



2013 CHAPTER 7

*Sex offenders*

**Offences committed in a country outside the United Kingdom**

- 4.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.  
(2) After section 96 insert—

*“Offences committed in a country outside the United Kingdom*

**96A Offences committed in a country outside the United Kingdom**

- (1) This section applies to a person (“P”) if the following 3 conditions are met with respect to P.
- (2) The first condition is that under the law in force in a country outside the United Kingdom—
- (a) P has been convicted of a relevant offence (whether or not P has been punished for it),
  - (b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that P is not guilty by reason of insanity,
  - (c) such a court has made in respect of a relevant offence a finding equivalent to a finding that P is under a disability and did the act charged against P in respect of the offence, or
  - (d) P has been cautioned in respect of a relevant offence.
- (3) The second condition is that—

- (a) the first condition is met because of a conviction, finding or caution which occurred on or after 1st September 1997,
- (b) the first condition is met because of a conviction or finding which occurred before that date, but P was dealt with in respect of the offence or finding on or after that date, or has yet to be dealt with in respect of it, or
- (c) the first condition is met because of a conviction or finding which occurred before that date, but on that date P was, in respect of the offence or finding, subject under the law in force in the country concerned to detention, supervision or any other disposal equivalent to any of those mentioned in section 81(3) (read with sections 81(6) and 131).

(4) The third condition is that the period set out in section 82 (as modified by subsections (6) and (7) below) in respect of the relevant offence has not expired.

(5) Where this section applies to P, P is subject to the notification requirements of this Part for the notification period set out in section 82; but the application of this Part to P in respect of the conviction, finding or caution is subject—

- (a) in all cases, to the modifications set out below; and
- (b) in a case where the first condition mentioned in subsection (2) is met by reason of a conviction, finding or caution in a country which is not a member of the Council of Europe, to the further provisions in section 96AA.

(6) The “relevant date” means—

- (a) in the case where P is within subsection (2)(a), the date of the conviction;
- (b) in the case where P is within subsection (2)(b) or (c), the date of the finding;
- (c) in the case where P is within subsection (2)(d), the date of the caution.

(7) In section 82—

- (a) references, except in the Table, to a person (or relevant offender) within any provision of section 80 are to be read as references to P;
- (b) the reference in the Table to section 80(1)(d) is to be read as a reference to subsection (2)(d);
- (c) references to an order of any description are to be read as references to any corresponding disposal made in relation to P in respect of an offence or finding by reference to which this section applies to P;
- (d) the reference to offences listed in Schedule 3 is to be read as a reference to relevant offences.

(8) In sections 83 and 85 references to the commencement of this Part are to be read as references to the commencement of section 4 of the Criminal Justice Act (Northern Ireland) 2013.

(9) Section 83 has effect as if after subsection (1) there were inserted—

“(1A) In the case of a person who is not ordinarily resident in Northern Ireland, in calculating the period of 3 days mentioned in subsection (1) there is to be disregarded a period of 7 days (or two or more periods in any period of 12 months taken together which amount to 7 days) after that person’s entry into Northern Ireland.”.

(10) Section 83(4) has effect as if—

- (a) for the words “Where a notification order is made” there were substituted “Where a relevant offender is subject to the notification requirements of this Part by virtue of section 96A”; and
- (b) in paragraph (a) for the words “the order was made” there were substituted “he became a person to whom section 96A applies”.

(11) In this section “relevant offence” means an act which—

- (a) constituted an offence under the law in force in the country concerned, and
- (b) would have constituted an offence listed in Schedule 3 (other than at paragraph 60) if it had been done in any part of the United Kingdom;

and for the purposes of this subsection an act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law however it is described in that law.

### **96AA Convictions, etc. in a country which is not a member of the Council of Europe**

(1) The further provisions referred to in section 96A(5)(b) are as follows.

(2) Where P is charged with an offence under section 91(1)(a), it is a defence for P to prove that the relevant conviction, finding or caution falls within subsection (4).

(3) P shall cease to be subject to the notification requirements of this Part by virtue of section 96A if the High Court, on an application made by P in accordance with rules of court, so orders; but the High Court shall not make such an order unless it is satisfied that the relevant conviction, finding or caution falls within subsection (4).

(4) A conviction, finding or caution falls within this subsection if the relevant court is satisfied—

- (a) that any investigations or proceedings leading to it were conducted in a way which contravened any of the Convention rights which P

would have had if those investigations or proceedings had taken place in the United Kingdom; and

(b) that contravention was such that, in the opinion of the court, the conviction, finding or caution cannot safely be relied on for the purposes of meeting the condition in section 96A(2).

(5) In this section—

“the relevant conviction, finding or caution” means the conviction, finding or caution by reason of which P is subject, by virtue of section 96A, to the notification requirements of this Part;

“the relevant court” means—

(a) in a case to which subsection (2) applies, the court before which P is charged;

(b) in a case to which subsection (3) applies, the High Court.”.

(3) Omit sections 97 to 101 (notification orders).

(4) Subsection (3) (and the related repeals in Part 1 of Schedule 4) do not affect the validity or effect of any order made under section 97 or 100 of the Sexual Offences Act 2003 before the coming into operation of this section or the application of Part 2 of that Act to any person in respect of whom such an order was so made.

(5) In section 133(1) (general interpretation) in the definition of “relevant date” for “98” substitute “96A(6)”.