
STATUTORY INSTRUMENTS

2023 No. 387 (C. 21)

CRIMINAL LAW

**The Police, Crime, Sentencing and Courts Act
2022 (Commencement No. 6 and Piloting,
Transitional and Saving Provisions) Regulations 2023**

Made - - - - 28th March 2023

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 166(5)(a) and (b) and 208(1), (2) and (6) of the Police, Crime, Sentencing and Courts Act 2022(1).

PART 1

General Provisions

Citation and interpretation

1.—(1) These Regulations may be cited as the Police, Crime, Sentencing and Courts Act 2022 (Commencement No. 6 and Piloting, Transitional and Saving Provisions) Regulations 2023.

(2) In these Regulations—

“the 2005 Act” means the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005(2);

“the 2022 Act” means the Police, Crime, Sentencing and Courts Act 2022;

“pilot areas” means the police areas of Merseyside, Thames Valley, Sussex and West Midlands;

“the specified period” means the period of 24 months beginning with 19th April 2023;

“SVRO” means a serious violence reduction order(3).

Extent

2.—(1) This Part and regulations 3(e) and (f) and 4 extend to England and Wales, Scotland and Northern Ireland.

(1) 2022 c. 32.

(2) 2005 asp 9.

(3) See section 166(8) of the Police, Crime, Sentencing and Courts Act 2022 (“the 2022 Act”) in relation to the expression “serious violence reduction order” (“SVRO”).

- (2) Regulation 3(a) and Part 3 extend to England and Wales.
- (3) Regulation 3(b) extends to Scotland.
- (4) Regulation 3(c)—
 - (a) in so far as it relates to section 180(1) and (7) extends to England and Wales, Scotland and Northern Ireland;
 - (b) in so far as it relates to section 180(2) and (5) extends to England and Wales;
 - (c) in so far as it relates to section 180(3), (4) and (6) extends to Northern Ireland.
- (5) Regulation 3(d)—
 - (a) in so far as it relates to section 181(1) extends to England and Wales;
 - (b) in so far as it relates to section 181(2) extends to Northern Ireland.
- (6) Regulation 3(g)—
 - (a) in so far as it relates to paragraphs 1, 2 and 3 of Schedule 18 extends to England and Wales and Northern Ireland;
 - (b) in so far as it relates to paragraphs 4 and 6 of that Schedule extends to England and Wales, Scotland and Northern Ireland;
 - (c) in so far as it relates to paragraph 5 of that Schedule extends to England and Wales and Scotland.

PART 2

Management of Sex Offenders

Provisions coming into force on 31st March 2023

- 3. The following provisions of the 2022 Act come into force on 31st March 2023—
 - (a) section 172(5)(i) to (k) (list of countries);
 - (b) section 177(7) (positive requirements: further amendments);
 - (c) section 180 (enforcement of requirements of orders made in Scotland or Northern Ireland);
 - (d) section 181 (effect of conviction for breach of Scottish order etc);
 - (e) section 182 (orders superseding, or superseded by, Scottish orders);
 - (f) section 183 (variation etc of order by court in another part of the United Kingdom);
 - (g) in Schedule 18 (variation etc of order by court in another part of the United Kingdom)—
 - (i) Part 1 (variation etc of order made in England and Wales or Scotland by court in Northern Ireland);
 - (ii) Part 2 (variation of order by court in Scotland);
 - (iii) Part 3 (variation of order by court in England and Wales) in so far as it inserts the following provisions into the Sexual Offences Act 2003⁽⁴⁾—
 - (aa) subsections (1) to (10) and (14) and (15) of section 136ZG (variation, renewal or discharge of sexual harm prevention order made in Scotland by court in England and Wales);

(4) 2003 c. 42. There are amendments to the Act but none are relevant.

- (bb) subsections (1) to (9) and (13) to (17) of section 136ZH (variation, renewal or discharge of sexual offences prevention order or foreign travel order by court in England and Wales);
- (cc) subsections (1) to (10) and (14) and (15) of section 136ZI (variation, renewal or discharge of sexual risk order made in Scotland by court in England and Wales);
- (dd) subsections (1) to (4) and (10) and (11) of section 136ZJ (variation, renewal or discharge of risk of sexual harm order by court in England and Wales);
- (ee) subsections (5) and (6) of section 136ZJ apart from paragraph (b) in each of those subsections.

Transitional and saving provision for provisions commencing on 31st March 2023

4.—(1) The amendments made by sections 180(5)(a), (6)(a) and (7)(b), 181(1)(a) and (e) and (2)(a) and (e) and 182(7) of the 2022 Act do not apply in relation to—

- (a) an application for an order made under, or an order made under, sections 2 (risk of sexual harm order: application, grounds and effect) or 5 (interim risk of sexual harm orders) of the 2005(5) Act before 31st March 2023, or
- (b) an order made under sections 2 or 5 of that Act on or after 31st March 2023 where the application was made before 31st March 2023.

(2) The amendment made by section 182(4)(a)(i) of the 2022 Act does not apply in relation to an order made by a court in Scotland pursuant to an application for an order under sections 104(6) (sexual offences prevention orders: application and grounds) or 114(7) (foreign travel orders: application and grounds) of the Sexual Offences Act 2003, or under section 2 of the 2005 Act, where that application was made before 31st March 2023.

PART 3

SVROs

Provisions coming into force on 19th April 2023: pilot of SVROs

5.—(1) The following subsections of section 165 of the 2022 Act (SVROs) come into force on 19th April 2023, in so far as they are not already in force(8), for the specified purpose and for the specified period only—

- (a) subsection (1), for the purpose of inserting into the Sentencing Code(9) sections 342A (power to make SVRO), 342B (meaning of “SVRO”), 342D to 342J (SVROs) and 342L (SVROs: interpretation) only;

(5) Section 2 was amended by section 103(1), (2)(a) and (b) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”) and by paragraph 26(2) of Schedule 7 to the Police and Fire Reform (Scotland) Act 2012 (asp 13). Section 5 was amended by the 2010 Act, sections 103(1) and (4). Sections 2 and 5 are repealed from 31 March 2023 by section 39(2) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 9) (“the 2016 Act”); section 40 of that Act makes saving and transitional provision in relation to those repeals.

(6) Section 104 was repealed as it had effect in England and Wales by the Anti-social Behaviour, Crime and Policing Act 2014 (c. 14) (“the 2014 Act”). It is repealed, as it has effect in Scotland, from 31 March 2023, by section 39(1)(a) of the 2016 Act; section 40 of that Act makes saving and transitional provision in relation to that repeal.

(7) Section 114 was repealed as it had effect in England and Wales by the 2014 Act. It is repealed, as it has effect in Scotland, from 31 March 2023, by section 39(1)(b) of the 2016 Act; section 40 of that Act makes saving and transitional provision in relation to that repeal.

(8) Section 165 came into force on 28 April 2022 for the purposes of issuing guidance and making regulations, in accordance with section 208(4) of the 2022 Act.

(9) 2020 c. 17. Pursuant to section 1 of the Sentencing Act 2020, Parts 2 to 13 of that Act make up the Sentencing Code.

- (b) subsection (2);
 - (c) subsection (3).
- (2) In paragraph (1), the specified purpose is to enable—
- (a) applications for SVROs under section 342A of the Sentencing Code to be made to courts sitting at a place which is within the pilot areas;
 - (b) courts sitting at a place which is within the pilot areas to make, vary, renew and discharge SVROs under sections 342A and 342H of the Sentencing Code;
 - (c) the offences referred to in section 342G of the Sentencing Code to apply in relation to SVROs made within the pilot areas;
 - (d) appeals under section 342I of the Sentencing Code to be made to the Crown Court sitting at a place which is within the pilot areas or to the Court of Appeal;
 - (e) the exercise by constables, chief officers of police and the chief constables of the British Transport Police Force of their functions under Chapter 1A of Part 11 of the Sentencing Code in relation to SVROs made within the pilot areas, and
 - (f) an assessment by the Secretary of State of the impact of SVROs.

Transitional provision: period for which SVROs are to have effect

6.—(1) Where a SVRO is made under section 342A of the Sentencing Code during the specified period and has effect immediately before the end of that period, the order ceases to have effect on whichever is the earliest of—

- (a) the end of the period of 6 months after the end of the specified period;
- (b) the end of the period specified in the SVRO as the period for which the SVRO has effect⁽¹⁰⁾;
- (c) the day or day and time specified in any order made under section 342H(6) of the Sentencing Code as the day or day and time when the discharge of the order is to take effect⁽¹¹⁾.

(2) Where a SVRO is made under section 342A of the Sentencing Code during the specified period but does not take effect before the end of that period, the order is to have no effect after the end of the specified period.

Saving provision: SVROs which have effect immediately before the end of the specified period

7.—(1) Section 165(1) of the 2022 Act continues to have effect, for a further period of 6 months from the end of the specified period—

- (a) in so far as it inserts the provisions mentioned in paragraph (2) into the Sentencing Code, and
- (b) to the extent those provisions relate to SVROs which have effect immediately before the end of the specified period.

(2) The provisions mentioned for the purposes of paragraph (1)(a) are—

- (a) section 342B;
- (b) section 342D;
- (c) section 342E;

⁽¹⁰⁾ Section 342D(2) of the Sentencing Code provides that a SVRO must specify the period for which it has effect. Such order, including the period specified in the order, may be varied by court order under section 342H(6) of the Sentencing Code.

⁽¹¹⁾ Section 342H(6) of the Sentencing Code makes provision for discharge of a SVRO by court order.

- (d) section 342G;
- (e) section 342H, in so far as it applies to applications for orders varying or discharging SVROs;
- (f) section 342I;
- (g) section 342J(5);
- (h) section 342L.

Saving provision: retention and disposal of things seized under section 342E of the Sentencing Code

- 8. Section 165(1) of the 2022 Act continues to have effect—
 - (a) in so far as it inserts section 342F into the Sentencing Code, and
 - (b) to the extent that provision applies to anything seized by a constable under section 342E of the Sentencing Code during the specified period or the period of 6 months following the end of the specified period.

28th March 2023

Sarah Dines
Parliamentary Under Secretary of State
Home Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force specified provisions of the Police, Crime, Sentencing and Courts Act 2022 (c. 32) (“the 2022 Act”).

Regulation 3 brings into force on 31st March 2023 certain provisions of Chapter 3 of Part 10 of the 2022 Act (management of sex offenders).

The provisions commenced make changes to provisions in the Sexual Offences Act 2003 (c. 42) and to the Sentencing Code (2020 c. 17) to enable courts in one part of the United Kingdom to vary, renew or discharge an order made in respect of certain sexual offenders by a court in another part of the United Kingdom. This includes sexual harm prevention orders and sexual risk orders made by a court in Scotland under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22) (“the 2016 Act”). The relevant provisions for these orders are being commenced by the Scottish Government on 31st March 2023.

The provisions in section 172 (list of countries) of the 2022 Act are also commenced to enable courts in England and Wales to vary, renew or discharge an order made in another part of the United Kingdom having regard to the list, prepared by or on the direction of the Secretary of State, of countries and territories considered to be at high risk of child sexual exploitation or abuse by UK nationals and residents.

The provisions relating to electronic monitoring in section 178 and related consequential provisions in the 2022 Act will be commenced at a later date.

Regulation 4 makes transitional and saving provisions to preserve references to risk of sexual harm orders under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) (“the 2005 Act”) and interim risk of sexual harm orders under section 5 of that Act, and connected provisions, where these orders are applied for, or have been made, prior to 31st March 2023. The references are also preserved where orders are made after that date pursuant to applications made before that date.

Additionally, where an application has been made to a court in Scotland before 31st March 2023 for a sexual offences prevention order under section 104 of the Sexual Offences Act 2003, or a foreign travel order under section 114 of that Act, or a risk of sexual harm order under the 2005 Act, and the court makes one of those orders, the saving in relation to the repeal made by section 182(4)(a)(i) of the 2022 Act enables that order to discharge an earlier order made in another part of the United Kingdom.

The transitional and saving provisions in regulation 4 reflect the savings and transitional provisions for these orders in section 40 of the 2016 Act.

The Regulations also partially bring into force section 165 of the 2022 Act for the purposes of a pilot of Serious Violence Reduction Orders (“SVROs”).

Section 166 of the 2022 Act requires that section 165 of that Act (which inserts Chapter 1A of Part 11 (SVROs) into the Sentencing Code and makes consequential amendments) be brought into force for the purposes of a pilot (for one or more specified purposes or in relation to one or more specified areas in England and Wales), and requires the Secretary of State to lay a report before Parliament on the operation of that pilot, before section 165 may be brought fully into force in England and Wales.

Regulation 5 establishes a pilot of SVROs by bringing subsections of section 165 of the 2022 Act into force, in so far as they are not already force, for the specified purpose and the specified period.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraph (1)(a) brings subsection (1) into force, in so far as it inserts specified provisions into the Sentencing Code, and paragraph (1)(b) and (c) brings the consequential amendments made by section 165(2) and (3) into force. The specified period is 24 months starting on 19th April 2023 (“the pilot period”). The specified purpose, set out in paragraph (2), is to enable SVROs to be made, varied, renewed or discharged by the Crown Court, and Magistrates’ Courts, when those courts are sitting at any place within the police force areas of Merseyside, West Midlands, Sussex and Thames Valley (the pilot areas); appealed to such courts and also to the Court of Appeal; and to be enforceable (i.e. for the notification obligations, powers of constables and offences relating to SVROs to apply) throughout England and Wales. The specified purpose also enables an assessment of the pilot by the Secretary of State.

Regulation 6 makes provision, in connection with section 165 ceasing to be in force, for cessation of SVROs made during the pilot period. Paragraph 1 provides that SVROs which have effect immediately before the end of the pilot period cease to have effect at the end of a further period of 6 months, subject to earlier cessation under the Sentencing Code. Paragraph 2 provides that SVROs made, but which do not have effect, before the end of the pilot period do not have (or take) effect after the end of that period.

Regulation 7 preserves the application of section 165(1) of the 2022 Act, in so far as it inserts certain provisions into the Sentencing Code and to the extent those provisions apply to SVROs which have effect immediately before the end of the pilot period, for a further period of 6 months. This enables such SVROs to continue for a further period of up to 6 months after the end of the pilot period.

Regulation 8 preserves the application of section 165(1) of the 2022 Act, in so far as it inserts section 342F into the Sentencing Code, in relation to items seized by a constable during the pilot period or the further 6 month saving period. This ensures that the police have a power to retain items seized and individuals are able to apply for such items to be released to them, after the end of the pilot period.

An impact assessment of the effect that the management of sex offender and SVRO measures in the 2022 Act will have on the costs of business and the voluntary sector and community bodies is available from: <https://bills.parliament.uk/publications/42136/documents/489>. A hard copy can be obtained by writing to the Serious Violence Unit or Interpersonal Abuse Unit of the Home Office at 2 Marsham Street, London, SW1P 4DF.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Police, Crime, Sentencing and Courts Act 2022 have been brought into force by commencement regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 1	28th June 2022	2022/520
section 4 (remainder)	28th June 2022	2022/520
section 5 to 7	26th October 2022	2022/1075
sections 8 to 12 (remainder)	31st January 2023	2022/1227
section 14 (remainder)	31st January 2023	2022/1227
sections 15 to 18	31st January 2023	2022/1227
sections 19 and 20 (remainder)	31st January 2023	2022/1227
section 21	31st January 2023	2022/1227

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 24 (partially)	1st April 2023	2023/227
sections 26 to 30 (partially)	1st April 2023	2023/227
sections 32 and 33 (partially)	1st April 2023	2023/227
section 37 to 41	8th November 2022	2022/1075
section 42(1) to (7)	12th May 2022	2022/520
section 42(8) to (12)	8th November 2022	2022/1075
sections 43 and 44	8th November 2022	2022/1075
section 45 (partially)	26th October 2022	2022/1075
section 45 (remainder)	28th October 2022	2022/1075
section 46	28th June 2022	2022/520
sections 48 and 49	28th June 2022	2022/520
sections 55 to 57	28th June 2022	2022/520
sections 60 and 61	7th March 2023	2023/227
sections 62 to 70	1st August 2022	2022/520
sections 73 to 79	28th June 2022	2022/520(12)
section 80	12th May 2022	2022/520
section 82 (remainder)	28th June 2022	2022/520
section 89	26th October 2022	2022/1075
section 90 (remainder)	28th June 2022	2022/520
sections 91 to 96	30th November 2022	2022/1187
section 97	30th November 2022	2022/1187
section 129	28th June 2022	2022/520
section 133 and 134	28th June 2022	2022/520
sections 136 and 137	28th June 2022	2022/520
section 139	28th June 2022	2022/520
section 152	28th June 2022	2022/520
sections 155 and 156	28th June 2022	2022/520
section 167 (remainder)	28th June 2022	2022/520
sections 168 to 171	29th November 2022	2022/1227
section 172(1) to (4)	28th June 2022	2022/520
section 172(5)(a) to (h)	29th November 2022	2022/1227
section 172(6) to (10)	29th November 2022	2022/1227

(12) S.I. 2022/520 was amended by S.I. 2022/680 to correct the references to the subsections of section 73 which were commenced and to make another amendment.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 172(11)	28th June 2022	2022/520
section 173 to 176	29th November 2022	2022/1227
section 177(1) to (6)	29th November 2022	2022/1227
section 179	29th November 2022	2022/1227
section 190 (remainder)	29th June 2022	2022/520
section 192	29th June 2022	2022/520
section 201(2) (partially)	28th June 2022	2022/704
Schedule 1 (remainder)	31st January 2023	2022/1227
Schedule 2 (remainder)	31st January 2023	2022/1227
Schedule 3	8th November 2022	2022/1075
Schedule 4 (partially)	26th October 2022	2022/1075
Schedule 4 (remainder)	28th October 2022	2022/1075
Schedule 6 and 7	28th June 2022	2022/520
Schedule 9 and 10	30th November 2022	2022/1187
Schedule 13	28th June 2022	2022/520