

Civic Government (Scotland) Act 1982

Section 54: Playing instruments, singing, playing radios, etc.

(1) Any person who—

- (a) sounds or plays any musical instrument;
- (b) sings or performs; or
- (c) Operates any radio or television receiver, record player, tape-recorder or other sound producing device

so as to give any other person reasonable cause for annoyance and fails to desist on being 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 £50.

(2) This section is without prejudice to any offence under section 62 of the **M1** Control of Pollution Act 1974 (operation of loudspeakers in streets).

[F1 (2A) Where a constable reasonably suspects that an offence under subsection (1) above has been committed in relation to a musical instrument or in relation to such a device as is mentioned in paragraph (c) of that subsection, he may enter any premises on which he reasonably suspects that instrument or device to be and seize any such instrument or device he finds there.

(2B) A constable may use reasonable force in the exercise of the power conferred by subsection (2A) above.

(2C) Schedule 2A to this Act (which makes provision in relation to the retention and disposal of property seized under subsection (2A) above) shall have effect.]

(3) Subsection (1) above shall not apply to the operation of a loudspeaker—

- (a) for police, fire-fighting or ambulance purposes, by Scottish Water in the exercise of any of its functions, or by a local authority within its area;
- (b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;
- (c) if the loudspeaker forms part of a public telephone system;
- (d) if the loudspeaker—
 - (i) is in or fixed to a vehicle, and
 - (ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) otherwise than on a road, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;

(f) by a travelling showman on land which is being used for the purposes of a pleasure fair;

(g) in case of emergency.

(4) In subsection (3)(a), the reference to fire-fighting purposes is a reference to—

(a) the purposes of the Scottish Fire and Rescue Service ; or

(b) fire-fighting functions of any other employer of fire-fighters.

Information:

When reporting an instance of breach of Section 54 (1) (c) of the Civic Gov. (S) Act 1982 – that is to say - operates any radio or television receiver, record player, tape-recorder or other sound producing device so as to give any other person reasonable cause for annoyance and fails to desist on being required to do so by a constable in uniform, it is clear from the statute that the person responsible in the first instance gets a warning (the benefit of the doubt) from the Police providing they turn the volume down and desist from this anti-social behaviour. If the loud music is merely turned down for a short period and starts up again, it is important that you make a second report immediately, as it is the second breach of this act that gives the police the authority and powers to enter those premises, seize the equipment responsible for producing the loud music and charge the person responsible for this offence.

If the music was turned down for that night but it happened again the following or subsequent nights, providing it is the same person responsible for the loud music, the passage of time does not matter, he/she has had the first warning and so on the second occasion that same person has “refused to desist” and therefore the full force of the law could and should be effected. However if it is different person responsible they will be entitled to the initial warning before further police action can be considered.

Making a complaint:

When making a complaint reporting an incident involving the playing of loud music, mention in your report the time the alleged offence is being committed, i.e. “it is 1.30 a.m. in the morning” and any other aggravations such as “it has woken my baby up” or “this is the third time this week I have reported this”...and obviously that you are “annoyed”. Also say you feel this behaviour breaches Section 54 (1) (c) of the Civic Gov. (S) Act 1982. It is essential

that you ask for the Police Reference Number allocated to your report and take note of that number for your future reference. This makes your report 'official' and it is entered onto police computer records. It is therefore easily referenced and will include the police resources (the identity of the police officers) sent to deal with this incident. More senior officers can, if having to review an incident, speak to the officers concerned to establish all the facts but also ensure they are carrying out their duties properly.

If unsocial behaviour occurs on several occasions over a more protracted period and these occasions were formally reported and allocated a Reference Number, it is possible, based on these reports, to bring a case and ask a judge to raise an Anti-Social Behaviour Order against the offender. A breach of this order is a separate offence in itself. These reported incidents could also be used by a solicitor to bring a civil action against the owner of the premises for anti-social behaviour as this information can be formally requested and provided by the Chief Constable and used as evidence. This would enable a solicitor to use the evidence of Police Scotland's records, which is indisputable evidence, to help prove the case.