

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Public Order Etc.

Chapter Three: Other Provisions

Control of Sex Offenders

Section 80 – Police powers of entry to and examination of relevant offender’s home address

161. **Section 80** amends the 2003 Act by inserting a new section 96A that provides that the police can apply to a sheriff to obtain a warrant to enter, examine and search the premises of sex offenders who are subject to the notification requirements under Part 2 of the 2003 Act.
162. Subsection (1) of section 96A of the 2003 Act gives a sheriff power to issue such a warrant, on application of a senior police officer, to enter and search the premises of a relevant sex offender and if necessary to use reasonable force, if he or she is satisfied that the necessary conditions are met.
163. Under subsection (2) of section 96A the application for a warrant to enter, examine, and search will only be granted if the sheriff is satisfied that:
 - the address has been notified as the relevant sex offender’s home address or an address at which the relevant sex offender resides or is regularly found;
 - the relevant sex offender is living in the community and is not in legal custody, prison, detained in hospital or outside the UK (subsection (4));
 - a warrant would assist the police in carrying out a risk assessment as to the likelihood of a relevant sex offender committing another sexual offence (subsection (3)); and
 - the police have previously tried to gain access to the said premises on more than one occasion but have failed to do so.
164. Subsection (5) provides that the sheriff will not need to determine the application for a warrant, without the need to hear from the relevant sex offender or anyone with an interest in the premises.
165. Subsection (6) provides that the warrant to enter, examine, and search premises does not allow the police to seize and retain anything which they find in the premises.
166. Subsection (7) states that the police must execute the warrant at a reasonable hour.

*These notes relate to the Police, Public Order and
Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)*

which received Royal Assent on 4 July 2006

167. Subsection (8) provides that the warrant will expire after one month from the date when the warrant is granted. The police will not be able to execute the warrant after this date.
168. Subsection (9) provides that the warrant can only be executed on one occasion.
169. Subsection (10) provides that the powers described above will not prejudice any other police powers to enter, examine, search, and seize (which are contained in other legislation or in common law) in the normal way if they believe there is evidence to support the fact that an offence may have been committed.
170. Subsection (11) provides definitions for various terms.