



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART V

#### PUBLIC PROCESSIONS

#### 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>F1</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 [<sup>F2</sup>local authority] in arriving at their decision to make [<sup>F3</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.

*Changes to legislation: Civic Government (Scotland) Act 1982, Section 64 is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (6) Subject to subsection (7) below, on an appeal under this section, the sheriff may
- (a) uphold the appeal and—
    - (i) remit the case, with the reasons for his decision, to the [F2]local authority] 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 [F4]quash] the order which is the subject of the appeal [F5, vary it] or make [F6]in substitution for the order ] any such order as the [F2]authority] were empowered to make under section 63(1) of this Act; or
  - (b) dismiss the appeal,
- and on remitting a case under [F7]paragraph (a)(i)] above, the sheriff may—
- (i) specify a date by which the reconsideration by the [F2]authority] 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 [F2] authority] whose order [F8]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

- F1** 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\(4\)\(a\)](#)
- F2** Words in s. 64(4)(6)(a)(i)(7) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 129\(6\)](#) (with s. 128); S.I. 1996/323, [art. 4\(1\)\(c\)](#)
- F3** Words inserted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), [Sch. 2 para. 3\(4\)\(b\)](#)
- F4** Word in s. 64(6)(a)(ii) substituted (1.4.2007) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\)](#), [ss. 72\(1\)\(a\)](#), 104(1); S.S.I. 2007/84, art. 3(3) (with arts. 56)
- F5** Words in s. 64(6)(a)(ii) inserted (1.4.2007) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\)](#), [ss. 72\(1\)\(b\)](#), 104(1); S.S.I. 2007/84, art. 3(3) (with arts. 56)
- F6** Words in s. 64(6)(a)(ii) inserted (1.4.2007) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\)](#), [ss. 72\(1\)\(c\)](#), 104(1); S.S.I. 2007/84, art. 3(3) (with arts. 56)
- F7** Words in s. 64(6) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 7 para. 14](#); S.S.I. 2011/178, art. 2, sch.
- F8** Words inserted by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(2)(4)(5), [Sch. 2 para. 3\(4\)\(c\)](#)

**Changes to legislation:**

Civic Government (Scotland) Act 1982, Section 64 is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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. 22(1)(c) repealed by [2015 asp 10 s. 65\(3\)](#)
- s. 49(9) added by [2010 asp 13 s. 200\(1\)\(b\)](#)