Police, Public Order and Criminal Justice (Scotland) Act 2006

2006 asp 10

PART 2

PUBLIC ORDER ETC.

CHAPTER 1

FOOTBALL BANNING ORDERS

Variation, termination, information and appeals

57 Variation of certain requirements of order

(1) The appropriate court may, on the application of a person mentioned in subsection (3), make an order varying a football banning order by—

(a) subject to subsection (2), omitting or imposing a requirement such as is mentioned in section 53(3);

(b) imposing, replacing or omitting a requirement such as is mentioned in section 53(4).

(2) An order may not be varied so as to omit a requirement such as is mentioned in section 53(3) unless it appears to the court that there are exceptional circumstances.

(3) The persons referred to in subsection (1) are—

(a) the person subject to the order;

(b) the chief constable of the **[**[F1]Police Service of Scotland**]**;

[F2](c) . . . . . .

[F2](d) . . . . . .

(4) In subsection (1), "the appropriate court" means—

(a) where the football banning order was made under section 51, the court which made the order;

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(b) where the football banning order was made under section 52, an appropriate sheriff.

(5) In subsection (4), "an appropriate sheriff" means—

(a) a sheriff sitting in the original sheriff court district; or

(b) where such a sheriff remits the application to another sheriff court district, a sheriff sitting in that other district.

(6) In subsection (5), "the original sheriff court district" means the sheriff court district which the sheriff who made the football banning order was sitting in when the order was made.

Textual Amendments

F1 Words in s. 57(3)(b) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 33(13)(a)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F2 S. 57(3)(c)(d) repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 33(13)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

58 Termination of order

(1) The appropriate court may, on the application of a person subject to a football banning order, make an order terminating it as from a specified date.

(2) An application under subsection (1) may not be made unless the order has had effect for at least two-thirds of the period specified in the order.

(3) In exercising its power under subsection (1), a court must have regard to—

(a) the character of the person against whom the order was made;

(b) the conduct of the person against whom the order was made since it was made;

(c) the nature of the offence or conduct which led to it; and

(d) any other circumstances which appear to the court to be relevant.

(4) Where an application under subsection (1) is refused, no further application under that subsection in respect of the same order may be made within the period of 6 months beginning with the day of the refusal.

(5) In subsection (1), "the appropriate court" has the same meaning as in section 57.

59 Information about making, varying or terminating order etc.

(1) Where a court makes a football banning order, it must cause a copy of the order to be—

(a) served on the person against whom the order is made;

(b) sent to the football banning orders authority and to any person prescribed by order by the Scottish Ministers as soon as is reasonably practicable;

(c) sent to the police station at which the person against whom the order is made is to report initially (addressed to the constable responsible for the police station) as soon as is reasonably practicable; and

(d) in a case where the person against whom the order is made is detained in legal custody, sent to the person in whose custody that person is detained as soon as is reasonably practicable.

(2) Where a court terminates or varies a football banning order, it must cause a copy of the terminating or varying order to be—

(a) served on the person against whom the football banning order was made;

(b) sent to the football banning orders authority as soon as is reasonably practicable; and

(c) in a case where the person against whom the order was made is detained in legal custody, sent to the person in whose custody that person is detained as soon as is reasonably practicable.

(3) Where a person subject to a football banning order ("the subject") is released from custody, the person in whose custody the subject is must give notice of the subject's release to the football banning orders authority as soon as is reasonably practicable.

(4) Subsection (3) applies only if the subject is released more than 5 days before the expiry of the football banning order.

60 Appeals

(1) The following are to be taken to be a sentence for the purpose of an appeal—

(a) a football banning order made under section 51;

(b) a declaration made under section 51;

(c) any variation of such an order under section 57;

(d) the termination of such an order under section 58.

(2) Subsection (3) applies where a football banning order made under section 51 is quashed on appeal.

(3) Where the **[**[F3]court hearing the appeal**]** does not specify, as a reason for quashing the order, that the court which made the order erred in holding that the offence in respect of which the order was made was one to which section 51(4) applied, the **[**[F4]court hearing the appeal**]** may, in addition to any other order which it makes, make a declaration that the offence was one to which that section applied.

(4) The following decisions may be appealed to the sheriff principal—

(a) a decision to make a football banning order under section 52;

(b) a decision to make an order under section 57 varying such a football banning order;

(c) a decision to make an order under section 58 terminating such a football banning order;

(d) a decision not to make an order such as is mentioned in paragraph (a), (b) or (c).

(5) An appeal under subsection (4) must be made within the period of 14 days beginning with the date on which the decision was made.

(6) The decision of the sheriff principal on an appeal under subsection (4) may be appealed to the Court of Session.

(7) An appeal under subsection (6) may be made only with the leave of the sheriff principal.

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(8) An application for leave to appeal under subsection (6) must be made within the period of 7 days beginning with the date of the sheriff principal's decision; and an appeal under that subsection must be made within the period of 7 days beginning with the date on which leave to appeal the sheriff principal's decision was given.

Textual Amendments

F3 Words in s. 60(3) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **Sch. 2 para. 9(2)(a)** (with art. 4)

F4 Words in s. 60(3) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **Sch. 2 para. 9(2)(b)** (with art. 4)

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