

*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 4 – Sexual risk orders*

#### **Making of order**

#### *Section 27 – Making of order*

127. *Section 27* provides that the chief constable may apply to a sheriff for a SRO against a person. A SRO differs from a SHPO in that it may be made where a person has not previously been convicted of a sexual offence (or any offence) but the person's behaviour indicates a risk that others may be harmed.
128. Subsection (2) sets out the tests for making a SRO. The sheriff may only make an order if satisfied that the person in respect of whom the order is sought has done an act of a sexual nature and, as a result, an order is necessary to protect the public or any particular members of the public from harm from the person (subsection (2)(a)), or to protect children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the person outside the United Kingdom (subsection (2)(b)).
129. Subsection (4) provides that before deciding whether to make a SRO the court must, if the person against whom the order would be granted requests it (by virtue of subsection (5)), hold a hearing at which both the person and the chief constable are entitled to make representations to the court. If the person does not request a hearing the court is nevertheless obliged either to hold a hearing or provide an opportunity for the person and the chief constable to make written representations.