
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the following provisions of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (“the Act”) on 31 March 2023.

Sections 10 to 25, creating new sexual harm prevention orders, to be made either as part of the process of dealing with an individual for a relevant offence (see section 11) or following an application to the sheriff in respect of a qualifying offender (see sections 12 to 15). Breach of such an order will be an offence (section 24).

Sections 26 to 36, creating new sexual risk orders, which may be made following an application to the sheriff in respect of individuals who are not being dealt with for a relevant offence and are not qualifying offenders, but who are considered by the court to pose a risk of sexual harm from which the public or particular persons require protection (see section 27). Breach of such an order will be an offence (section 34).

Sections 37 and 38, making provision for the enforcement in Scotland of corresponding orders from other UK jurisdictions.

Sections 39 and 40, repealing legislation relating to previous types of order which are replaced by these new orders, and making saving and transitional provision.

Section 43 and schedule 2 (except in relation to paragraph 6 of that schedule which is already in force), making minor and consequential modifications to other legislation.

Regulation 3 of these Regulations provides that where one of the new orders is made in respect of a person who is already subject to a corresponding order under repealed legislation (which may otherwise be preserved under section 40 of the Act), the previous order ceases to have effect.

Regulation 4 contains saving provision in respect of amendments and repeals made by schedule 2 of the Act, to preserve the previous law in relation to applications for previous types of order made before 31 March 2023 and individual orders of previous types which continue to have effect under the main saving provision in section 40 of the Act.

The Bill for the Act received Royal Assent on 28 April 2016. Sections 42, 44, 45 and 46 came into force the following day.