

2004 No. 420 (C. 31)

CRIMINAL LAW

POLICE

LOCAL GOVERNMENT

ENVIRONMENTAL PROTECTION

**The Antisocial Behaviour etc. (Scotland) Act 2004
(Commencement and Savings) Order 2004**

Made - - - -

27th September 2004

The Scottish Ministers, in exercise of the powers conferred by sections 141(2) and 145(2) of the Antisocial Behaviour etc. (Scotland) Act 2004(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Antisocial Behaviour etc. (Scotland) Act 2004 (Commencement and Savings) Order 2004.

(2) In this Order “the Act” means the Antisocial Behaviour etc. (Scotland) Act 2004.

Appointed days

2. All the provisions of the Act, so far as not then in force, shall come into force, for all purposes, on 15th November 2005.

3. The provisions of the Act which are specified in column 1 of any of the Schedules to this Order and the subject matter of which are described in column 2 of that Schedule shall, so far as not then in force, come into force on the day appointed in relation to that Schedule in the Table below but, where a particular purpose is specified in relation to any provision in column 3 of that Schedule, that provision shall come into force on that day only for that purpose.

TABLE

<i>Schedule</i>	<i>Appointed day</i>
1	28th October 2004
2	5th November 2004
3	1st December 2004
4	31st January 2005
5	4th April 2005

Savings

4.—(1) Notwithstanding the repeal of sections 19, 21 and 22 of the Crime and Disorder Act 1998(a) by virtue of article 3 above, those sections shall continue to have effect, on and after 28th October 2004, as they had effect immediately before that date, in a case to which paragraph (2) below applies.

(2) This paragraph applies in the case of any application for an antisocial behaviour order which is founded on acts or omissions which are alleged to have occurred before 28th October 2004.

(3) Notwithstanding the commencement of section 100 of the Act by article 3 above, section 18(6)(a) of, and ground 15 of Schedule 5 to, the Housing (Scotland) Act 1988(b) shall continue to have effect, on and after 28th October 2004, as it had effect immediately before that date, in a case to which paragraph (4) below applies.

(4) This paragraph applies in the case of any proceedings for recovery of possession where those proceedings found on acts or omissions which are alleged to have occurred before 28th October 2004.

MARY MULLIGAN

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
27th September 2004

(a) 1998 c.37.
(b) 1988 c.43.

SCHEDULE 1

Article 3

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 28TH OCTOBER 2004

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Sections 1 to 3 (Part 1)	Antisocial behaviour strategies	
Sections 4 to 12 and 14 to 18	Antisocial behaviour orders	
Sections 19 to 25 (Part 3)	Dispersal of groups	
Sections 26 to 40 (Part 4)	Closure of premises	
Sections 56 to 67	The environment	
Section 68	Antisocial behaviour notices	Only for the purpose of enabling orders to be made to come into force on 15th November 2005
Section 72	Appeals against orders under section 71	Only for the purpose of enabling regulations to be made to come into force on 15th November 2005
Section 74	Management Control Order	Only for the purpose of commencing the paragraphs of schedule 3 specified in column 1 below
Section 78	Action by local authority at landlord's expense	Only for the purpose of enabling regulations to be made to come into force on 15th November 2005
Section 80	Advice and assistance	Only for the purpose of enabling regulations to be made to come into force on 15th November 2005
Section 83	Application for registration	Only for the purpose of enabling (a) applications for registration to be made, (b) fees to be determined by the local authority and (c) orders and regulations to be made to come into force no later than 15th November 2005

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 87	Duty to provide information to local authority	Only for the purpose of enabling regulations to be made to come into force no later than 15th November 2005
Section 97	Appeals	Only for the purpose of enabling regulations to be made to come into force on 15th November 2005
Section 99	Advice and Assistance	Only for the purpose of enabling regulations to be made to come into force on 15th November 2005
Section 100	Amendment of Housing (Scotland) Act 1988	
Sections 118 and 119	Antisocial behaviour orders	
Section 120	Community reparation orders	
Sections 126 and 127	Seizure of vehicles	
Sections 128 to 134 (Part 11)	Fixed penalty notices	
Sections 138 to 140	Miscellaneous	
Section 142	Directions	
Section 143	Interpretation: “antisocial behaviour” and other expressions	
Section 144	Minor and consequential amendments and repeals	Only for the purpose of bringing into force the provisions of schedules 4 and 5 specified in column 1 below
schedule 2	Penalties for certain environmental offences	
schedule 3	Management Control Orders	Only for the purpose of enabling regulations to be made to come into force on 15th November 2005

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
In schedule 4, paragraphs 1(a)(ii), 1(b) and (c), 2, 4(1) and (6), 5(1) to (3), 5(6), 5(11) and 6	Minor and consequential amendments	Paragraph 1(a)(ii) shall come into force only for the purpose of bringing into force sub-paragraph (va) of section 27(1)(b) of the Social Work (Scotland) Act 1968(a)
In schedule 5, the entries relating to the Social Work (Scotland) Act 1968, the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(b), the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995(c), the Crime and Disorder Act 1998 and the Criminal Justice (Scotland) Act 2003(d)	Repeals	

(a) 1968 c.49.
(b) 1990 c.40.
(c) 1995 c.40.
(d) 2003 asp 7.

SCHEDULE 2

Article 3

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 5TH NOVEMBER 2004

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 55	Contraventions of section 33(1)(a) and (c) of the Environmental Protection Act 1990: fixed penalty notices	
Sections 122 to 125	Sale of spray paint to children	

SCHEDULE 3

Article 3

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 1ST DECEMBER 2004

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Sections 41 to 54 (Part 5)	Noise nuisance	
Section 144	Minor and consequential amendments and repeals	Only for the purpose of bringing into force the provisions of schedule 4 specified in column 1 below
schedule 1	Powers in relation to equipment seized under section 47	
In schedule 4, paragraphs 3 and 5(12)	Minor and consequential amendments	

SCHEDULE 4

Article 3

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 31ST JANUARY 2005

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 135	Supervision requirements: conditions restricting movement	
Section 136	Supervision requirements: duties of local authorities	
Section 137	Failure to provide education for excluded pupils: reference	
Section 144	Minor and consequential amendments and repeals	Only for the purpose of bringing into force the provisions of schedule 4 specified in column 1 below
In schedule 4, paragraphs 4(2) to 4(5)	Minor and consequential amendments	

SCHEDULE 5

Article 3

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 4TH APRIL 2005

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 13	Sheriff's power to make a parenting order	
Section 98	Grants to local authorities regarding registration of certain landlords	
Sections 102 to 117 (Part 9)	Parenting orders	
Section 121	Restriction of liberty orders	
Section 144	Minor and consequential amendments and repeals	
schedule 4	Minor and consequential amendments	
schedule 5	Repeals	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints various days for the coming into force of the provisions of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the Act”).

Article 2 provides that all the provisions of the Act, so far as not then in force, should come into force on 15th November 2005. The majority of Part 7 (Housing: Antisocial behaviour notices) and Part 8 (Housing: Registration of certain landlords) of the Act will come into force on that date.

Article 3 appoints the following days for the coming into force of various provisions of the Act, namely:

- (a) 28th October 2004 for the provisions specified in Schedule 1 to this Order which are the majority of Parts 1 to 4 and 6 of the Act, various provisions in Part 10 (Further criminal measures), Part 11 (Fixed penalty notices) and other miscellaneous provisions;
- (b) 5th November 2004 for the provisions specified in Schedule 2 to this Order which relate to fixed penalty notices under the Environmental Protection Act 1990 (c.43) and the sale of spray paint to children;
- (c) 1st December 2004 for the provisions specified in Schedule 3 to this Order which relate to Part 5 (Noise Nuisance);
- (d) 31st January 2005 for the provisions specified in Schedule 4 to this Order which are mainly about supervision requirements in the children’s hearing system and duties of local authorities; and
- (e) 4th April 2005 for the provisions specified in Schedule 5 to this Order which relate to restriction of liberty orders, section 13 and Part 9 (Parenting orders).

The Act received Royal Assent on 26th July 2004. Sections 141 and 145 came into force on Royal Assent.

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