



**NOVASCOTIA  
PUBLIC PROSECUTION SERVICE**

**DOCUMENT TITLE:**

**SEX OFFENDER INFORMATION REGISTRATION ACT**

<b>NATURE OF DOCUMENT:</b>	<b>DPP DIRECTIVE</b>
<b>FIRST ISSUED:</b>	<b>DECEMBER 3, 2004</b>
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**NOTE:**

**THIS POLICY DOCUMENT IS TO BE READ IN THE CONTEXT PROVIDED BY THE PREFACE TO THIS PART OF THE MANUAL.**

**CERTAIN WORDS AND PHRASES HAVE THE MEANINGS ESTABLISHED IN THE "WORDS & PHRASES" SECTION OF THIS PART OF THE MANUAL.**

## **OVERVIEW**

The Sex Offender Information Registration Act (SOIRA or “the Act”) came into force on December 15, 2004 and established a database to assist peace officers in the investigation of sexual offences. The database contains addresses, descriptions and other vital information relating to convicted sex offenders, and is accessible to investigators as soon as they become aware of the commission of a sexual offence. Investigators are able to search the database by location, within a radius of any specific address or geographical area. Crown Attorneys, except in very narrow circumstances, do not have access to the information maintained in the database.

When a sex offender is convicted, the court, when it imposes sentence, shall issue an order directing the offender to report to a designated registration centre<sup>1</sup>. There, the offender must provide the personal information specified in the Act. The information must be confirmed or updated regularly by the offender (yearly at a minimum) and this obligation of the offender continues for a period of 10 years, 20 years or lifetime, depending on the maximum penalty for the offence on which the conviction is entered. Failure to comply with the terms of a SOIRA order is an offence under the *Criminal Code*.

The Act has retrospective application and offenders who were convicted prior to the coming into force of the Act but who were still serving some portion of their sentence on the date the Act came into force, were served with Notices requiring them to attend at registration centres and provide the specified information.

Effective April 28, 2011, amendments to the *Criminal Code* require persons who enter Canada to comply with the provisions of the Act, once they have been served with a Form 54 Notice, if they have been convicted of, or found not criminally responsible on account of mental disorder for, an offence outside Canada which is equivalent to a designated offence referred to in Section 490.011 of the *Criminal Code*.

## **KEY ASPECTS OF SOIRA and POLICY CONSIDERATIONS**

### **Making of SOIRA Orders**

The process of making an order requiring an offender to provide information to the registration centre is mandatory pursuant to Section 490.012 CC upon conviction for a “designated offence”. The April 28, 2011 amendments removed the previous requirement for the Crown to apply to the Court for a SOIRA order except for specific designated offences listed in Section 490.011(1)(b) and (f) of the *Criminal Code* where the Crown must establish that such offences were committed with the intent to commit

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<sup>1</sup>For a list of designated registration centres see Appendix 1

one of the main designated offences. Such application is to be made at the time of sentence submissions and in conjunction with applications for other ancillary orders such as for DNA samples or firearm prohibitions.

Offenders who are granted absolute or conditional discharges under Section 730 of the *Criminal Code* are not subject to SOIRA orders but are where the discharge is pursuant to a finding of not criminally responsible on account of mental disorder. The Act also does not apply to “young persons” unless they are tried in adult court or given an adult sentence.

“**Designated offences**” are listed in Section 490.011 of the *Criminal Code*. The list includes all sexual offences and any attempts or conspiracies to commit sexual offences. The list also includes offences such as breaking and entering, abduction, trespassing at night, manslaughter and murder if the Crown establishes beyond a reasonable doubt that the offender committed the offence with the intent to commit a sexual offence [S. 490.012(2)].

The intent of Parliament in developing the SOIRA registry was to facilitate the investigation of sexual offences by giving the police a database which would provide early leads in an investigation. The effectiveness of this important tool will be affected by the completeness of the information in the database. Accordingly **prosecutors are to apply for SOIRA orders for all eligible offenders** where such applications are required by Section 490.012(2) and (3) of the *Criminal Code*.

The prosecutor handling the file at the sentencing stage must be aware of the requirement for the SOIRA order. This awareness is important in that while most SOIRA orders are now mandatory and do not require a Crown application, it may be appropriate or necessary to remind the Court of the need for the mandatory order and the applicable reporting term.

### **Resolution discussions and agreements**

To help ensure the integrity and completeness of the SOIRA database, the decision to apply or not apply for a SOIRA order must not become a bargaining chip in the plea or charge resolution process. Possible avoidance of a SOIRA order must not be a factor in charge selection or in the position taken on sentence. Prosecutors should also be careful not to agree to a statement of facts drafted in support of a guilty plea if the facts, when presented in court, will not prove the intent of the accused to commit an offence of a sexual nature.

### **Identifying eligible cases**

When a Crown file is opened for an eligible case the cover of the file should be stamped “SOIRA”, or otherwise be clearly noted for eligibility so that the prosecutor will take steps to be aware of the appropriate reporting periods and be prepared to refer the Court to the applicable *Criminal Code* provisions if the Court fails to or makes an incorrect Order or reporting period. This is particularly crucial because there is no right

of appeal from an incorrect reporting term made under Section 490.012(1) *Criminal Code*.

SOIRA orders are made in Form 52 and are prepared by Court administration. The duration of the order depends on the maximum penalty for the predicate offence, as follows [s. 490.013 CC]:

- for summary offences, or indictable offences punishable by imprisonment of 5 years or less, the order ends 10 years after it is made
- for offences punishable by imprisonment of 10 or 14 years, the order ends 20 years after it is made
- for offences punishable by life imprisonment or where the offender is sentenced for more than one designated offence, or where the offender has previously been sentenced for a designated offence, the order lasts for the offender's lifetime

### **Convictions outside of Canada**

The process to deal with persons arriving in Canada who have been convicted/sentenced outside Canada for sexual offences will commence when police become aware that an offender has entered, or is about to enter, Canada. It is appropriate that a standard protocol be followed in such cases to ensure that such offenders are properly identified as being eligible for service of the Form 54 "Notice of Obligation to Comply With The Sex Offender Information Registration Act".

As Section 490.02901 *Criminal Code* requires such Notices to be served by the Attorney General and because both the Director and Deputy Director of Public Prosecutions are designated Deputy Attorneys General, the following protocol has been developed through the collaboration of the Public Prosecution Service (PPS) and the Nova Scotia Sex Offender Registry (SOR):

- the SOR will confirm the identity of the offender, the arrival date, time, location and entry mode, reason for entry, anticipated length of stay, address of visitation and similar relevant data
- the SOR will obtain details of the foreign conviction/sentence including date, statute, charging section and description, sentence, investigation reports, police/prosecution contact data, court sentencing details or transcripts and all necessary certified translations of documents
- the SOR will provide the PPS with a Memorandum setting out the above information, attaching copies of relevant documentation, making a recommendation of the equivalent designated offence and requesting that a Form 54 Notice be issued for personal service upon the offender
- the PPS, upon review of the Memorandum and attachments, will determine what, if any, designated offence is the equivalent of the foreign offence; if such

equivalency is determined to exist, the PPS will determine the appropriate length of the reporting term and complete and issue the Form 54 for transmittal to the SOR for personal service upon the offender

- the SOR personally serves the offender with a copy of the Form 54 and completes an affidavit of personal service
- the SOR obtains the footprint data from the offender as required by the Act, ensures entry of such data into the database, retains the original Form 54 and affidavit of service in the SOR filing system and remits a copy of the Form 54 and affidavit of service to the PPS

### **RESTRICTIONS ON USE OF SOIRA INFORMATION**

There are safeguards in SOIRA to protect the privacy interests of sex offenders and to facilitate the rehabilitation and reintegration of offenders into the community as law-abiding citizens. As far as is possible, the only use of the database is to be by police investigators who reasonably believe that a sexual offence has been committed. Disclosure of database information (or the fact that the information is in the database) to others, including prosecutors, is strictly controlled by the Commissioner of the RCMP.

Prosecutors cannot obtain SOIRA information except as is permitted under Section 490.03 of the *Criminal Code*. The exceptions are as follows:

- If the Commissioner is satisfied that it is necessary, information may be disclosed to a prosecutor who is applying for a Form 52 order
- If the Commissioner is satisfied that it is necessary, information may be disclosed to the Attorney General in proceedings to terminate SOIRA orders
- If, in a proceeding, a person who is subject to a SOIRA order discloses the registered information (or the fact that such information is registered), the Attorney General may request and receive all of the registered information

Once the prosecutor or the Attorney General receives the SOIRA information in any of the circumstances shown above, the information may be disclosed to the Court in the proceedings for which it was requested, and to appellate courts [S. 490.03(3) CC]

Information from the database may also be disclosed to a Judge or Justice in an application for a search warrant in a sexual offence investigation [S. 490.04(4) CC]. The prosecutor, if aware of the application for a search warrant, should advise the police applicant to seek a sealing order in regard to the disclosed information.

It is an offence under SOIRA to consult any SOIRA information without authorization, or to disclose information contained in the database except as permitted by the Act [S. 15(3), (4) SOIRA].

**OFFENCES UNDER THE *CRIMINAL CODE***

Failure to comply with a SOIRA order or obligation, without reasonable excuse, is an offence under Section 490.031 of the *Criminal Code* and punishable:

- on summary conviction by a fine of up to \$10,000 or imprisonment for up to 6 months, or both
- on indictment by a fine of up to \$10,000 or imprisonment for up to 2 years, or both

## Appendix 1

### REGISTRATION CENTRES

(Nova Scotia Sex Offender Information Registration Regulations)

Column 1	Column 2
Place	Designated Area of Service
1. The NSSOIRC	The entire Province of Nova Scotia
2. Office of the Cape Breton Regional Police, Criminal Division	Cape Breton Regional Municipality, other than Membertou Reserve and Eskasoni Reserve
3. Office of the Halifax Regional Police Department	Halifax Regional Municipality
4. Office of New Glasgow Police Service	Pictou County
5. Annapolis RCMP Detachment	Annapolis County
6. Antigonish RCMP Detachment	Antigonish County Victoria County
7. Baddeck RCMP Detachment	Membertou Reserve Eskasoni Reserve
8. Bible Hill RCMP Detachment	Colchester County
9. Bridgewater RCMP Detachment	Lunenburg County
10. Cumberland County Detachment	Cumberland County
11. Digby RCMP Detachment	Digby County
12. Guysborough RCMP Detachment	Guysborough County
13. Inverness RCMP Detachment	Inverness County
14. New Minas RCMP Detachment	Kings County
15. Queens RCMP Detachment	Queens County

- 16. Richmond RCMP Detachment Richmond County
- 17. Shelburne RCMP Detachment Shelburne County
- 18. Windsor RCMP Detachment Hants County
- 19. Yarmouth Rural RCMP Detachment Yarmouth County



# SOIRA ORDERS

The SOIRA provisions are convoluted, intertwined and confusing. The purpose of this memo is to help with the following:

1. Is it a designated offence?
2. Under which section should an application for a SOIRA order be made?
3. How long should the SOIRA order be in force?

In an attempt to address some of the intertwining issues I will refer to some sections out of chronological order

There are references in the SOIRA provisions to the *National Defence Act* and the *International Transfer of Offenders Act*. If you need assistance to determine if the sections from this legislation have been complied with, please contact the **SOIRA office at 902-720-5338**. Officers can check databases and speak to contacts at National Defence and provide information to assist with the Crown's application

## 1. IS IT A DESIGNATED OFFENCE?

Section 490.011 creates seven categories of designated offences:

1. Subsection a) designates a list of substantive offences that are currently in force.
2. Subsection c) designates historic sexual offences from R.S.C. 1970 as they read before Jan. 4, 1983.
3. Subsection c.1) designates historic sexual offences from R.S.C. 1970 as amended by ch.125 Statutes of Canada 1980-81-82-83.
4. Subsection d) designates historic sexual offences under R.S.C. 1970 as they read before Jan. 1, 1988.
5. Subsection e) makes any attempt or conspiracy to commit an offence listed in s. 490.011 a), c), c.1) or d) a designated offence.

6. Subsection b) designates a list of substantive offences that can be the foundation for a SOIRA order if the Crown can prove beyond a reasonable doubt the accused committed the offence with the intent to commit an offence listed in s. 490.011 a), c), c.1), d), e). For example, if the Crown can prove an accused committed the offence of a kidnapping [s. 279 is designated under b)] for the purpose of committing a sexual assault [s. 271 is designated under a)] then a SOIRA order could be sought.
7. Subsection f) makes any attempt or conspiracy to commit an offence listed in s. 490.011 b) a designated offence.

## 2. UNDER WHICH SECTION SHOULD AN APPLICATION FOR A SOIRA ORDER BE MADE?

Section 490.012 establishes four different routes by which a SOIRA order can be sought.

NOTE: BEFORE reviewing these four routes, it is first critical to appreciate the implications of s. 490.012(3).

This subsection allows the Crown to review an accused's prior criminal record. If there is a conviction or NCR verdict for a designated offence under s. 490.011 (1) a), c), c.1), d) or e) for which a SOIRA order could have been sought but was not, this can be brought to the attention of the court and can dramatically change the duration of a SOIRA order.

For example if an accused is convicted of a summary sexual assault the SOIRA order would typically be for ten years. However if you review the criminal record and discover a prior conviction for s.173 (2) (exposure) for which no SOIRA order was imposed you may be able to get a SOIRA Order for **life** if other conditions can also be met.

**Accordingly, unless you are able to seek a LIFE term under s. 490.012(1) or (2) a thorough review of the accused's prior criminal record is essential to an application for a SOIRA order**

The four routes by which a SOIRA order can be sought are:

### 1. Section 490.012 (1) – Order

An accused is convicted or found NCR for any offence designated in s. 490.011 (1) a), c), c.1), d), or e). The application will be under s. 490.012 (1) [**unless LIFE is**

**unavailable, but could be sought under s. 490.012(3), in which case, the application should be made under that subsection]**

## **2. Section 490.012 (2) – If Intent Established**

An accused is convicted or found NCR for any offence designated in s. 490.011 (1) b) or f) and the Crown can prove beyond a reasonable doubt the accused committed the offence with the intent to commit an offence listed in s. 490.011 a), c), c.1), d), e). The application will be under s. 490.012 (2) **[unless LIFE is unavailable, but could be sought under s. 490.012(3), in which case, the application should be made under that subsection]**

## **3. Section 490.012 (3) – If Previous Conviction is Established**

An accused is convicted or found NCR for any offence for which an application could have been made under s. 490.012 (1) or (2) **AND** the Crown can establish:

- a) The accused was previously convicted or found NCR of an offence designated under s. 490.011 (1) a), c), c.1), d) or e) or an offence designated under s. 227 a) or c) of the *National Defence Act*;

[Note: a **prior conviction** for an offence designated under s. 490.011 (1) b) or f) is conspicuously absent]

- b) The accused was not served with a notice under s. 490.021 [Period for and Method of Service] or s. 490.02903 [Application for Exemption Order] or under s. 227.08 of the *National Defence Act* in connection with that offence; and,
- c) No order was made under s. 490.012(1) or under s. 227.01(1) of the *National Defence Act* in connection with that offence

## **4. Section 490.012 (4) – Failure to Make Order**

If the court does not consider the matter under subsection (1) or (3) at that time, the court

- a) shall, within 90 days after the day on which it imposes the sentence or renders the verdict, set a date for a hearing to do so;
- b) retains jurisdiction over the matter; and

- c) may require the person to appear by closed-circuit television or any other means that allows the court and the person to engage in simultaneous visual and oral communication as long as the person is given the opportunity to communicate privately with counsel if they are represented by counsel

This section creates a small window in the event the Crown fails to seek a SOIRA order at time of sentencing. The Court need only set a date for a hearing within 90 days of the sentencing or verdict. The hearing itself does not have to occur within 90 days.

This section creates potential for a bizarre anomaly. It specifically excludes applications under s. 490.012 (2) where the designated offence is under s. 490.011(1) b), f); however, it does apply to applications under s. 490.012 (3) which includes offences under s. 490.011 (1) b), f) provided there is also a prior conviction for which a SOIRA order could have been made but was not.

### **3. HOW LONG SHOULD THE SOIRA ORDER BE IN FORCE?**

Section 490.013 sets out several factors that must be considered in order to determine the correct duration of a SOIRA order:

- a) **Section 490.013 (5)**

An order made under s. 490.012 (3) shall be for **LIFE**

- b) **Section 490.013 (4) Previously Subject of a SOIRA Order**

If the application is under s. 490.012 (1) or (2) and the accused is, or has previously been, the subject of an order under s. 490.012 or s. 227.01 of the *National Defence Act* then the duration of the order shall be for **LIFE**

- c) **Section 490.013 (3) Order in Form 53, Convictions Before December 15, 2004**

- Order in Form 54, Conviction outside Canada**

If the application is made under s. 490.012 (1) or (2) and the accused is, or was at any time, subject to an obligation under s. 490.019 [Form 53 Conviction Before December 15, 2004] or s. 490.02901 [Form 54 Conviction Outside Canada], under s. 227.06 *National Defence Act* or s. 36.1 of the *International Transfer of Offenders Act* the duration of the order is **LIFE**

**d) Section 490.013 (2.1) Multiple Offences**

If the application is under s. **490.012 (1)** and is based on multiple offences designated under s. 490.011 (1) a), c), c.1), d), e) the duration of the order is **LIFE**

**Note:** this does not apply to applications under s. 490.012 (2) where the designated offence is under s. 490.011 (1) b) or f).

**e) Section 490.013 (2) Summary / Indictable**

If the application is under s. 490.012 (1) or (2) and

- (i) the Crown proceeded summarily or if the maximum term of imprisonment is two or five years then the duration of the order is **TEN** years
- (ii) if the maximum term of imprisonment is ten or fourteen years the duration of the order is **TWENTY** years
- (iii) if the maximum term of imprisonment is life the duration of the order is **LIFE**

## SOIRA ORDER – WORKSHEET

QUESTION	YES / NO	REMARKS																																				
<b>IS IT A DESIGNATED OFFENCE?</b>																																						
<p>Was the accused convicted of committing, attempting to commit, or conspiring to commit any of the following offences:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">__7(4.1)</td> <td style="width: 33%;">__170(a)</td> <td style="width: 33%;">__212(1)(i)</td> </tr> <tr> <td>__151</td> <td>__170(b)</td> <td>__212(2)</td> </tr> <tr> <td>__152</td> <td>__171.1(a)</td> <td>__212(2.1)</td> </tr> <tr> <td>__153</td> <td>__171.1(b)</td> <td>__212(4)</td> </tr> <tr> <td>__153.1</td> <td>__171.1(c)</td> <td>__271</td> </tr> <tr> <td>__155</td> <td>__172.1(a)</td> <td>__272(2)</td> </tr> <tr> <td>__160(2)</td> <td>__172.1(b)</td> <td>__272(2)(a.2)</td> </tr> <tr> <td>__160(3)</td> <td>__172.1(c)</td> <td>__273(2)(a)</td> </tr> <tr> <td>__163.1(2)</td> <td>__172.2(a)</td> <td>__273(2)(a.1)</td> </tr> <tr> <td>__63.1(3)</td> <td>__172.2(b)</td> <td>__273(2)(b)</td> </tr> <tr> <td>__163.1(4)</td> <td>__172.2(c)</td> <td>__273.3(2)</td> </tr> <tr> <td>__163(4.1)</td> <td>__173(2)</td> <td></td> </tr> </table>	__7(4.1)	__170(a)	__212(1)(i)	__151	__170(b)	__212(2)	__152	__171.1(a)	__212(2.1)	__153	__171.1(b)	__212(4)	__153.1	__171.1(c)	__271	__155	__172.1(a)	__272(2)	__160(2)	__172.1(b)	__272(2)(a.2)	__160(3)	__172.1(c)	__273(2)(a)	__163.1(2)	__172.2(a)	__273(2)(a.1)	__63.1(3)	__172.2(b)	__273(2)(b)	__163.1(4)	__172.2(c)	__273.3(2)	__163(4.1)	__173(2)			<p>If "Yes" then it is a designated offence under s.490.011(1)(a) if actually committed or s.490.011(1)(e) if it was an attempt or conspiracy</p>
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<b>WHAT SECTION SHOULD THE SOIRA ORDER BE MADE AND FOR HOW LONG?</b>																																						
<p>Was the accused convicted of an offence designated under s.490.011(1) a), b), c), c.1), d), e), f) for which the maximum penalty is life imprisonment</p>		<p>If "Yes" the application should be under s.490.012(1) [for offences designated under s.490.011(1) a), c), c.1), d), e)]</p> <p><b>OR</b> s.490.012(2) [for offences designated under s.490.011(1) b), f)]</p> <p>The duration should be <b>LIFE</b> [see s.490.013(2)(c)]</p>																																				

QUESTION	YES / NO	REMARKS
<p>Was the accused convicted of an offence designated under s.490.011(1) a), b), c), c.1), d), e), f) and is presently bound or has previously been bound by a SOIRA order under s. 490.012 or s.227.01 of the <i>National Defence Act</i></p>		<p>If "Yes" the application should be under s.490.012(1) [for offences designated under s.490.011(1) a), c), c.1), d), e)]</p> <p>OR s. 490.012(2) [for offences designated under s. 490.011(1) b), f)]</p> <p>The duration should be LIFE [see s. 490.013 (4)]</p>
<p>Was the accused convicted of an offence designated under s.490.011(1) a), b), c), c.1), d), e), f) and has previously been subject to an Order in Form 53 [Conviction before Dec 15, 2004] or Form 54 [Conviction outside Canada] under s. 227.06 of the <i>National Defence Act</i> or s.26 of the <i>International Transfer of Offenders Act</i></p> <p>Contact the SOIRA officers to ensure compliance 902-720-5338</p>		<p>If "Yes" the application should be under s.490.012(1) [for offences designated under s.490.011(1) a), c), c.1), d), e)]</p> <p>OR s.490.012(2) [for offences designated under s.490.011(1) b), f)]</p> <p>The duration should be LIFE [see s.490.013 (3)]</p>
<p>Was the accused convicted of multiple counts designated under s.490.011(1) a), c), c.1), d), e) including multiple counts of the same offence</p> <p>Note: this does NOT apply to offences designated under s.490.011(1) b), f)</p>		<p>If "Yes" the application should be under s.490.012(1) and the duration should be LIFE [see s.490.013 (2.1)]</p>
<p>Was the accused convicted of an offence designated under s.490.011(1) a), b), c), c.1), d), e), f)</p> <p>AND no other provision provides for a LIFE term</p> <p>AND the accused has a previous conviction, or NCR verdict, for an offence designated under s.490.011(1) a), c), c.1), d), e) for which they were not served a notice and no order was made [see s.490.012 (3) a), b), c)]</p> <p>**Note there are other conditions to be met here that refer to the <i>National Defence Act</i>.</p> <p>Contact the SOIRA officers to ensure compliance 902-720-5338</p>		<p>If "Yes" to all the application should be under s.490.012(3) and the duration should be LIFE [see s.490.013 (5)]</p>
<p>Was the accused convicted of an offence designated under s. 490.011(1) a), b), c), c.1), d), e), f)</p> <p>AND the Crown proceeded summarily</p> <p>AND no other provision applies to make it LIFE</p>		<p>If "Yes" the application should be under s.490.012(1) [for offences designated under s.490.011(1) a), c), c.1), d), e)]</p> <p>OR s.490.012(2) [for offences designated under s.490.011(1) b), f)]</p> <p>The duration should be TEN years [see s. 490.013 (2) (a)]</p>
<p>Was the accused convicted of an offence designated under s.490.011(1) a), b), c), c.1), d), e), f)</p> <p>AND the Crown proceeded by Indictment</p> <p>AND the maximum term of imprisonment is two to five years</p> <p>AND no other provision applies to make it a LIFE</p>		<p>If "Yes" the application should be under s.490.012(1) [for offences designated under s.490.011(1) a), c), c.1), d), e)]</p> <p>OR s.490.012(2) [for offences designated under s.490.011(1) b), f)]</p> <p>The duration should be TEN years [see s.490.013 (2) (a)]</p>
<p>Was the accused convicted of an offence designated under s.490.011(1) a), b), c), c.1), d), e), f)</p> <p>AND the Crown proceeded by Indictment</p> <p>AND the maximum term of imprisonment is ten to fourteen years</p> <p>AND no other provision applies to make it LIFE</p>		<p>If "Yes" the application should be under s.490.012(1) [for offences designated under s.490.011(1) a), c), c.1), d), e)]</p> <p>OR s.490.012(2) [for offences designated under s.490.011(1) b), f)]</p> <p>The duration should be TWENTY years [see s.490.013 (2) (b)]</p>

## RESULTS OF WORKSHEET

### Is It a Designated Offence:

- s. 490.011(1) (a) Substantive Offence  
 s. 490.011(1)(b) Substantive offence with intent to commit a designated offence under a), c), c.1), d), e)  
 s. 490.011 (1) (c) Historic Sexual Offence (R.S.C. 1970 as it read before Jan 4, 1983)  
 s. 490.011 (1) (c.1) Historic Sexual Offence (R.S.C. 1970 as amended ch 125 S.C. 1980-81-82-83)  
 s. 490.011 (1) (d) Historic Sexual Offence (R.S.C. 1970 as they read before Jan 1, 1988)  
 s. 490.011(1) (e) attempt or conspiracy to commit offence under s. 490.011(1) a), c), c.1), d),  
 s. 490.011(1) (f) attempt or conspiracy to commit offence under s. 490.011(1) b),

### Under Which Section Should the Application Be Made?

- s. 490.012 (1) – for offences designated under s.490.011(1) a), c), c.1), d), e)  
 s. 490.012 (2) – for offences designated under s.490.011(1) b), f)  
 s. 490.012 (3) – for any designated offence and a life term cannot be sought in an application under s. 490.012 (1) or (2). The accused must have a prior conviction for which a SOIRA order was available but not made and other conditions are satisfied

### Duration of Order

Check all that Apply	Principle	Section	Duration of Order
	Accused convicted of offence for which the maximum penalty is life	490.013 (2)(c)	LIFE
	Accused is presently bound or has previously been bound by a SOIRA order under s.490.012	490.013 (4)	LIFE
	Accused has previously been subject to an Order in Form 53 [Conviction before Dec 15, 2004] or Form 54 [Conviction outside Canada]	490.013 (3)	LIFE
	Accused convicted of multiple counts designated under 490.011(1) a), c), c.1), d), e)  Does NOT apply to offences designated under s.490.011(1) b), f)	490.013 (2.1)	LIFE
	Application is under 490.012(3)	490.013 (5)	LIFE
	Crown proceeded summarily, no other principles apply	490.013 (2)(a)	10 years
	Crown proceeded by indictment, no other principles apply, and the maximum term of imprisonment is two to five years	490.013 (2)(a)	10 years
	Crown proceeded by indictment, no other principles apply, and the maximum term of imprisonment is ten to fourteen years	490.013 (2)(b)	20 years



# SOIRA ORDER APPLICATION

Name of Accused: \_\_\_\_\_

Accused D.O.B.: \_\_\_\_\_

Current Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Accused Convicted of: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

These are Designated Offences Under:

\_\_\_\_\_ s. 490.011 (1) (a) Substantive offences

\_\_\_\_\_ s. 490.011 (1) (b) Substantive offences with intent to commit a designated offence

\_\_\_\_\_ s. 490.011 (1) (c) Historic sexual offence (R.S.C. 1970, before Jan. 4, 1983)

\_\_\_\_\_ s. 490.011 (1) (c.1) Historic sexual offence (R.S.C. 1970 as amended 1980-81-82-83)

\_\_\_\_\_ s. 490.011 (1) (d) Historic sexual offence (R.S.C. 1970 as they read before Jan. 1, 1988)

\_\_\_\_\_ s. 490.011 (1) (e) Attempt or conspiracy to commit an offence under a), c), c.1), d)

\_\_\_\_\_ s. 490.011 (1) (f) Attempt or conspiracy to commit an offence under b)

Application is Made Under:

\_\_\_\_\_ s. 490.012(1) Offences designated under s. 490.011(1) a), c), c.1), d), e)

\_\_\_\_\_ s. 490.012(2) Offences designated under s. 490.011(1) b), f)

\_\_\_\_\_ s. 490.012 (3) Offences designated under s. 490.011(1) a), b), c), d), e), f), and the offender has a prior conviction for which a SOIRA order could have previously been made but was not

Duration of Order:

\_\_\_\_\_ 10 years (Summary proceeding)

\_\_\_\_\_ 10 years (Indictable proceeding, maximum punishment is 2-5 years, no provision applies to make it a LIFE term)

\_\_\_\_\_ 20 years (Indictable proceeding, maximum penalty is 10-14 years, no provision applies to make it a LIFE term)

\_\_\_\_\_ LIFE based on:

\_\_\_\_\_ s. 490.013 (2)(c) (maximum penalty is life)

\_\_\_\_\_ s. 490.013 (2.1) (convicted of multiple offences designated under s. 490.012(1) a), c), c.1), d), e))

\_\_\_\_\_ s. 490.013 (3) (offender previously bound by SOIRA order in Form 53 or 54)

\_\_\_\_\_ s. 490.013 (4) (offender previously bound by SOIRA order)

\_\_\_\_\_ s. 490.013 (5) (application is brought under s. 490.012(3))