

Executive Note

The Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (Commencement and Savings) Order 2005 SSI/2005/480 (C.24)

The above instrument was made in exercise of the powers conferred by section 20(2) and (3) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. The instrument is not subject to Parliamentary procedure.

Policy Objectives

The purpose of the instrument is to commence the provisions of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (“the 2005 Act”) with effect from 7 October 2005. The main policy objective of the 2005 Act is to improve the protection given to children and young people from those who would wish to cause them sexual harm, or exploit them for sexual purposes. The Act also aims to improve the protection given to adults and children alike from those convicted of sexual offences who still pose a risk of sexual harm. The Act does this in a number of ways including:

- Introducing a new offence of meeting a child for the purposes of committing a sexual offence, following certain preliminary contact
- Introducing Risk of Sexual Harm Orders to impose restrictions on those who are considered to pose a risk of sexual harm to a child or children
- Extending the use of Sexual Offences Prevention Orders so that they may be imposed by a court when dealing with an offender
- Introducing new offences in connection with the sexual exploitation of young people under the age of 18

Article 3 of the instrument contains saving provisions.

Article 3(1) and (2) ensures that applications for the variation, renewal or discharge of Sexual Offences Prevention Orders made before 7 October can continue to proceed under the jurisdictional arrangements set out in sections 105 and 112 of the Sexual Offences Act 2003 (“the 2003 Act”). This will therefore avoid such applications having to be re-submitted under the new arrangements set out in section 17 of the 2005 Act.

Article 3(3) and (4) ensures that no person who is currently subject to the notification requirements of Part 2 of the 2003 Act ceases to be subject to these requirements by virtue of amendments to paragraphs 45 and 46 of Schedule 3 to the 2003 Act made by provisions of the 2005 Act. The Association of Chief Police Officers in Scotland were consulted and advised that their records did not show any person currently subject to the notification requirements who would no longer be subject to those requirements following the commencement of the new provisions. The saving provision however avoids any doubt about this issue.

Consultation

The Association of Chief Police Officers in Scotland were consulted about the effect on notification requirements.

Financial Effects

The instrument has no financial effects on the Scottish Executive, local government or on business.

Scottish Executive Justice Department
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