



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 2

#### NOTIFICATION AND ORDERS

##### *Sexual offences prevention orders*

#### **105 SOPOs: further provision as respects Scotland**

- (1) A chief constable may apply for an order under this section in respect of a person who he believes is in, or is intending to come to, the area of his police force if it appears to the chief constable that—
- (a) the person has been convicted of, found not guilty by reason of insanity of or found to be under a disability and to have done the act charged against him in respect of—
    - (i) an offence listed in paragraph 60 of Schedule 3; or
    - (ii) before the commencement of this Part, an offence in Scotland other than is mentioned in paragraphs 36 to 59 of that Schedule if the chief constable considers that had the conviction or finding been after such commencement it is likely that a determination such as is mentioned in paragraph 60 would have been made in relation to the offence; and
  - (b) the person has since the conviction or finding acted in such a way as to give reasonable cause to believe that it is necessary for such an order to be made.
- (2) An application under subsection (1) may be made by summary application to a sheriff
- [<sup>F1</sup>(aa) within whose sheriffdom the person in respect of whom the order is sought resides;
  - (ab) within whose sheriffdom the person is believed by the applicant to be;
  - (ac) to whose sheriffdom the person is believed by the applicant to be intending to come;]
  - (b) [<sup>F2</sup>Within whose sheriffdom lies] any place where it is alleged that the person acted in a way mentioned in subsection (1)(b).

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*Status: Point in time view as at 07/10/2005. This version of this provision has been superseded.*

*Changes to legislation: Sexual Offences Act 2003, Section 105 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (3) The sheriff may make the order where satisfied—
- (a) that the person’s behaviour since the conviction or finding makes it necessary to make such an order, for the purposes of protecting the public or any particular members of the public from serious sexual harm from the person; and
  - (b) where the application is by virtue of subsection (1)(a)(ii), that there was a significant sexual aspect to the person’s behaviour in committing the offence.
- (4) Subsection (3) of section 106 applies for the purposes of this section as it applies for the purposes of section 104 and subsections (2) and (3) of section 112 apply in relation to a summary application made by virtue of subsection (1) as they apply in relation to one made by virtue of subsection [F3(1)(e)] of that section.

#### Textual Amendments

- F1** Words in s. 105(2) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), ss. 17\(1\)\(a\)\(i\)](#), 20; S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F2** Words in s. 105(2)(b) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), ss. 17\(1\)\(a\)\(ii\)](#), 20; S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F3** Words in s. 105(4) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), ss. 17\(1\)\(b\)](#), 20; S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))

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