

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 - Criminal Justice

Section 100 - Sexual offences prevention orders

495. **Section 100** makes a number of amendments to the provisions of the Sexual Offences Act 2003 (“the 2003 Act”) which relate to sexual offences prevention orders (SOPOs).
496. Subsections (1) and (2)(a) make provision concerning the criteria which currently exist in some cases before a person may become subject to the notification requirements under the 2003 Act, and before a SOPO can be made. Courts in Scotland can make a SOPO when dealing with an offender for an offence listed in Schedule 3 to the 2003 Act. For some offences listed in Schedule 3 there are conditions, which are based on the sentence or age of the persons involved in the offence, in place which currently limit the application of the scheme which provides for the making of a SOPO. Section 141 of the Criminal Justice and Immigration Act 2008 amended the 2003 Act for England and Wales and Northern Ireland to provide that these conditions do not restrict the making of a SOPO in cases where the conditions are not met. Section 100(1) and (2)(a) extends the application of the amendment made by section 141 of the 2008 Act so that it applies in Scotland.
497. Subsection (2)(b) corrects a minor error in section 109 of the 2003 Act. It ensures that section 107(2) will apply in applications for interim SOPOs. That section of the 2003 Act provides that prohibitions may be included in an order are those necessary for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant, applies to interim SOPOs as well as full SOPOs.
498. Subsection (2)(c) inserts new section 111A into the Sexual Offences Act 2003. New subsections 111A(2)-(3) have effect of extending the permitted content of a SOPO, and an interim SOPO, so that the court can impose requirements as well as such other terms in the order, whether prohibitions, restrictions, or other terms, as it considers appropriate so as to protect the public by preventing, restricting or disrupting the involvement of the subject of the order in sexual crime.
499. Subsection (2)(d) amends section 112 of the Sexual Offences Act 2003 to provide that a SOPO may be made at the instance of the court or on the motion of the prosecutor.