



# Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

## PART 6

### THE ENVIRONMENT

#### *Graffiti*

#### **58 Power of local authority to serve notice about graffiti**

- (1) Where it appears to a local authority that—
- (a) a relevant surface in its area has been defaced by graffiti; and
  - (b) the defacement is—
    - (i) detrimental to the amenity of the locality; or
    - (ii) offensive,
- the authority may serve a graffiti removal notice on any responsible person.
- (2) A graffiti removal notice is a notice requiring the person on whom it is served to remove, clear or otherwise remedy the defacement described in the notice before the expiry of such period as may be specified in the notice (being a period of not less than 28 days beginning with the day on which the notice is served).
- (3) A relevant surface is—
- (a) any surface of—
    - (i) a public road; or
    - (ii) any building, structure, apparatus, plant or other object on such a road;or
  - (b) where subsection (4) or (5) applies, any surface of—
    - (i) land owned, occupied or controlled by a relevant body; or
    - (ii) any building, structure, apparatus, plant or other object on such land.
- (4) This subsection applies where the land is public land.
- (5) This subsection applies where—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the surface is visible from public land; or
  - (b) the surface is not visible from public land but is visible to members of the public from land owned, occupied or controlled by—
    - (i) the relevant body which owns, occupies or controls the land; or
    - (ii) any other relevant body,which they are on for the purpose of using that body’s services or facilities.
- (6) For the purposes of this section, a road or land is public if the public are entitled or permitted to have access to it (with or without payment).
- (7) A local authority may at any time withdraw a graffiti removal notice issued by it.
- (8) The withdrawal, under subsection (7), of a graffiti removal notice (the “withdrawn notice”) shall not affect the power of the local authority to issue a further graffiti removal notice in respect of the defacement described in the withdrawn notice.
- (9) In this section—
- “educational institution” has the meaning given by section 98(3) of the 1990 Act and includes the governing body of such an institution;
  - “graffiti” includes painting, writing, soiling, marking or otherwise defacing by whatever means;
  - “relevant body” means—
    - (a) an educational institution; or
    - (b) a statutory undertaker;
  - “responsible person” means, in relation to a surface, a person who owns, leases, occupies, controls, operates or maintains the thing of which it is a surface;
  - “road” has the meaning given by section 151(1) of the Roads (Scotland) Act 1984 (c. 54);
  - “statutory undertaker” has the meaning given by section 98(6) of the 1990 Act; and
  - “surface” includes a surface—
    - (a) on the inside of a thing; or
    - (b) not exposed to the weather.