



# 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

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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 15. (See end of Document for details)

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- (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.

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#### Commencement Information

**II** [S. 15](#) 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 15.