

# **ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5 –Noise Nuisance**

Schedule 1 (introduced by [section 47](#))

#### ***Powers in relation to equipment seized under Section 47***

132. [Paragraph 1](#) contains the definitions of noise offence, seized equipment, related equipment and responsible local authority in relation to seized equipment.
133. [Paragraph 2](#) sets out the circumstances in which seized equipment may or may not be retained.
134. [Paragraph 3](#) gives the court the power to make a forfeiture order of any related equipment on a conviction for a noise offence.
135. [Paragraph 4](#) makes provision in the event of a forfeiture order having been made under paragraph 3. For example, the court can order delivery of the equipment to anyone claiming to be the rightful owner on an application made by the latter within 6 months of the forfeiture order. But this is without prejudice to anyone else claiming to be its rightful owner from seeking its recovery from the person in possession of it within 6 months. Finally, a local authority can dispose of the equipment if, after a period of six months no order for delivery has in fact been made.
136. [Paragraph 5](#) enables the court to give directions as it thinks fit as to the return, retention or disposal of equipment.
137. [Paragraph 6](#) sets out the requirements of a responsible local authority in respect of the return or disposal of seized equipment, and the recovery of any reasonable charges in respect of the seizure, removal and retention of the equipment.