



Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005

2005 asp 9

Risk of sexual harm orders

2 Risk of sexual harm orders: applications, grounds and effect

- (1) The chief constable of a police force may apply for an order under this section (a “risk of sexual harm order”) in respect of a person who resides in the area of the police force or who the chief constable believes is in, or is intending to come to, that area if it appears to the chief constable that—
 - (a) the person has on at least two occasions, whether before or after the commencement of this section, done an act within subsection (5) below; and
 - (b) as a result of those acts, there is reasonable cause to believe that it is necessary for such an order to be made.
- (2) An application under subsection (1) above may be made to any sheriff—
 - (a) in whose sheriffdom the person against whom the order is sought resides;
 - (b) in whose sheriffdom that person is believed by the applicant to be;
 - (c) to whose sheriffdom that person is believed by the applicant to be intending to come; or
 - (d) whose sheriffdom includes any place where it is alleged that that person did an act within subsection (5) below.
- (3) An application under subsection (1) above shall be made by summary application.
- (4) Such an application shall be made within—
 - (a) the period of 3 months beginning with the date on which the matter mentioned in subsection (1)(a) above appears to the applicant to be the case; or
 - (b) such longer period as the sheriff considers equitable having regard to all the circumstances.
- (5) The acts referred to in subsections (1) and (2) above are—
 - (a) engaging in sexual activity involving a child or in the presence of a child;
 - (b) causing or inciting a child to watch a person engaging in sexual activity or to look at a moving or still image that is sexual;

- (c) giving a child anything that relates to sexual activity or contains a reference to such activity;
 - (d) communicating with a child, where any part of the communication is sexual.
- (6) On the application, the sheriff may make a risk of sexual harm order if satisfied that—
- (a) the person against whom the order is sought has on at least two occasions, whether before or after the commencement of this section, done an act within subsection (5) above; and
 - (b) it is necessary to make such an order for the purpose of protecting children generally or any child from harm from that person.
- (7) Such an order—
- (a) prohibits the person against whom the order has effect from doing anything described in the order;
 - (b) subject to subsection below, has effect for a fixed period (not less than 2 years) specified in the order.
- (8) The only prohibitions that may be imposed by virtue of subsection (7) above are those necessary for the purpose of protecting children generally or any child from harm from the person against whom the order has effect.
- (9) Where a sheriff makes a risk of sexual harm order in relation to a person already subject to such an order (whether made by that sheriff or another), the earlier order ceases to have effect.