



# Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

## PART 4

### CLOSURE OF PREMISES

#### *Interpretation*

#### 40 Interpretation of Part 4

In this Part—

“appropriate local authority” means the local authority for the area in which the premises in respect of which the closure order has effect are situated;

“closure notice” has the meaning given by section 26(1);

“closure order” has the meaning given by section 29(1);

“closed premises” means premises in respect of which a closure order has effect;

“court day” means a day which is not—

- (a) a Saturday or Sunday; or
- (b) a day which, by virtue of an order made under [<sup>F1</sup>section 28(1) of the Courts Reform (Scotland) Act 2014 (asp 18)], is a court holiday in respect of criminal business in the sheriff court in question;

“premises” includes—

- (a) any land or other place (whether enclosed or not); and
- (b) any outbuildings which are or are used as part of the premises; and

“relevant harm” means—

- (a) significant and persistent disorder; or
- (b) significant, persistent and serious nuisance to members of the public.

#### Textual Amendments

- F1** Words in s. 40 substituted (1.4.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2015 (S.S.I. 2015/150), art. 1, **sch. para. 7**

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*Changes to legislation: Antisocial Behaviour etc. (Scotland) Act 2004, Cross Heading: Interpretation is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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## **[<sup>F2</sup>40A Exploitation offences**

- (1) In this Part, an “exploitation offence” is any of the following offences—
- (a) so far as concerning travel or identity documentation for enabling the trafficking of people (including passports, visas and work permits)—
    - (i) fraud, or
    - (ii) uttering a forged document,
  - (b) so far as concerning the trafficking of people, an offence under section 26(1)(d) of the Immigration Act 1971 (c.77) (falsification of documentation),
  - (c) an offence under section 52 or 52A of the Civic Government (Scotland) Act 1982 (c.45) (possession, taking or distribution of indecent images of children),
  - (d) an offence under sections 7 to 12 or 13(9) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39) (offences relating to prostitution and brothels),
  - <sup>F3</sup>(e) . . . . .
  - (f) an offence under section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) (meeting a child following certain preliminary contact),
  - (g) an offence under sections 9 to 12 of that Act (offences relating to provision by child of sexual services or child pornography),
  - <sup>F3</sup>(h) . . . . .
  - (i) an offence under Part 1 of the Sexual Offences (Scotland) Act 2009 (asp 9) (rape etc.),
  - (j) an offence under Part 4 of that Act (sexual offences involving children) other than an offence under section 37 (older children engaging in sexual conduct with each other),
  - (k) an offence under section 42 of that Act (sexual abuse of trust),
  - (l) an offence under section 46 of that Act (sexual abuse of trust of a mentally disordered person),
  - <sup>F4</sup>(m) an offence under section 4 of the Human Trafficking and Exploitation (Scotland) Act 2015 (slavery, servitude and forced or compulsory labour),]
    - [ <sup>F5</sup>(n) an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015).]
- (2) For the purposes of subsection (1)(a) and (b), a reference to trafficking of people is a reference to a person intentionally doing something in respect of at least one other person which involves the commission of an offence mentioned in subsection (1)(e) or (h).
- (3) For the purposes of subsection (1), a reference to an offence includes a reference to—
- (a) an attempt to commit an offence,
  - (b) incitement to commit an offence,
  - (c) counselling or procuring the commission of an offence,
  - (d) involvement art and part in an offence, and
  - (e) an offence as modified by section 54 of the Sexual Offences (Scotland) Act 2009 (asp 9) (incitement to commit certain sexual acts outside the United Kingdom).
- (4) The Scottish Ministers may by order add to or otherwise modify the specification of offences listed in subsection (1).]

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### Textual Amendments

- F2** S. 40A inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 99(7)**, 206; [S.S.I. 2010/413](#), **art. 2**, Sch (with art. 6)
- F3** S. 40A(1)(e)(h) repealed (31.5.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#), s. 45(2), **sch. para. 3(a)** (with s. 44); [S.S.I. 2016/128](#), reg. 2, sch. (with reg. 3); [S.S.I. 2016/128](#), reg. 2, sch. (with reg. 3)
- F4** S. 40A(1)(m) substituted (31.5.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#), s. 45(2), **sch. para. 3(b)** (with s. 44); [S.S.I. 2016/128](#), reg. 2, sch. (with reg. 3)
- F5** S. 40A(1)(n) inserted (31.5.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#), s. 45(2), **sch. para. 3(c)** (with s. 44); [S.S.I. 2016/128](#), reg. 2, sch. (with reg. 3)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 85B inserted by [2014 asp 14 s. 21\(1\)](#)