Abusive Behaviour and Sexual Harm (Scotland) Act 2016

2016 asp 22

PART 2

SEXUAL HARM

CHAPTER 5

EQUIVALENT ORDERS ELSEWHERE IN UNITED KINGDOM

38 Breach of certain equivalent orders: application of notification requirements

(1) This section applies to a person who—

(a) is convicted of an offence under section 37 in respect of a breach of an order under section 122A, 122E, 123 or 126 of the 2003 Act,

(b) is acquitted of such an offence by reason of the special defence set out in section 51A of the 1995 Act, or

(c) is found, in respect of such an offence, to be unfit for trial under section 53F of the 1995 Act and the court determines that the person has done the act constituting the offence.

(2) This section also applies to a person who—

(a) is convicted of an offence under section 122H or 128 of the 2003 Act,

(b) is found not guilty of such an offence by reason of insanity,

(c) is found, in respect of such an offence, to be under a disability and to have done the act charged in respect of the offence, or

(d) is cautioned in respect of such an offence following an admission of it.

(3) Where the person—

(a) was a relevant offender immediately before this section applied to the person, and

(b) would (apart from this subsection) cease to be subject to the notification requirements of Part 2 of the 2003 Act while the relevant order has effect,

the person remains subject to those notification requirements while the relevant order has effect.

(4) Where the person was not a relevant offender immediately before this section applied to the person—

(a) the person, by virtue of this section, becomes subject to the notification requirements of Part 2 of the 2003 Act from the time this section first applies to the person and remains so subject until the relevant order ceases to have effect, and

(b) that Part of that Act applies to the person subject to the modification set out in subsection (5).

(5) The "relevant date" is the date on which this section first applies to the person.

(6) In this section, "relevant order" means—

(a) where the conviction, finding, acquittal or caution by virtue of which this section applies to the person is in respect of a breach of an order under section 122A or 123 of the 2003 Act, that order,

(b) where the conviction, finding, acquittal or caution by virtue of which this section applies to the person is in respect of an order under section 122E or 126 of the 2003 Act—

(i) any order under section 122A or 123 of the 2003 Act made on the hearing of the application to which the order under section 122E or 126 of the 2003 Act relates, or

(ii) if no such order is made, the order under section 122E or 126 of the 2003 Act.

Commencement Information

I1 S. 38 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 38.