



# Police, Public Order and Criminal Justice (Scotland) Act 2006

2006 asp 10

## PART 2

### PUBLIC ORDER ETC.

## CHAPTER 2

### PUBLIC PROCESSIONS

#### **70 Notification of public processions**

- (1) Section 62 of the Civic Government (Scotland) Act 1982 (c. 45) (giving notice of proposal to hold public processions) (“the 1982 Act”) is amended in accordance with subsections (2) to (8).
- (2) In subsection (2)—
  - (a) in paragraph (a), for “7” there is substituted “ 28 ”;
  - (b) in paragraph (b), for “7” there is substituted “ 28 ”.
- (3) In subsection (4), for “7” there is substituted “ 28 ”.
- (4) In subsection (5), for “specify” to “above”, where secondly occurring, there is substituted—
  - “(a) set out the reason why notice of the proposal was not given in accordance with subsections (1) and (2) above; and
  - (b) specify the matters mentioned in subsection (3) above.”.
- (5) Subsections (6), (7) and (8) are repealed.
- (6) In subsection (9), the words “or making, varying or revoking an order under subsection (6) or (7) above” are repealed.
- (7) Subsection (11) is repealed.
- (8) After subsection (11) there is inserted—

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“(11A) A local authority shall, as soon as possible after making an order under subsection (4) above, publicise that fact in such manner as they think fit and send a copy of the order to the applicant.

(11B) This section does not apply to a procession—

- (a) which is a funeral procession organised by a funeral director acting in the ordinary course of his business; or
- (b) which is specified in, or is within a description specified in, an order made by the Scottish Ministers.

(11C) In subsection (11B) above, a “funeral director” is a person whose business consists of or includes the arrangement and conduct of funerals.

(11D) An order made for the purposes of subsection (11B)(b) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.”.

#### Commencement Information

- II** S. 70 wholly in force at 1.4.2007; s. 70 not in force at Royal Assent see s. 104; s. 70 in force at 1.4.2007 insofar as not already in force by S.S.I. 2007/48, art. 3(3) (with arts. 5, 6)

## 71 Powers and duties of local authorities

(1) Section 63 of the 1982 Act (councils' functions in relation to processions) is amended as follows.

(2) Subsection (2) (which specifies some kinds of conditions which may be imposed on the holding of a procession) is repealed.

(3) At the end there are inserted the following subsections—

“(5) The local authority may, after consulting the chief constable and (where section 62(1)(aa) of this Act applies) the National Parks Authority, make an order—

- (a) imposing conditions on the holding of a procession to which paragraph (a) of subsection (11B) of section 62 of this Act relates;
- (b) prohibiting or imposing conditions on the holding of a procession to which paragraph (b) of that subsection relates.

(6) Subsections (1A), (3) and (4) above apply in relation to an order made under subsection (5) above and to a decision not to make an order under that subsection as they apply to an order under subsection (1) above and to a decision not to make an order under that subsection respectively, but with the modifications set out in subsection (7) below.

(7) Those modifications are—

- (a) the references to notice having been or falling to be treated as having been given shall be ignored;
- (b) the reference to the person who gave the notice shall be treated as a reference to the person appearing to the local authority to be the person who is to hold the procession; and

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- (c) the words “not to make an order under subsection (1) above or” in subsection (3)(a)(ii) shall be ignored.
- (8) The considerations to which the local authority shall have regard when deciding whether to prohibit the holding of a procession or impose conditions on it under this section shall include—
- (a) the likely effect of the holding of the procession in relation to—
    - (i) public safety;
    - (ii) public order;
    - (iii) damage to property;
    - (iv) disruption of the life of the community;
  - (b) the extent to which the containment of risks arising from the procession would (whether by itself or in combination with any other circumstances) place an excessive burden on the police;
  - (c) where the person proposing to hold the procession has previously held one in the area of the authority or the persons likely to take part in the procession, or some of them, are the same persons as took part in one previously held in that area, or some of them—
    - (i) whether the previous procession was held in breach of a prohibition under this section on its being held or of a condition so imposed on the holding of it;
    - (ii) whether any guidance or code of conduct issued by the authority as to the holding of the previous procession or as to the holding of processions generally was followed; and
    - (iii) the effect of the previous procession in relation to the matters mentioned in sub-paragraphs (i) to (iv) of paragraph (a) above and in paragraph (b) above.
- (9) The local authority shall compile, maintain and make available to the public, free of charge, a list containing information about—
- (a) processions which have, after the coming into force of this subsection, been held in their area;
  - (b) proposed processions which they have, after that time, prohibited under this section.
- (10) A local authority shall make sufficient arrangements to secure that any person, body or other grouping resident in or otherwise present in their area who makes a request for the purposes of this subsection is enabled to receive information about processions which are to or might be held in that area or in any part of it specified in the request.”.

#### Commencement Information

**I2** S. 71 wholly in force at 1.4.2007; s. 71 not in force at Royal Assent see s. 104; s. 71 in force at 1.4.2007 insofar as not already in force by S.S.I. 2007/48, art. 3(3) (with arts. 5, 6)

## 72 Minor amendments of 1982 Act

- (1) In section 64(6)(a)(ii) of the 1982 Act (sheriff's powers on appeal against order under section 63)—

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- (a) for “vary” there is substituted “quash”;
  - (b) after “appeal” there is inserted “, vary it”; and
  - (c) after “make” there is inserted “in substitution for the order”.
- (2) In section 65 of that Act (offences and enforcement)—
- (a) in subsection (1), in paragraph (a)—
    - (i) for “without” there is substituted “not”; and
    - (ii) sub-paragraph (ii) and the word “and” immediately preceding it are repealed;
  - (b) in subsection (2), paragraph (a)(ii) and the word “and” immediately preceding it are repealed;
  - (c) for subsection (3), there is substituted—
    - “(3) This section applies to a procession of the description set out in section 62(11B)(a) of this Act (funeral processions) only to the extent that the procession has been held otherwise than in accordance with conditions imposed under this Part of this Act.
    - (3A) This section applies to a procession which is within section 62(11B)(b) of this Act (processions specified by order) only if and to the extent that it has been prohibited or conditions imposed on it under this Part of this Act.”.
- (3) After that section there is inserted—

**“65A Guidance to local authorities**

The local authority shall, in carrying out functions under this Part of this Act, have regard to any guidance in that respect issued by the Scottish Ministers.”.

**Commencement Information**

**I3** S. 72 wholly in force at 1.4.2007; s. 72 not in force at Royal Assent see s. 104; s. 72 in force at 1.4.2007 insofar as not already in force by S.S.I. 2007/48, art. 3(3) (with arts. 5, 6)

**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. 47A inserted by [2023 c. 41 s. 45\(3\)](#)