



SCOTTISH BORDERS

ANTISOCIAL BEHAVIOUR OVERVIEW OF PROVISIONS



CONTENTS

Section 1 – Strategies

Section 2 – Antisocial Behaviour Orders

Section 3 – Dispersal of Groups

Section 4 – Closure of Premises

Section 5 – Noise Nuisance

Section 6 – The Environment

Section 7 – Housing - Antisocial Behaviour Notices (Private Rented Sector)

Section 8 – Registration of Private Landlords

Section 9 – Parenting Orders

Section 10 – Further Criminal Measures

Section 11 – Fixed Penalty Notices

Section 12 – Children’s Hearings

Section 13 – Miscellaneous and General

SCOTTISH BORDERS - ANTISOCIAL BEHAVIOUR ACT OVERVIEW OF PROVISIONS

Scottish Borders Council, Police Scotland along with other agencies and organisations in the Scottish Borders have worked together for many years in developing and reviewing antisocial behaviour strategies and policies/procedures and these are published online. They address most of the day-to-day issues that can be encountered by front line staff.

The purpose of this short aid memoir, is to give an overview of the provisions of the act, also listing some of the not so commonly used parts of the legislation.

As with all legislation, some matters can be quite complex, so this short document is only meant as the briefest of overviews of what is currently available within the act. Practitioners withing various agencies and departments will also have other legislation and guidance that they will use in conjunction with the ASB act.

It is up to practitioners to ensure that they dig further into the part of the act that they wish to explore as this document will not give you sufficient information and knowledge to apply the part.

All queries in general can be directed to the Antisocial Behaviour Unit of Scottish Borders Council.



SECTION 1

Strategies



STRATEGIES OVERVIEW OF PROVISIONS

The act sets out what the strategy must cover and address. It also states who should be consulted.

The strategy must be published, kept under review and revised as necessary. The act sets out what must be done in reviewing and revising the strategy. Currently in the Scottish Borders, this is done by the Antisocial Behaviour Partnership Working Group. The act gives Scottish Ministers the power to compel RSL's to participate in all matters appertaining to the strategy, if required.

Scottish Borders Council is placed under duty, to publish reports on how the strategy is being implemented and there is further duty placed on Police Scotland, RSL's and the Children's Reporter to provide any such information that Scottish Borders Council require to enable them to do this. In practice this is currently delivered through the Strategic Assessment and reports to Scrutiny.

Scottish Ministers may also request other relevant information from Scottish Borders Council In regard to the ASB strategy.



SECTION 2

Antisocial Behaviour Orders



ANTISOCIAL BEHAVIOUR ORDERS OVERVIEW OF PROVISIONS

The Act covers the powers of Sheriffs to grant applications for antisocial behaviour orders. It sets out the conditions that must be met for an ASBO to be awarded. Where children aged between 12 – 15 years are the subject of the ASBO a Children's Hearing must first be held to provide advice to a Sheriff.

The duration of an ASBO and the conditions that can be attached to it are set out. In imposing an ASBO a Sheriff is required to explain details of the ASBO to the person subject to it.

Applications for an ASBO can only be made by a 'relevant authority'. The Act sets out who this is.

Prior to making an application to a Sheriff a Scottish Borders Council or RSL must consult 'relevant consultees'. Also, if the application is by an RSL it must, depending upon the age of the person, either consult with or notify the Scottish Borders Council.

Scottish Borders Council, RSLs or the person subject to the ASBO can apply to the Sheriff to revoke or amend an ASBO. Scottish Borders Council or RSLs must consult before making an application.

The Act details the way in which a Sheriff must deal with interim ASBO applications when they relate to children.

The ways in which an ASBO must be served and who must receive a copy are detailed. The same applies to notifications of the revocation of an ASBO or the recalling of an interim ASBO.

Breaching an ASBO is an offence. The penalties that a Sheriff can impose on a person are set out. Where a separate offence (to the Breach of ASBO) is committed by the person, the procedure for dealing with this is set out along with how the ASBO can be taken note of. Where the person breaching an ASBO is a child an amendment to the Criminal Procedure (Scotland) Act 1995 prohibits the detention of a child.

The police can, without the need for a warrant, arrest a person suspected of breaching an ASBO.

Following the imposition of an ASBO or interim ASBO on a 12 – 15-year-old a sheriff can refer the case to a Children's Hearing. The Children (Scotland) Act 1995 was amended to deal with this.

Where there is an ASBO in place for a 12 – 15-year-old a Sheriff also has the power to make a parenting order.

The Act sets out the information which an RSL must give to Scottish Borders Council in respect of ASBOs. Interim ASBOs or revocations they have been granted. The records that local authorities must keep regarding ASBOs and interim ASBOs are detailed.

In discharging the functions of Part 2 of the Act 'persons' other than the courts must have regard to guidance from Scottish Ministers.



SECTION 3

Dispersal of Groups



DISPERSAL OF GROUPS OVERVIEW OF PROVISIONS

The act gives Police Scotland the power to disperse a group of two or more people and to require any person in that group, who does not live in that area, to leave that area and prohibit them from returning within 24hrs.

To exercise this power, Police Scotland must have reasonable grounds for believing people feel alarm and distress by the group and that ASB is a problem in that area.

Before this power can be exercised, an authorisation notice must have been publicised. Similarly, before any authorisation to use the power in an area is removed, it must again be publicised.

Before issuing the authorisation, Police Scotland must consult with Scottish Borders Council.

The Dispersal Order may apply during a specified period, specific days or specified times. Contravening the Order is an offence.



SECTION 4

Closure of Premises



CLOSURE OF PREMISES OVERVIEW OF PROVISIONS

The act authorises Police Scotland to serve a closure notice that prohibits people from accessing premises. Police Scotland must have reasonable grounds for believing that the premises have been used for ASB in the last three months.

Before serving the closure notice, Police Scotland must consult with Scottish Borders Council and (if applicable) the relevant RSL.

When a closure notice has been served on the property, Police Scotland must then apply to the court for a Closure Order. The order can in effect close the premises for a period of up to 3 months.

The application should be prioritised by the court but can be postponed for a period of up to 14 days to allow for representation from the occupiers/owners.

Police Scotland have the power to secure the closed premises.

Following an application from a senior police officer, the sheriff has the power to extend a closure order for a further period of up to six months which is inclusive of the time that the premises have already been closed for.

The Police/Scottish Borders Council can apply for expenses against the owner of the premises.

It is an offence for a person to remain on the premises, and or enter the premises, where a closure order applies. It is also an offence to obstruct the closing of the premises.



SECTION 5

Noise Nuisance



NOISE NUISANCE OVERVIEW OF PROVISIONS

Scottish Borders Council have not adopted this part of the ASB legislation.



SECTION 6

The Environment



THE ENVIRONMENT OVERVIEW OF PROVISIONS

Part 6 amends the relevant sections of the EPA 1990 with a view to ensuring minimum standards for litter removal, fly-tipping and the introduction of graffiti removal notices.

FPNs can be issued for the unauthorised disposal of controlled waste.

Graffiti removal notices can be imposed for land that is not owned by Scottish Borders Council (further details provided within the act). If the graffiti is not removed, Scottish Borders Council have the power to remove the graffiti and recover the costs from the person responsible for its removal.



SECTION 7

Housing - Antisocial Behaviour Notices (Private Rented Sector)



HOUSING – ANTISOCIAL BEHAVIOUR NOTICES (PRIVATE RENTED SECTOR) OVERVIEW OF PROVISIONS

The act gives Scottish Borders Council the power to serve an antisocial behaviour notice on a landlord of a property that they rent out. The notice is applicable to the behaviour of their tenant, or visitors of their tenant, if they behave in an ASB manner. The duty is placed on the landlord to seek to address matters.

A sheriff has the power to make an order to stop any rent from being paid if the landlord fails to comply with the ASB notice.

In addition to the notice, Scottish Borders Council can apply to the sheriff for a management control order. A management control order transfers the rights and obligations of the landlord to the council.

If a management control order is in place, Scottish Borders Council also has the power to recover any rent that would be payable while the order is in place.

If a landlord fails to comply with an antisocial behaviour notice, this will be an offence.

Any costs incurred by the Council can be reclaimed from the landlord.



SECTION 8

Registration of Private Landlords



REGISTRATION OF PRIVATE LANDLORDS OVERVIEW OF PROVISIONS

Scottish Borders Council has a duty to maintain a register of private landlords in the area, and it must also be available to the public.

The act sets out the information that must be provided by the person applying to be on the register. There is a fee to join the register (with some exemptions).

Anyone who registers to be a landlord and gives false information is committing an offence. Scottish Borders Council will decide if an application is successful, they must ensure that the person making the application is fit and proper.

Any person that is on the register, has a duty to inform Scottish Borders Council of any changes to their circumstances relating to the application, failure to do so is an offence.

If the landlord chooses to use a letting agent to manage the property, they also need to inform Scottish Borders Council of this. Any letting agent will be subject to the same fit and property checks as the landlord.

It is an offence not to be registered if a landlord is renting the property out (with certain exclusions), it is also an offence to engage with any possible tenant before being registered.

Scottish Borders Council has the power to serve notice on non-registered landlords, preventing rent from being payable.



SECTION 9

Parenting Orders



PARENTING ORDERS OVERVIEW OF PROVISIONS

A Sheriff has the power to issue a parenting order. This will only be done if they are satisfied that Scottish Borders Council can comply with the arrangements.

An application for an order can be made by Scottish Borders Council or the Children's Reporter.

Failure to comply with the order is an offence.

The welfare of the child will be central to any proceedings and careful consideration of the expected final outcomes should be at the forefront.



SECTION 10

Further Criminal Measures



FURTHER CRIMINAL MEASURES OVERVIEW OF PROVISIONS

This part of the legislation gives court new powers to deal with acts that have an antisocial behaviour element, these are listed:

CRASBO – Criminal Antisocial Behaviour Order, these can be imposed by the Sheriff as part of a sentencing option, however Police Scotland, in consultation with Scottish Borders Council, may request that a Sheriff consider one as a person of interest for other ASB matters but related in terms of behaviour type.

The court must notify Scottish Borders Council of any CRASBO that has been imposed as they have a responsibility for monitoring them.

Community reparation orders can also be imposed by a Sheriff if they are satisfied that Scottish Borders Council have suitable arrangements in place for compliance.

Restriction of liberty orders, these were extended to apply to offenders under the age of 16.

Spray paint – It is an offence to sell spray paint to anyone under 16

Motor Vehicles – Police are given powers to seize and remove motor vehicles for certain offences under the road traffic act.



SECTION 11

Fixed Penalty Notices



FIXED PENALTY NOTICES OVERVIEW OF PROVISIONS

There are various instances where fixed penalty notices can be issued by a Police Officer, typically for ASB those are:

- Riotous behaviour while drunk in licensed premises
- Refusing to leave a licensed premise if asked to do so
- Urinating/defecating in public
- Vandalism
- Playing loud music after requested to stop (equipment can also be confiscated)
- Being drunk in a public space in charge of a child
- Consuming alcohol in a public space
- Breach of the peace
- Malicious mischief



SECTION 12

Children's Hearings



CHILDREN'S HEARINGS OVERVIEW OF PROVISIONS

There are new powers to enable the hearing to impose a movement restriction order on a child that is placed in secure accommodation.

There are other powers given to the Children's reporter to compel the local authority to provide supervision or secure accommodation for a child.

Anyone who has concerns about a child behaviour can raise those concerns with the reporter, however the reporter has independence in their decision and there is no requirement to acknowledge or feedback any information on concerns raised.



SECTION 13

Miscellaneous and General



MISCELLANEOUS AND GENERAL OVERVIEW OF PROVISIONS

This part of the act introduces a range of measures that generally apply across all parts of act such as:

- Children's proceedings are held in private
- Section 139 of the act gives power to disclose information to Scottish Borders Council ASBU for matters that relate to ASB
- Defines Antisocial Behaviour as "act in a manner or pursue a course of conduct that causes or is likely to cause alarm or distress. This must be to at least one person who is not a member of their household and to happen on at least two occasions.

Other references are contained within the Scottish Borders Antisocial Behaviour Strategy 2025 – 2030

[antisocial-behaviour-strategy-2025-2030](#)

Scottish Borders Policies and Procedures Manual 2025 – 2030

[anti social behaviour - policies and procedures.pdf](#)

You can also contact the Antisocial Behaviour Unit of Scottish Borders Council on 0800 028 5711 or asbu@scotborders.gov.uk

You can get this document on audio CD, in large print, and various other formats by contacting us at the address below. In addition, contact the address below for information on language translations, additional copies, or to arrange for an officer to meet with you to explain any areas of the publication that you would like clarified.

ANTISOCIAL BEHAVIOUR UNIT

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