

*These notes relate to the Abusive Behaviour and Sexual Harm (Scotland)  
Act 2016 (asp 22) which received Royal Assent on 28 April 2016*

# **ABUSIVE BEHAVIOUR AND SEXUAL HARM (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON PARTS**

#### **Part 2 – Sexual Harm**

##### ***Chapter 2 – Sexual acts outside Scotland***

##### ***Section 9 – Commission of certain sexual offences outside the United Kingdom***

69. **Section 9** amends section 55 of the 2009 Act, which provides Scottish courts with extra-territorial jurisdiction (beyond the United Kingdom) over certain sexual offences committed against children. Sections 9(2) adds new subsections 55(2A) and 55(2B), which provide that a person who was not a UK resident or a UK national at the time they did an act outside the UK which would, if it had been done in Scotland, constitute a listed offence, can be prosecuted for that offence if they subsequently become a UK national or UK resident and the act constituted a criminal offence under the law in force in the country in which it was done.
70. **Section 9(5)** and **(6)** amend the definitions of UK national and UK resident in section 55 of the 2009 Act so as to provide that a person is to be regarded as a UK national or resident for the purpose of this section only if they were a UK national or resident at the time at which the act constituting an offence is alleged to have taken place. Read with new section 55(2A), the effect is that a person who was not a UK national or UK resident at the time they did an act constituting a listed offence cannot be prosecuted in the Scottish courts if the act did not amount to a criminal offence in the country where the act took place.