



Abusive Behaviour and Sexual Harm (Scotland) Act 2016

2016 asp 22

PART 2

SEXUAL HARM

CHAPTER 6

PREVIOUS ORDERS

40 Saving and transitional provision

(1) In this section—

“existing order” means—

- (a) a sexual offences prevention order under section 104 or 105 of the 2003 Act,
- (b) a foreign travel order under section 114 of the 2003 Act,
- (c) a risk of sexual harm order under section 2 of the 2005 Act,
- (d) an interim sexual offences prevention order under section 109 of the 2003 Act,
- (e) an interim risk of sexual harm order under section 5 of the 2005 Act,

“old order” means an order made under section 20 of the Crime and Disorder Act 1998.

(2) The repeals made by section 39 do not apply in relation to—

- (a) an application for an existing order made before this section comes into force,
- (b) an existing order applied for before then (and whether made before or after then),
- (c) anything done in connection with such an application or order.

(3) But—

- (a) as from when this section comes into force, there may be no variation of an existing order that extends the period of the order or any of its provisions,

Changes to legislation: There are currently no known outstanding effects for the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, Section 40. (See end of Document for details)

- (b) as from the end of the period of 5 years beginning with when this section comes into force, the relevant sections of this Act apply, with any necessary modifications, in relation to any existing order that is still in force as if the provisions of the order were provisions of a corresponding new order.
- (4) In subsection (3)(b)—
- a “corresponding new order” means—
- (a) in the case of a sexual offences prevention order, a sexual harm prevention order,
 - (b) in the case of a foreign travel order, a sexual harm prevention order containing a prohibition on foreign travel (as defined in section 17(2)),
 - (c) in the case of a risk of sexual harm order, a sexual risk order made under section 27,
 - (d) in the case of an interim sexual offences prevention order, an interim sexual harm prevention order made under section 21,
 - (e) in the case of an interim risk of sexual harm order, an interim sexual risk order made under section 31,
- the “relevant sections of this Act” means—
- (a) in the case of a sexual offences prevention order, sections 19, 20 and 24,
 - (b) in the case of a foreign travel order, sections 20 and 24,
 - (c) in the case of a risk of sexual harm order, sections 30 and 34,
 - (d) in the case of an interim sexual offences prevention order, sections 21(10) to (12) and 24,
 - (e) in the case of an interim risk of sexual harm order, sections 31(9) to (11) and 34.
- (5) Sections 20 and 24 apply to an old order as they apply to a sexual harm prevention order.
- (6) In this section, “sexual harm prevention order” means an order made under section 11 or 12.

Commencement Information

II S. 40 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 40.