

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 5 – Equivalent orders elsewhere in United Kingdom

Section 37 – Breach of orders equivalent to orders in Chapters 3 and 4: offence

165. Subsection (1) makes it an offence in Scotland to contravene a SHPO, interim SHPO, SRO or interim SRO made in England and Wales. It also makes it an offence in Scotland to contravene a SOPO, interim SOPO, RSHO, interim RSHO or FTO made elsewhere in the UK. Such orders can continue to be made in Northern Ireland, and although such orders can no longer be made in England and Wales some such orders remain in effect. Finally, it also makes it an offence to contravene two old forms of England and Wales order – a restraining order made under section 5A of the Sex Offenders Act 1997 and a sex offender order made under section 2 of the Crime and Disorder Act 1998. Again, although such orders can no longer be made some such orders remain in effect.
166. Subsection (2) specifies that a person convicted of such an offence on summary conviction will be liable to a term of imprisonment of up to 12 months or to a fine, or both; a person convicted on indictment will be liable to a term of imprisonment of up to five years or to a fine or both.
167. Subsection (3) provides that a person convicted under subsection (1) cannot be dealt with by a community payback order, or dismissed with an admonition or discharged absolutely.
168. Subsection (4) provides that the prohibitions imposed by the equivalent order from elsewhere in the UK apply throughout the United Kingdom (unless expressly confined to particular localities).