

ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Further Criminal Measures

Section 126 – Vehicles used in manner causing alarm, distress or annoyance

277. This section gives the police new powers to deal with the antisocial use of motor vehicles on public roads or off-road. It includes (under subsections (1) and (3)) powers to stop and to seize and to remove motor vehicles. This can be done in two cases. First, where such vehicles are being or have been driven off-road contrary to section 34 of the Road Traffic Act 1988. Second, where such vehicles are being or have been driven on the public road or other public place without due care and attention or reasonable consideration for other road users, contrary to section 3 of the 1988 Act (as substituted by section 2 of the Road Traffic Act 1991). A constable must also, in both of these instances, have reasonable grounds for believing that a motor vehicle is being, or has been used, in a manner which is likely to cause alarm, distress or annoyance to members of the public.
278. By virtue of subsection (1)(a), these new police powers will not be exercisable until regulations under section 127 are in force. These regulations, which are subject to negative resolution procedure, concern the removal, retention, release or disposal of motor vehicles seized in accordance with this section.
279. Subsection (3) provides that an officer may enter premises, other than a private dwelling house, for the purpose of exercising these powers.
280. Under subsection (6) it is an offence for a person to fail to stop a vehicle when required to do so by a police officer acting in accordance with this section. The offence is punishable, on summary conviction, by a fine not exceeding level 3 on the standard scale.
281. Subsection (4) requires the officer to warn the person before seizing the vehicle, to enable its antisocial use to be stopped. By virtue of subsection (5), the requirement to give prior warning does not apply where it is impracticable to do so or where a warning has previously been given.