

ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 –Noise Nuisance

Section 47- Powers of entry and seizure of equipment used to make noise unlawfully

126. Subsections (1) and (2) provides an authorised officer of a local authority with powers to seize and remove any equipment which appears to have been used in the emission of noise, where a warning notice has been served on an offending property. Subsection (3) provides for an authorised officer, if required to do so, to produce that officer's authority in the form of a warrant.
127. Subsection (4) gives a sheriff or justice of the peace the power to grant a warrant under subsection (3), on being satisfied by evidence on oath that a warning notice has been served, the noise emitted from the relevant property has exceeded the permitted level during the period specified in the warning notice as measured from a relevant place, and that entry to the property has been refused, refusal is apprehended, or request for entry would defeat the object of entry.
128. Subsection (5) sets out the powers that may be exercised pursuant to a warrant issued under section 47. These include power to enter an offending property for the purpose of seizing and removing equipment used in the emission of noise and power to open lockfast places on the property for this purpose.
129. Subsection (6) provides for the authorised officer with an authorising warrant to enter premises accompanied by such persons as may be necessary to take equipment, and if that property is unoccupied on the officer's leaving, to leave it as effectively secured as it was when the officer entered it.
130. Subsection (7) provides that a person who wilfully obstructs an officer exercising the power of a warrant, shall be guilty of an offence. Subsection (8) provides that a person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale.
131. Subsection (9) gives effect to schedule 1, which makes further provision in relation to anything seized and removed by virtue of this section.