

FORCED MARRIAGE ETC. (PROTECTION AND JURISDICTION)(SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: General

Section 16: Ancillary provision

29. This section enables the Scottish Ministers, by order, to make incidental, consequential, transitional, transitory or saving provision as they consider appropriate for the purposes, or in consequence, of any provision of the Act.

Section 17: Subordinate legislation

30. This section regulates the powers conferred on the Scottish Ministers to make orders. It requires these powers to be exercised by statutory instrument and also establishes the type of Parliamentary procedure which applies to these instruments. This is modified by schedules 2 and 3 to the Interpretation and Legislative Reform (Scotland) Act 2010. Those schedules apply to Acts of the Scottish Parliament (including the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011, the Bills for which were passed before 6 April 2011.

Section 18: Crown application

31. By virtue of section 20(1) of the Interpretation and Legislative Reform (Scotland) Act 2010, the provisions of the Act bind the Crown except in so far as section 18 provides otherwise. Section 18 provides that the Crown cannot be held criminally liable for breaching a forced marriage protection order (or for contravening any provision made by virtue of section 10, such as breaching a forced civil partnership protection order). However, the Court of Session may, on a relevant application, declare unlawful any such breach or contravention by the Crown. Subsection (3) provides that the Crown immunity under subsection (1) does not extend to persons in the public service of the Crown. Subsection (4) provides that nothing in the Act affects Her Majesty in her private capacity.

Section 19: Short title and commencement

32. **Section 19** (which comes into force on the day after Royal Assent) provides that the other sections of the Act come into force on such day as the Scottish Ministers may by order appoint. By virtue of section 8 of the Interpretation and Legislative Reform (Scotland) Act 2010, this power may be exercised so as to appoint different days for different purposes for the coming into force of the provisions of the Act.