



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART V

#### PUBLIC PROCESSIONS

#### 62 Notification of processions.

- (1) A person proposing to hold a procession in public shall give written notice of that proposal in accordance with subsections (2) and (3) below
  - <sup>F1</sup>(a) to the regional or islands council in whose area the procession is to be held, or if it is to be held in the areas of more than one such council, to each such council <sup>F2</sup>; and
  - (b) to the chief constable.]
- (2) Notice shall be given for the purposes of subsection (1) above by—
  - (a) its being posted to the main office of the regional or islands council <sup>F3</sup> and to the office of the chief constable] so that in the normal course of post it might be expected to arrive not later than 7 days before the date when the procession is to be held; or
  - (b) its being delivered by hand to <sup>F4</sup> those offices] not later than 7 days before that date.
- (3) The notice to be given under subsection (1) above shall specify—
  - (a) the date and time when the procession is to be held;
  - (b) its route;
  - (c) the number of persons likely to take part in it;
  - (d) the arrangements for its control being made by the person proposing to hold it; and
  - (e) the name and address of that person.
- (4) A regional or islands council may, on application in accordance with subsection (5) below by a person proposing to hold a procession in public in their area
  - <sup>F5</sup>(a) made to them <sup>F6</sup>; and

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- (b) intimated to the chief constable,] within the period of 7 days before the date when the procession is to be held, make an order dispensing with the requirements of subsection (2) above in relation to the time limits for the giving of notice of that proposal.
- (5) An application under subsection (4) above shall specify the matters mentioned in subsection (3) above and, where an order has been made under the said subsection (4), the application for it shall be treated as notice duly given for the purposes of subsection (1) above.
- (6) A regional or islands council may (whether upon application made to them or not) make an order exempting any person proposing to hold any procession in public being a procession specified in the order or one of a class of processions so specified from the requirement under this section to give notice to the council of the proposal to hold that procession.
- (7) This section does not apply in relation to processions commonly or customarily held; but a regional or islands council may, as respects their area, order that it shall apply to any such procession so held or any such class of processions so held as is specified in the order.
- (8) An order under subsection (6) or (7) above may—
  - (a) provide that its application in any case or class of cases is subject to such conditions as may be specified in the order;
  - (b) classify processions by reference to any factor or factors whatsoever;
  - (c) be varied or revoked by subsequent order made in like manner.
- (9) The regional or islands council shall, before making an order under subsection (4) above or making, varying or revoking an order under subsection (6) or (7) above, consult the chief constable.
- (10) ..... F7
- (11) The regional or islands council shall, as soon as possible after they make, vary or revoke an order under subsection (6) or (7) above, give public notice of that fact in a newspaper or newspapers circulating in their area.
- (12) In this section and in sections 63 to 65 of this Act—
  - “procession in public” means a procession in a public place;
  - “chief constable” means, in relation to a regional or islands council, the chief constable of the police force for the area which comprises or includes the area of the council; and
  - “public place” has the same meaning as in [F8Part II of the Public Order Act 1986].

**Textual Amendments**

**F1** “(a)” inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), Sch. 2 para. 3(2)(a)(i)

**F2** S. 62(1)(b) and “; and” immediately preceding it inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), Sch. 2 para. 3(2)(a)(ii)

**F3** Words inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), Sch. 2 para. 3(2)(b)(i)

**F4** Words substituted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), Sch. 2 para. 3(2)(b)(ii)

**F5** “(a)” inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), Sch. 2 para 3(2)(c)(i)

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- F6** S. 62(4)(b) and “; and” immediately preceding it inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para. 3(2)(c)(ii)**
- F7** S. 62(10) repealed by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(3)(4)(5), **Sch. 3**
- F8** Words substituted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40 (2)(4)(5), Sch. 2 para. 3(2)(d)

### **63 Functions of regional and islands councils in relation to processions.**

- (1) The regional or islands council may, after consulting the chief constable in respect of a procession notice of which has been given or falls to be treated as having been given in accordance with section 62(1) of this Act, make an order—
- (i) prohibiting the holding of the procession; or
  - (ii) imposing conditions on the holding of it.

[<sup>F9</sup>(1A) Where notice of a proposal to hold a procession has been given or falls to be treated as having been given in accordance with section 62(1) of this Act—

- (a) if a regional or islands council have made an order under subsection (1) above they may at any time thereafter, after consulting the chief constable, vary or revoke the order and, where they revoke it, make any order which they were empowered to make under that subsection;
- (b) if they have decided not to make an order they may at any time thereafter, after consulting the chief constable, make any order which they were empowered to make under that subsection.]

(2) The conditions which may be imposed under subsection (1) [<sup>F10</sup>or (1A)] above on the holding of a procession may include conditions—

- (a) as to the date, time and duration of the procession;
- (b) as to the route to be taken by it;
- (c) prohibiting its entry into any public place specified in the order.

(3) A regional or islands council shall—

- (a) where notice of a proposal to hold a procession has been given or falls to be treated as having been given in accordance with section 62(1) of this Act, deliver at least 2 days before the date when, in terms of the notice, the procession is to be held, to the person who gave the notice—
  - (i) where they have made an order under subsection (1) [<sup>F11</sup>or (1A)] above, a copy of it and a written statement of the reasons for it; . . . <sup>F12</sup>
  - (ii) where they decide not to make [<sup>F13</sup>an order under subsection (1) above or to revoke an order already made under subsection (1) or (1A) above], notification of that fact;
  - [<sup>F14</sup>(iii) where they have, under subsection (1A) above, varied such an order, a copy of the order as varied and a written statement of the reasons for the variation; and]
- (b) where they have made an order under subsection (1) [<sup>F15</sup>or (1A)] above in relation to a proposal to hold a procession, make such arrangements as will ensure that persons who might take or are taking part in that procession are made aware of the fact that the order has been made [<sup>F15</sup>and, if the order has been varied under subsection (1A) above, that it has been so varied] and of its effect [<sup>F16</sup>; and
- (c) where they have revoked an order made under subsection (1) or (1A) above in relation to a proposal to hold a procession, make such arrangements as will

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ensure that persons who might take or are taking part in that procession are made aware of the fact that the order has been revoked.]

- (4) The regional or islands council shall comply with subsection (3) above—
- (a) as early as possible;
  - (b) only insofar as it is reasonably practicable for them to do so.

#### Textual Amendments

- F9** S. 63(1A) inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para. 3(3)(a)**
- F10** “or (1A)” inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para. 3(3)(b)**
- F11** “or (1A)” inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para. 3(3)(c)(i)**
- F12** Word repealed by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(3)(4)(5), **Sch. 3**
- F13** Words substituted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para 3(3)(c)(ii)**
- F14** S. 63(3)(iii) substituted for word by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para. 3(3)(c)(iii)**
- F15** Words inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para. 3(3)(c)(iv)**
- F16** S. 63(3)(c) and “; and” immediately preceding it inserted by Public Order Act 1986 (c. 64, SIF 39:2), s. 40(2)(4)(5), **Sch. 2 para. 3(3)(c)(v)**

## 64 Appeals against orders under section 63.

- (1) An appeal to the sheriff shall lie at the instance of a person who, in accordance with section 62 of this Act, has or falls to be treated as having given notice of a proposal to hold a procession in public [<sup>F17</sup>against
- (a) an order made under section 63(1) or (1A) of this Act; or
  - (b) a variation under section 63(1A) of this Act of an order made under section 63(1) or (1A),
- in relation to the procession.]
- (2) An appeal under this section shall be made by way of summary application and shall be lodged with the sheriff clerk within 14 days from the date on which the copy of the order and statement of reasons were received by the appellant.
- (3) On good cause being shown, the sheriff may hear an appeal under this section notwithstanding that it was not lodged within the time mentioned in subsection (2) above.
- (4) The sheriff may uphold an appeal under this section only if he considers that the regional or islands council in arriving at their decision to make [<sup>F18</sup>or, as the case may be, to vary] the order—
- (a) erred in law;
  - (b) based their decision on any incorrect material fact;
  - (c) exercised their discretion in an unreasonable manner; or
  - (d) otherwise acted beyond their powers.
- (5) In considering an appeal under this section the sheriff may hear evidence by or on behalf of any party to the appeal.
- (6) Subject to subsection (7) below, on an appeal under this section, the sheriff may
- (a) uphold the appeal and—

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- (i) remit the case, with the reasons for his decision, to the regional or islands council for reconsideration of their decision, or
  - (ii) if he considers that there is insufficient time for the case to be remitted under sub-paragraph (i) above vary the order which is the subject of the appeal or make any such order as the council were empowered to make under section 63(1) of this Act; or
- (b) dismiss the appeal,
- and on remitting a case under paragraph (a)(ii) above, the sheriff may—
- (i) specify a date by which the reconsideration by the council must take place;
  - (ii) modify any procedural steps which otherwise would be required to be taken in relation to the matter by or under any enactment (including this Act).
- (7) The sheriff shall not exercise any of his powers under subsection (6) above unless he is satisfied that all steps which in the circumstances were reasonable have been taken with a view to securing that notice of the appeal and an opportunity of being heard with respect to it have been given to the council whose order [<sup>F19</sup>or, as the case may be, the variation of whose order] under section 63 of this Act is the subject of the appeal.
- (8) The sheriff may include in his decision on an appeal under this section such order as to the expenses of the appeal as he thinks proper.
- (9) Any party to an appeal to the sheriff under this section may appeal on a point of law from the decision of the sheriff to the Court of Session within 28 days from the date of that decision.

#### Textual Amendments

- F17** S. 64 (1)(a)(b) and word “against” immediately preceding it substituted for words by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), [Sch. 2 para. 3\(4\)\(a\)](#)
- F18** Words inserted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), [Sch. 2 para. 3\(4\)\(b\)](#)
- F19** Words inserted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), [Sch. 2 para. 3\(4\)\(c\)](#)

## 65 Offences and enforcement.

- (1) Subject to subsection (3) below, a person who holds a procession in public—
- (a) without—
    - (i) having given or being a person who is treated as having given notice in accordance with section 62 of this Act of his proposal to do so; and
    - (ii) there being in force in relation to the procession an exempting order under section 62(6) of this Act;
  - (b) in contravention of an order under section 63(1) [<sup>F20</sup>or (1A)] or 64(6)(a)(ii) of this Act prohibiting the holding of it;
  - (c) otherwise than in accordance with a condition imposed by an order under section 63(1) [<sup>F20</sup>or (1A)] or 64(6)(a)(ii) of this Act in relation to the procession; or
  - (d) otherwise than in accordance with the particulars of its date, time and route specified—
    - (i) in the notice given under section 62(1) to (3) of this Act; or
    - (ii) where an order has been made under subsection (4) of that section, in the application for the order

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except to the extent that a condition referred to in paragraph (c) above relates to its date, time or route,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F21</sup>level 4 on the standard scale] or to imprisonment for a period not exceeding 3 months or to both.

- (2) Subject to subsection (3) below, a person who takes part in a procession in public—
- (a) in respect of which—
    - (i) notice has not been or is not treated as having been given in accordance with section 62 of this Act; and
    - (ii) there is not in force an exempting order under section 62(6) of this Act in relation to the procession;
  - (b) in relation to which an order has been made under section 63(1) [<sup>F22</sup>or (1A)] or 64(6)(a)(ii) of this Act prohibiting the holding of it;
  - (c) which is held otherwise than in accordance with a condition imposed by an order under section 63(1) [<sup>F22</sup>or (1A)] or 64(6)(a)(ii) of this Act in relation to the procession; or
  - (d) which is held otherwise than in accordance with the particulars of its date, time and route specified—
    - (i) in the notice given under section 62(1) to (3) of this Act; or
    - (ii) where an order has been made under subsection (4) of that section, in the application for the order

except to the extent that a condition referred to in paragraph (c) above relates to its date, time or route

and refuses to desist when required to do so by a constable in uniform shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F21</sup>level 3 on the standard scale].
- (3) This section does not apply to processions commonly or customarily held except that it applies to a procession so held if there is in force in relation to it an order under section 62(7) of this Act.
- (4) Subject to subsection (5) below, a constable may arrest without warrant a person whom he reasonably suspects of committing or having committed an offence under this section.
- (5) A constable who is not in uniform shall produce his identification if required to do so by any person whom he is arresting under subsection (4) above.

#### Textual Amendments

**F20** “or (1A)” inserted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), [Sch. 2 para. 3\(5\)\(a\)](#)

**F21** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

**F22** “or (1A)” inserted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), [Sch. 2 para. 3\(5\)\(b\)](#)

#### 66 Relationship of sections 62 to 65 with [<sup>F23</sup>F23]Public Order Act 1986].

Sections 62 to 65 of this Act are subject to the [<sup>F23</sup>Public Order Act 1986]; and, without prejudice to that generality—

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- (a) an order under those sections, so far as relating to the same matters as those to which any directions given [<sup>F24</sup>under section 12] of that Act relate, shall be subject to those directions . . . <sup>F25</sup>; and
- (b) anything done in conformity with any such directions . . . <sup>F26</sup> or omitted, in conformity therewith, to be done shall not be an offence under section 65 of this Act.

#### Textual Amendments

- F23** Words substituted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), **Sch. 2 para. 3(6)(a)**
- F24** Words substituted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), **Sch. 2 para. 3(6)(b)**
- F25** Words repealed by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(3)(4)(5), **Sch. 2 para. 3(6)(b)**, Sch. 3
- F26** Words repealed by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(3)(4)(5), **Sch. 2 para. 3(6)(c)**, Sch. 3

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