

ABUSIVE BEHAVIOUR AND SEXUAL HARM (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 2 – Sexual Harm

Chapter 4 – Sexual risk orders

What order does

Section 28 – Content and duration of order

130. **Section 28** makes provision about the prohibitions or requirements (or both) that may be contained in a SRO. Each prohibition and requirement in a SRO is for a fixed period. The order ceases to have effect, if it has not already done so, if all of the requirements and prohibitions in the order have ceased to have effect.
131. Subsection (2) provides that those prohibitions or requirements will apply throughout the UK (unless expressly confined to particular localities).
132. Subsection (3) provides that a prohibition or requirement in a SRO must be for a fixed period and last a minimum of two years. There is no maximum period, with the exception of any foreign travel restriction which expires after a maximum of five years, unless renewed (see section 29).
133. Subsection (4) provides that different prohibitions and requirements may have effect for different periods.
134. Subsection (5) sets out the tests for imposing prohibitions and requirements in a SRO, namely that they are necessary to protect the public or any particular members of the public from sexual harm from the person (subsection (5)(a)) or to protect children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the person outside the UK (subsection (5)(b)).
135. Subsection (7) provides that, if the court makes a SRO in respect of a person already subject to such an order, the earlier order will cease to have effect.

Section 29 – Prohibitions on foreign travel

136. **Section 29** makes provision about prohibitions on foreign travel in SROs.
137. Subsection (1) provides that the duration of the foreign travel prohibition may not exceed 5 years.
138. Subsection (2) provides that the order may prohibit the subject from travelling to a country outside the UK identified in the order or from travelling to any country outside the UK other than a country identified in the order (for example, this may be needed where the offender is banned from travelling anywhere in the world other than to a

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

named country which he/she may need to visit for family reasons); or from travelling to any country outside the UK (where the offender is such a risk to children or vulnerable adults that a universal ban is required).

139. Subsection (3) determines that a prohibition on foreign travel may be extended for further fixed periods of no more than five years each time (following an application under section 30).
140. Subsection (4) provides that a SRO prohibiting a person from travelling to any country outside the UK must contain a requirement that the person surrenders their passports at a police station specified in the order.
141. Subsection (6) requires the police to return any surrendered passport as soon as reasonably practicable after the relevant foreign travel prohibition ceases, unless the person subject to the order is subject to an equivalent prohibition specified in another order. Circumstances where this subsection would not apply are provided for at subsection (7) (where a passport issued by another country or by an international organisation has already been returned to the relevant authority).