

ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Closure of Premises

Section 26 – Authorisation of closure notice

68. **Section 26** gives senior police officers (that is officers of or above the rank of superintendent) power to authorise service of a closure notice. The effect of such an authorisation is that a constable will serve on the relevant premises a closure notice. A closure notice prohibits access to the premises by any person other than a person who habitually resides in the premises or the owner of the premises. Failure to comply with the notice amounts to an offence under section 37.
69. Subsection (3) sets out that the senior police officer may only authorise service of a closure notice where that officer has reasonable grounds for believing that at any time during the immediately preceding 3 months a person has engaged in antisocial behaviour on the premises; and that the use of the premises is associated with the occurrence of relevant harm, which is defined at section 40 as significant and persistent disorder or significant, persistent and serious nuisance to members of the public.
70. Subsection (4) provides that an authorisation for service of a closure notice may be given orally but if so it must be confirmed in writing as soon as is practicable. Subsection (3)(b) sets out the procedural requirements which must be met before service of a closure notice can be authorised. These requirements include that the local authority must have been consulted about the proposed closure and that all reasonable steps must have been taken to establish the identity of any person who lives on, has control of, or responsibility for, or has an interest in, the premises.
71. Subsection (2) provides that the Scottish Ministers can specify by regulations premises or descriptions of premises in respect of which such authorisations may not be given. These regulations are subject to affirmative resolution procedure.