

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

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 2 – Sexual Harm

Chapter 3 – Sexual harm prevention orders

Circumstances where sexual harm prevention order may be made

Section 15 – Qualifying offender: conviction etc. outside United Kingdom

86. Section 15 provides that a person is a “qualifying offender” for the purposes of section 12 if any of the court disposals listed have been made outside the UK in relation to that person.
87. Subsection (1) refers to convictions, insanity or disability disposals or cautions outside the UK for “equivalent offences”. Subsection (2) defines the phrase “equivalent offence” as an act or omission which at the time it was done or made constituted an offence under the law in force in that country and would have also constituted an offence listed in certain parts of the 2003 Act if done within the UK.
88. Subsection (3) makes clear, in relation to the definition in subsection (2), that an act or omission punishable under the law in force in a country outside the United Kingdom will constitute an offence under that law however it is described under that law.
89. Subsection (4) provides that the assertion that the act carried out or the omission made would have constituted an offence listed in certain parts of the 2003 Act is to be accepted by the court unless either it is challenged by way of notice served on the chief constable by the person (the details of which are set out in subsection (4)(a)), or the court, without requiring the person to serve such a notice, allows the person to require the chief constable to prove that assertion.