



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

2005 asp 9

## *Risk of sexual harm orders*

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

- (1) This section applies to a person who—
- is convicted of an offence under section 7 above or section 128 of the 2003 Act (breach of RSHO or interim RSHO in England and Wales or Northern Ireland);
  - is, in England and Wales or Northern Ireland, cautioned in respect of an offence under section 128 of that Act;
  - is found not guilty of one of those offences on the grounds or by reason of insanity; or
  - is found to be under a disability and to have done the act charged against the person in respect of one of those offences.
- (2) Where the person—
- was a relevant offender immediately before this section applied to the person; and
  - would (apart from this subsection) cease to be subject to the notification requirements of Part 2 of the 2003 Act while the relevant order (as renewed from time to time) has effect,
- the person remains subject to those notification requirements.
- (3) Where the person was not a relevant offender immediately before this section applied to the person—
- the person, by virtue of this section, becomes subject to the notification requirements of Part 2 of the 2003 Act from the time this section first applies to the person and remains so subject until the relevant order (as renewed from time to time) ceases to have effect; and
  - that Part of that Act applies to the person subject to the modification set out in subsection (4) below.

- (4) In that application, “relevant date” means the date on which this section first applies to the person referred to in it.
- (5) In this section—
- “relevant offender” has the meaning given by section 80(2) of the 2003 Act;
- “relevant order” means—
- (a) where the conviction or finding referred to in subsection (1)(a), (c) or (d) above is in respect of a breach of a risk of sexual harm order under section 2 above or section 123 of the 2003 Act, that order;
  - (b) where the caution referred to in subsection (1)(b) above is in respect of a breach of a risk of sexual harm order under section 123 of the 2003 Act, that order;
  - (c) where the conviction or finding referred to in subsection (1)(a), (c) or (d) above is in respect of a breach of an interim risk of harm order under section 5 above or section 126 of the 2003 Act—
    - (i) any risk of sexual harm order made upon the application to which the interim risk of sexual harm order relates; or
    - (ii) if no such risk of sexual harm order has been made, the interim risk of sexual harm order;
  - (d) where the caution referred to in subsection (1)(b) above is in respect of a breach of an interim risk of sexual harm order under section 126 of the 2003 Act—
    - (i) any risk of sexual harm order under section 123 of that Act made on the hearing of the application to which the interim risk of sexual harm order relates; or
    - (ii) if no such risk of sexual harm order has been made, the interim risk of sexual harm order.