

SEXUAL OFFENCES ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Notification and Orders

Section 97: Notification orders: applications and grounds

193. **Section 97** provides a power for the police to apply to the magistrates' court for an order making an offender who has been convicted, cautioned or had a relevant finding made against him, in respect of a "relevant offence" (defined in *subsection (1)* of section 99) abroad, subject to the notification requirements.
194. The chief officer of police may apply for an order if the defendant resides in his police area or the chief officer believes that the person is currently in or is intending to come to his police area. The "intending to come to" limb will cover for example a person who is in France but who the chief officer of Kent believes has plans to arrive at Dover within the next few days. A notification order might, for example, be sought in respect of a UK citizen who has been convicted of a sexual offence overseas and who is deported to the UK on release from prison abroad. The police could also apply for a notification order in respect of a foreign citizen who the police know has been convicted of a sex offence in his or her own country and who comes to the UK.
195. The provisions in *subsection (3)* reflect the partially retrospective arrangements that apply in respect of the application of the notification requirements to people with convictions etc. in the UK (see section 81). The relevant conviction, finding or caution abroad must have taken place on or after 1 September 1997, which was the commencement date for the 1997 Act. Findings or convictions that occurred before that date will only be a trigger for a notification order where the person had yet to be dealt with on 1 September 1997 or was still serving a sentence or was subject to supervision or otherwise detained in respect of that offence on that date.
196. The effect of *subsection (4)* is that an order may not be made where the notification period (the period for which an offender is to be subject to the notification requirements), calculated from the date of conviction or finding or caution abroad, has expired. So where, for example, a person is cautioned abroad after commencement for a relevant offence (the notification period for a post-commencement caution is 2 years), the court may not make a notification order against that person if he comes to the UK more than 2 years after receiving the caution. Clause 103 provides certain modifications to clause 99 to ensure that the provisions contained therein reflect Scottish procedures, practices and references.