

PROTECTION OF CHILDREN AND PREVENTION OF SEXUAL OFFENCES (SCOTLAND) ACT 2005

EXPLANATORY NOTES

THE ACT – COMMENTARY ON SECTIONS

Section 8 – Effect of conviction etc. under section 7 above or section 128 of Sexual Offences Act 2003

25. **Section 8** makes provision for different types of offender to ensure that a breach of an RSHO entails compliance with the notification requirements in the 2003 Act, which require persons convicted of specified offences to notify their details to the police on a regular basis. It applies to persons who are convicted of an offence under section 7 of the Act (breach of an RSHO or interim RSHO made in Scotland, England and Wales or Northern Ireland). It also applies to persons who have been convicted in England and Wales or Northern Ireland of a breach of an RSHO or interim RSHO that was made in England and Wales or Northern Ireland. This is to ensure that such persons are subject to the notification requirements of Part 2 of the 2003 Act as a matter of Scots law, which is necessary to deal with the possibility that such persons might move to Scotland.
26. Subsection (2) provides that where the offender was already subject to the notification requirements but would cease to be subject to those requirements at a time when the RSHO still has effect then that person should remain subject to the notification requirements until the expiry of the RSHO, including any renewals.
27. Given that a person subject to an RSHO need not have been convicted of any sexual offence before the order was made, the person would not necessarily be subject to the notification requirements in Part 2 of the 2003 Act. Subsection (3) therefore provides that if the person was not already subject to these notification requirements then that person becomes subject to those notification requirements from the time of the conviction until the RSHO ceases to have effect.