



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

15 Qualifying offender: conviction etc. outside United Kingdom

- (1) This section applies to a person if, whether before or after this Chapter comes into force, under the law in force in a country outside the United Kingdom—
- (a) the person has been convicted of an equivalent offence (whether or not the person has been punished for it),
 - (b) a court exercising jurisdiction under that law has made in respect of an equivalent offence a finding equivalent to a finding that the person is not guilty by reason of insanity,
 - (c) such a court has made in respect of an equivalent offence a finding equivalent to a finding that, in respect of the offence, the person is under a disability and has done the act or made the omission charged, or
 - (d) the person has been cautioned, or received another type of warning equivalent to a caution in England and Wales or Northern Ireland, in respect of an equivalent offence following an admission of it.
- (2) In subsection (1), “equivalent offence” means an act or omission which, at the time it was done or made—
- (a) constituted an offence under the law in force in the country concerned, and

Status: This is the original version (as it was originally enacted).

- (b) would have constituted an offence listed in schedule 3 (other than at paragraph 60) or schedule 5 of the 2003 Act if it had been done or made in any part of the United Kingdom.
- (3) For the purposes of subsection (2), an act or omission punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law however it is described in that law.
- (4) In relation to an application under section 12 where subsection (1) is alleged to apply, subsection (2)(b) is to be taken to be satisfied unless—
 - (a) not later than rules of court may provide, the person against whom the order is sought (“the respondent”) serves on the chief constable a notice—
 - (i) stating that, on the facts as alleged with respect to the act or omission concerned, it is not in the respondent’s opinion satisfied,
 - (ii) setting out the respondent’s grounds for that opinion, and
 - (iii) requiring the chief constable to prove that it is satisfied, or
 - (b) the court permits the respondent to require the chief constable to prove that subsection (2)(b) is satisfied without service of such a notice.