

SCHEDULES

SCHEDULE 18

VARIATION ETC OF ORDER BY COURT IN ANOTHER PART OF THE UNITED KINGDOM

PART 1

VARIATION ETC OF ORDER MADE IN ENGLAND AND WALES OR SCOTLAND BY COURT IN NORTHERN IRELAND

Amendments of the Sexual Offences Act 2003 (c. 42)

- 1 (1) Section 136ZC of the Sexual Offences Act 2003 (variation of sexual harm prevention order by court in Northern Ireland) is amended as follows.
 - (2) In the heading, after “Variation” insert “, renewal or discharge”.
 - (3) In subsection (2), in the words after paragraph (b), after “varying” insert “, renewing or discharging”.
 - (4) In subsection (4)—
 - (a) for “subsections (5) and (6)” substitute “subsections (4A) to (6B)”, and
 - (b) after “varying” insert “, renewing or discharging”.
 - (5) After subsection (4) insert—

“(4A) In determining the application the court must have regard to—

 - (a) the time for which the defendant is likely to remain in Northern Ireland, and
 - (b) whether—
 - (i) in the case of a sexual harm prevention order made by a court in England and Wales, the defendant is likely to return to, or to visit, England and Wales, or
 - (ii) in the case of a sexual harm prevention order made by a court in Scotland, the defendant is likely to return to, or to visit, Scotland.”
 - (6) In subsection (5), in the words before paragraph (a)—
 - (a) after “An order may be” insert “renewed, or”, and
 - (b) for “only” substitute “, only”.
 - (7) In subsection (6), in the words before paragraph (a), after “An order as” insert “renewed or”.
 - (8) After subsection (6) insert—

Status: This is the original version (as it was originally enacted).

“(6A) The court must not discharge a sexual harm prevention order made by a court in England and Wales before the end of 5 years beginning with the day on which the order was made without the consent of the defendant and the Chief Constable.

(6B) The court must not discharge a sexual harm prevention order made by a court in Scotland, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer necessary for the purpose of—

- (a) protecting the public, or any particular members of the public, from sexual harm from the defendant, or
- (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.”

(9) In subsection (9)—

(a) in the definition of “the appropriate court”, for paragraphs (a) and (b) substitute—

“(a) where the sexual harm prevention order was made—

- (i) in England and Wales, by the Crown Court, otherwise than on appeal from a magistrates’ court, or by the Court of Appeal, or
- (ii) in Scotland, by the High Court of Justiciary otherwise than on appeal,

the Crown Court (in Northern Ireland);

(b) where the defendant is aged 18 or over and the sexual harm prevention order was made—

- (i) in England and Wales, by a magistrates’ court or by the Crown Court on appeal from a magistrates’ court, or
- (ii) in Scotland, by the High Court of Justiciary on appeal, by the Court of Session, by the Sheriff Appeal Court or by a sheriff,

any court of summary jurisdiction in Northern Ireland;”, and

(b) at the appropriate place insert—

““the defendant”, in relation to a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), means the person against whom the order has effect;”;

““sexual harm prevention order” includes a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”