



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 3

DISPERSAL OF GROUPS

Authorisations and powers

19 Authorisations

- (1) Subsection (2) applies where a police officer of or above the rank of superintendent (a “senior police officer”) has reasonable grounds for believing—
 - (a) that any members of the public have been alarmed or distressed as a result of the presence or behaviour of groups of two or more persons in public places in any locality in the officer’s police area (the “relevant locality”); and
 - (b) that antisocial behaviour is a significant, persistent and serious problem in the relevant locality.
- (2) The senior police officer may authorise the exercise of the powers conferred by section 21—
 - (a) during a specified period;
 - (b) on specified days that fall within a specified period;
 - (c) between specified times that fall within a specified period.
- (3) An authorisation under subsection (2)—
 - (a) shall be in writing;
 - (b) shall be signed by the senior police officer giving it; and
 - (c) shall specify—
 - (i) the relevant locality;
 - (ii) the grounds on which the authorisation is given; and
 - (iii) when the powers are exercisable.

- (4) Before giving an authorisation under subsection (2) the senior police officer who proposes to give it shall ensure that any local authority whose area includes the whole or part of the relevant locality is consulted.
- (5) A period specified under subsection (2) shall not exceed 3 months.
- (6) In subsection (2), “specified” means specified by the senior police officer.

20 Authorisations: supplementary

- (1) Before the powers conferred by section 21 become exercisable by virtue of an authorisation, the senior police officer who gave the authorisation shall ensure that an authorisation notice is—
 - (a) published in a newspaper circulating in the relevant locality; and
 - (b) displayed in some conspicuous place or places within the relevant locality.
- (2) An “authorisation notice” is a notice which—
 - (a) states that authorisation has been given;
 - (b) specifies the relevant locality; and
 - (c) specifies when the powers may be exercised.
- (3) An authorisation may be withdrawn by—
 - (a) the senior police officer who gave it; or
 - (b) any police officer whose police area includes the relevant locality and whose rank is the same as or higher than that of the senior police officer mentioned in paragraph (a).
- (4) Before withdrawing, under subsection (3), an authorisation, the police officer who proposes to withdraw the authorisation shall ensure that any local authority whose area includes the whole or part of the relevant locality is consulted.
- (5) The withdrawal of an authorisation shall not affect the exercise, by virtue of the authorisation, of any power which occurred before the withdrawal.
- (6) The giving or withdrawal of an authorisation shall not prevent the giving of a further authorisation in respect of a locality which includes the whole or any part of the relevant locality to which the earlier authorisation relates.
- (7) In this section, “authorisation” means an authorisation under section 19.

21 Powers exercisable in pursuance of authorisations

- (1) Where a constable has reasonable grounds for believing that the presence or behaviour of a group of two or more persons in any public place in the relevant locality is causing or is likely to cause alarm or distress to any members of the public, the constable may exercise a power mentioned in subsection (3).
- (2) In determining whether to exercise a power mentioned in subsection (3) a constable shall have regard to whether the exercise of the power would be likely to result in the persons in the group causing less alarm and distress to members of the public in the relevant locality than if the power were not exercised.
- (3) Subject to subsection (5), the constable may give—
 - (a) a direction requiring the persons in the group to disperse;

- (b) a direction requiring any of those persons whose place of residence is not within the relevant locality to leave the relevant locality or any part of the relevant locality;
 - (c) a direction prohibiting any of those persons whose place of residence is not within the relevant locality from returning to the relevant locality or any part of the relevant locality during such period (not exceeding 24 hours) from the giving of the direction as the constable may specify.
- (4) The constable may require a direction under paragraph (a) or (b) of subsection (3) to be complied with—
- (a) immediately or by such time as the constable may specify;
 - (b) in such way as may be so specified.
- (5) A direction under subsection (3) may not be given in respect of a group of persons—
- (a) who are engaged in conduct which is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52); or
 - (b) who are taking part in a procession in respect of which—
 - (i) written notice has been given in accordance with subsections (2) and (3) of section 62 of the Civic Government (Scotland) Act 1982 (c. 45);
 - (ii) by virtue of subsection (6) or (7) of that section such notice is not required to be given.

22 Powers under section 21: supplementary

- (1) A direction under section 21—
- (a) may be given orally;
 - (b) may be given to any person individually or to two or more persons together; and
 - (c) may be withdrawn or varied by the constable who gave it.
- (2) A person who, without reasonable excuse, knowingly contravenes a direction given to the person under section 21 shall be guilty of an offence and liable on summary conviction to—
- (a) a fine not exceeding level 4 on the standard scale; or
 - (b) imprisonment for a term not exceeding 3 months,
- or to both.
- (3) Where a constable reasonably suspects that a person has committed or is committing an offence under subsection (2), the constable may arrest the person without warrant.
- (4) Subsection (3) is without prejudice to any power of arrest conferred by law apart from that subsection.

Guidance and research

23 Guidance in relation to dispersal of groups

- (1) A person exercising a power by virtue of this Part shall, in the exercise of the power, have regard to any guidance given by the Scottish Ministers about—
- (a) the exercise of the power; and
 - (b) any other matter relating to the power.

- (2) The Scottish Ministers shall lay before the Scottish Parliament a copy of any guidance such as is mentioned in subsection (1).

24 Operation of Part: arrangement of study

- (1) The Scottish Ministers shall—
- (a) arrange for the carrying out of a study into the operation of this Part; and
 - (b) lay a report on the results of the study before the Scottish Parliament within 3 years of the date on which the whole of the Part was first in force.
- (2) The Scottish Ministers shall make such preparations for the carrying out of the study as are necessary to enable the study to commence as soon as the whole of the Part is in force; and such preparations may include, in particular, the instruction of a research team and the formation of a research advisory group to assist in the direction of the study.

Interpretation

25 Interpretation of Part 3

- (1) In this Part—
- “public place” means any place to which the public have access at the material time (whether on payment of a fee or otherwise); and includes—
- (a) the doorways or entrances of premises abutting on any such place;
 - (b) a road (as defined in section 151(1) of the Roads (Scotland) Act 1984 (c. 54));
 - (c) any common passage, close, court, stair or yard pertinent to any tenement or group of separately owned houses; and
 - (d) any place to which the public do not have access but to which persons have unlawfully gained access; and
- “relevant locality” has the meaning given by section 19(1)(a).
- (2) In this Part, any reference to the presence or behaviour of a group of persons includes a reference to the presence or behaviour of any one or more of the persons in the group.