



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 10

FURTHER CRIMINAL MEASURES

Seizure of vehicles

126 Vehicles used in manner causing alarm, distress or annoyance

- (1) Where—
- (a) regulations under section 127 are in force; and
 - (b) subsection (2) applies,
- a constable in uniform may exercise the powers mentioned in subsection (3).
- (2) This subsection applies where the constable has reasonable grounds for believing that a motor vehicle—
- (a) is being used on any occasion in a manner which—
 - (i) contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving); and
 - (ii) is causing, or is likely to cause, alarm, distress or annoyance to members of the public; or
 - (b) has been used on any occasion in a manner which—
 - (i) contravened either of those sections of that Act; and
 - (ii) caused, or was likely to cause, such alarm, distress or annoyance.
- (3) The powers are—
- (a) if the motor vehicle is moving, power to order the person driving it to stop the vehicle;
 - (b) subject to subsection (4), power to seize and remove the motor vehicle;

Changes to legislation: Antisocial Behaviour etc. (Scotland) Act 2004, Cross Heading: Seizure of vehicles is up to date with all changes known to be in force on or before 10 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

- (c) for the purposes of exercising a power falling within paragraph (a) or (b), power to enter any premises (other than a private dwelling house) on which the constable has reasonable grounds for believing the motor vehicle to be;
 - (d) power to use reasonable force, if necessary, in the exercise of a power conferred by any of paragraphs (a) to (c).
- (4) Subject to subsection (5), the constable shall not seize the motor vehicle unless—
- (a) where the case falls within subsection (2)(a)—
 - (i) the constable has warned the person who is using the motor vehicle in the manner mentioned in that subsection that if the use continues the constable will seize the vehicle; and
 - (ii) it appears to the constable that, after the warning, the use has continued; or
 - (b) where the case falls within subsection (2)(b)—
 - (i) the constable has warned the person who used the motor vehicle in the manner mentioned in that subsection that if the use is repeated, the constable will seize the vehicle; and
 - (ii) it appears to the constable that, after the warning, the use has been repeated.
- (5) Subsection (4) does not require a warning to be given by a constable on any occasion on which the constable would otherwise have the power to seize a motor vehicle under this section if—
- (a) the circumstances make it impracticable for the constable to give the warning;
 - (b) the constable has already on that occasion given a warning under that subsection in respect of any use of that motor vehicle or of another motor vehicle by that person or any other person; or
 - (c) the constable has reasonable grounds for believing—
 - (i) that such a warning has been given on that occasion otherwise than by that constable; or
 - (ii) that the person whose use of that motor vehicle on that occasion would justify the seizure is a person to whom a warning under that subsection has been given (whether or not by that constable or in respect of the same vehicle or the same or a similar use) on a previous occasion in the previous 12 months.
- (6) A person who fails to comply with an order under subsection (3)(a) shall be guilty of an offence.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In this section—
- “driving” has the same meaning as in the Road Traffic Act 1988 (c. 52);
 - “motor vehicle” means any mechanically propelled vehicle, whether or not it is intended or adapted for use on roads; and
 - “private dwelling house” does not include—
 - (a) any garage or other structure occupied with the dwelling house; or
 - (b) any land appurtenant to the dwelling house.

Changes to legislation: *Antisocial Behaviour etc. (Scotland) Act 2004, Cross Heading: Seizure of vehicles is up to date with all changes known to be in force on or before 10 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*

127 Retention etc. of vehicles seized under section 126

- (1) The Scottish Ministers may by regulations make provision as to—
 - (a) the removal and retention of motor vehicles seized under section 126; and
 - (b) the release or disposal of such vehicles.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with—
 - (a) the giving of notice of the seizure of a motor vehicle under section 126 to a person who—
 - (i) is the owner of that vehicle; or
 - (ii) in accordance with the regulations, appears to be its owner;
 - (b) the procedure by which a person who claims to be the owner of a motor vehicle seized under section 126 may seek to have it released;
 - (c) requiring the payment of fees, charges or other costs in relation to—
 - (i) the removal and retention of such a motor vehicle; and
 - (ii) any application for its release;
 - (d) the circumstances in which a motor vehicle seized under section 126 may be disposed of;
 - (e) the delivery to a local authority, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under section 126.
- (3) Regulations under subsection (1) shall provide that a person who would otherwise be liable to pay any fee or charge under the regulations shall not be liable to pay it if—
 - (a) the use by reference to which the motor vehicle concerned was seized was not a use by that person; and
 - (b) the person—
 - (i) did not know of the use of the vehicle in the manner that led to its seizure;
 - (ii) had not consented to its use in that manner; and
 - (iii) could not, by the taking of reasonable steps, have prevented its use in that manner.
- (4) In this section, “motor vehicle” has the same meaning as in section 126.

Changes to legislation:

Antisocial Behaviour etc. (Scotland) Act 2004, Cross Heading: Seizure of vehicles is up to date with all changes known to be in force on or before 10 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.

[View outstanding changes](#)

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\(1\)](#)