



# Abusive Behaviour and Sexual Harm (Scotland) Act 2016

2016 asp 22

## PART 2

### SEXUAL HARM

## CHAPTER 3

### SEXUAL HARM PREVENTION ORDERS

#### *Circumstances where sexual harm prevention order may be made*

#### **12 Making of order against qualifying offender on application to sheriff**

- (1) On the application of the chief constable, an appropriate sheriff may make a sexual harm prevention order (see section 16(1)) against a person.
- (2) An appropriate sheriff may make a sexual harm prevention order against a person only if satisfied that—
  - (a) the person is a qualifying offender, and
  - (b) the person's behaviour since the appropriate date makes it necessary to make such an order, for the purpose of—
    - (i) protecting the public, or any particular members of the public, from sexual harm from the person, or
    - (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the person outside the United Kingdom.
- (3) Before determining an application under this section, a sheriff must—
  - (a) if subsection (4) applies, hold a hearing at which the person against whom the order is sought and the chief constable may appear or be represented,
  - (b) if subsection (4) does not apply, either—

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**Changes to legislation:** There are currently no known outstanding effects for the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, Section 12. (See end of Document for details)

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- (i) hold a hearing at which the person against whom the order is sought and the chief constable may appear or be represented, or
  - (ii) give an opportunity to make written representations to the person against whom the order is sought and the chief constable.
- (4) This subsection applies if, not later than rules of court may provide, the person against whom the order is sought gives notice to the sheriff of a wish for a hearing to be held.
- (5) In this section—
- “appropriate date”, in relation to a qualifying offender, means the date or, as the case may be, the first date on which the person was convicted, cautioned or the subject of a finding as mentioned in sections 13, 14 and 15,
- “appropriate sheriff” means—
- (a) a sheriff in whose sheriffdom the person resides,
  - (b) a sheriff in whose sheriffdom the person is believed by the chief constable to be,
  - (c) a sheriff to whose sheriffdom the person is believed by the chief constable to be intending to come, or
  - (d) a sheriff whose sheriffdom includes any place where it is alleged that the person acted in a way giving reasonable cause to believe that it is necessary for a sexual harm prevention order to be made,
- “qualifying offender” means a person to whom section 13, 14 or 15 applies.

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**Commencement Information**

**II** S. 12 in force at 31.3.2023 by S.S.I. 2023/51, reg. 2 (with reg. 3)

**Changes to legislation:**

There are currently no known outstanding effects for the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, Section 12.