

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 6 – the Environment**

##### ***Section 60 – Graffiti removal notice: content and service***

172. This section sets out the matters that should be included in a graffiti removal notice and the manner in which that notice should be served. Subsection (1) requires that a graffiti removal notice shall explain the effect of sections 61, 63 and 64. Section 61 sets out a local authority's powers where a person fails to comply with a graffiti removal notice. Section 63 provides for a person on whom a graffiti removal notice has been served to appeal against that notice. Section 64 provides that, where a person has failed to comply with a graffiti removal notice and a local authority serves a notice seeking to recover the cost of removing the graffiti from the person upon whom the notice was served, they may appeal against that notice on the grounds that the expenditure the local authority seeks to recover is excessive.
173. Subsection (2) provides that, subject to subsection (3), a graffiti removal notice shall be treated as if it is a notice served under subsections 160(2) to 160(5) of the 1990 Act.
174. Section 160(2) of the 1990 Act states that a notice shall be regarded as having been served on a person by delivering it to him in person, by leaving it at his proper address or by sending it by post to him at that address. Section 160(3) states that in the case of a body corporate, a notice may be served on the secretary or clerk of that body and in the case of a partnership it may be served on a person having control of the partnership or business. Section 160(4) states that the proper address of a person on whom a notice is to be served shall be his last known address except: in the case of a body corporate where it should be sent to the address of the registered or principal office of that body and; in the case of a partnership where it shall be the principal office of that partnership. In the case of a body whose principal or registered office is outside the UK, their principal office shall be their principal office within the UK. Section 160(5) states that if a person to be served with a notice has specified an address in the UK other than his proper address as defined by subsection 160(4) as that at which he or someone on his behalf will accept notices of a particular type (e.g. graffiti removal notices) then this address should be treated as his principal address for such purposes.
175. Subsection (3) makes provision for service of the notice in cases where a local authority are unable to establish the name or proper address of the person on whom the graffiti removal notice is to be served. Subsection (4) provides that 'proper address' shall be read in accordance with section 160(4) of the 1990 Act.