - (b) shall, where the relevant property is unoccupied on the person's leaving, leave it as effectively secured against trespassers as it was when the person entered it.
- (7) A person who wilfully obstructs a person—
 - (a) exercising the power conferred by subsection (2); or
 - (b) exercising the power conferred by a warrant granted under subsection (4),shall be guilty of an offence.
- (8) A person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) Schedule 1 (which makes further provision in relation to anything seized and removed by virtue of this section) shall have effect.

Status:

Point in time view as at 01/12/2004.

Changes to legislation:

Antisocial Behaviour etc. (Scotland) Act 2004, Section 47 is up to date with all changes known to be in force on or before 10 May 2023. 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.