



2013 CHAPTER 7

Sex offenders

Review of indefinite offender notification requirements **N.I.**

- 1.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.
- (2) In section 82 (the notification period) at the end insert—
 - “(7) Schedule 3A (which provides for the review and discharge of indefinite notification requirements) has effect.”.
- (3) After Schedule 3 insert the Schedule set out in Schedule 1 to this Act.

Commencement Information

- II S. 1 in force at 1.3.2014 by [S.R. 2014/53](#), [art. 2\(a\)](#)

Notification requirements: absence from notified residence **N.I.**

- 2.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.
- (2) After section 85 insert—

“85A Notification requirements: absence from notified residence

(1) This section applies to a relevant offender at any time if the last home address notified by him under section 83(1), 84(1) or 85(1) was an address in Northern Ireland such as is mentioned in section 83(7)(a) (sole or main residence).

(2) If the relevant offender intends to be absent from that home address for a period of more than 3 days (“the relevant period”), the relevant offender

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act (Northern Ireland) 2013. (See end of Document for details)

must, not less than 12 hours before leaving that home address, notify to the police the information set out in subsection (3).

(3) The information is—

- (a) the date on which the relevant offender will leave that home address;
- (b) such details as the relevant offender holds about—
 - (i) his travel arrangements during the relevant period;
 - (ii) his accommodation arrangements during that period;
 - (iii) his date of return to that home address.

(4) In this section—

“travel arrangements” include, in particular, details of the means of transport to be used and the dates of travel,

“accommodation arrangements” include, in particular, the address of any accommodation at which the relevant offender will spend the night during the relevant period and the nature of that accommodation.

(5) Where—

- (a) a relevant offender has given a notification under subsection (2), and
- (b) at any time before that mentioned in that subsection, the information notified becomes inaccurate or incomplete,

the relevant offender must give a further notification under subsection (2).

(6) Where a relevant offender—

- (a) has notified a date of return to his home address, but
- (b) returns to his home address on a date other than that notified,

the relevant offender must notify the date of his actual return to the police within 3 days of his actual return.

(7) Nothing in this section requires an offender to notify any information which falls to be notified in accordance with a requirement imposed by regulations under section 86.

(8) In calculating the relevant period for the purposes of this section there is to be disregarded—

- (a) any period or periods which the relevant offender intends to spend at, or travelling directly to or from, an address of the kind mentioned in section 83(5)(g) notified to the police under section 83 or 85;
- (b) any period or periods which the relevant offender intends to spend at, or travelling directly to or from, any premises, if his stay at those premises would give rise to a requirement to notify the address of those premises under section 84(1)(c).

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(9) This section applies in relation to any relevant period which begins on or after the day after the coming into operation of section 2 of the Criminal Justice Act (Northern Ireland) 2013.”.

(3) In section 87(1) and (4) (method of notification) for “or 85(1)” substitute “, 85(1) or 85A(2) or (6) ”.

(4) In section 91 (offences)—

- (a) in subsection (1)(a) after “85(1)” insert “, 85A(2) or (6) ”;
- (b) in subsection (1)(b) for “or 85(1)” substitute “, 85(1) or 85A(2) or (6) ”;
- (c) in subsection (3) for “or 85(1)” substitute “, 85(1) or 85A(2) or (6) ”.

Commencement Information

I2 S. 2 in force at 24.6.2014 by S.R. 2014/179, art. 2(a)

Ending notification requirements for acts which are no longer offences **N.I.**

3.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.

(2) In section 93 (abolished homosexual offences)—

- (a) for the heading substitute “ **Acts which are no longer offences** ”;
- (b) for “abolished homosexual offences” substitute “ acts which are no longer offences ”.

(3) In Schedule 4 (procedure for ending notification requirements for abolished homosexual offences) for the heading and paragraph 1 substitute—

“PROCEDURE FOR ENDING NOTIFICATION REQUIREMENTS FOR ACTS WHICH ARE NO LONGER OFFENCES

Scope of Schedule

1 This Schedule applies where a relevant offender is subject to the notification requirements of this Part as a result of a conviction, finding or caution in respect of an offence under—

- (a) section 61 of the Offences against the Person Act 1861 or Article 19 of the Criminal Justice (Northern Ireland) Order 2003 (buggery);
 - (b) section 5 of the Criminal Law Amendment Act 1885 (carnal knowledge of girl under 17); or
 - (c) section 11 of that Act (gross indecency between men).”.
- (4) In Schedule 4 in paragraph 2 for sub-paragraph (1) substitute—

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“(1) The relevant offender may apply to the Department of Justice for a decision as to whether it appears that, at the time of the offence, the other party to the act of buggery, carnal knowledge or gross indecency consented to the act and—

- (a) that other party was aged 16 or over, or
- (b) where an offender is subject to the notification requirements of this Part as a result of a conviction, the offender was convicted or sentenced on the basis that the offender honestly believed that other party was aged 16 or over.”.

(5) In Schedule 4 in paragraph 6 in sub-paragraph (2) after “buggery” (twice) insert “, carnal knowledge ” and after that sub-paragraph insert—

“(3) Sub-paragraphs (1) and (2) apply, with appropriate modifications, to an offence under Part 2 of the Serious Crime Act 2007 as they apply to the offence of incitement.”.

Offences committed in a country outside the United Kingdom N.I.

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

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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.

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(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

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(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) ”.

Commencement Information

I3 S. 4 in force at 24.6.2014 by [S.R. 2014/179](#), [art. 2\(b\)](#)

Sexual offences prevention orders **N.I.**

5.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.

(2) Section 107 (effect of sexual offences prevention orders)—

(a) in subsection (1)(a) after “order” insert “ or requires the defendant to do anything described in the order (or both) ”; and

(b) in subsection (2) after “prohibitions” insert “ or requirements ”.

(3) In section 108(5) (renewal or variation of order) after “prohibitions” (wherever occurring) insert “ or requirements ”.

(4) In section 109 (interim orders)—

(a) in subsection (3) at the end insert “ or requiring the defendant to do anything described in the order (or both) ”;

(b) in subsection (5) for “Section 107(3)” substitute “ Section 107(2) ”.

(5) In section 113 (offences) after subsection (1) insert—

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“(1A) A person commits an offence if, without reasonable excuse, he fails to do anything which he is required to do by a sexual offences prevention order or an interim sexual offences prevention order.”.

Commencement Information

I4 S. 5 in force at 24.6.2014 by S.R. 2014/179, **art. 2(c)**

Trafficking people for exploitation

Trafficking people for sexual exploitation **N.I.**

F16

Textual Amendments

F1 Ss. 6-8 repealed (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), s. 28, **Sch. 5**

Trafficking people for other exploitation **N.I.**

F17

Textual Amendments

F1 Ss. 6-8 repealed (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), s. 28, **Sch. 5**

Trafficking offences to be triable only on indictment **N.I.**

F18

Textual Amendments

F1 Ss. 6-8 repealed (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), s. 28, **Sch. 5**

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PROSPECTIVE

Retention of fingerprints, DNA profiles, etc.

Retention of fingerprints, DNA profiles, etc. N.I.

9.—(1) After Article 63A of the Police and Criminal Evidence (Northern Ireland) Order 1989 insert the Articles set out in Schedule 2.

(2) The statutory provisions set out in Schedule 3 have effect subject to the minor and consequential amendments specified in that Schedule.

(3) The Department of Justice must by order make such transitional, transitory or saving provision as that Department considers appropriate in connection with the coming into operation of this section and the repeals in Part 3 of Schedule 4.

(4) That Department must, in particular, provide for the destruction or retention of PACE material taken, or (in the case of a DNA profile) derived from a sample taken, before the commencement day in connection with the investigation of an offence.

(5) An order under subsection (3) is subject to negative resolution.

(6) In this section—

“the commencement day” means the day on which this section comes into operation;

“PACE material” means material that would have been material to which Article 63B or 63P of the Police and Criminal Evidence (Northern Ireland) Order 1989 applied if those provisions had been in operation when it was taken or derived.

Release on licence of child convicted of serious offence

Release on licence of child convicted of serious offence N.I.

10.—(1) In Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (child convicted of serious offence) for “notwithstanding any other provisions of this Order” substitute “ subject to Articles 46 to 46B ”.

(2) In Article 45 of that Order after paragraph (2) insert—

“(2A) Where a court passes a sentence under paragraph (2), the court shall specify such part of the sentence as the court considers appropriate as the relevant part of the sentence for the purposes of Article 46 (release on licence).”.

(3) For Article 46 of that Order substitute—

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“Release on licence

46.—(1) In this Article—

- (a) “P” means a person detained under Article 45(2);
- (b) “the Commissioners” means the Parole Commissioners for Northern Ireland;
- (c) “the Department” means the Department of Justice; and
- (d) references to the relevant part of P's sentence are references to the part of P's sentence specified as such under Article 45(2A).

(2) As soon as—

- (a) P has served the relevant part of P's sentence, and
- (b) the Commissioners have directed P's release under this Article,

the Department shall release P on licence.

(3) The Commissioners shall not give a direction under paragraph (2) with respect to P unless—

- (a) the Department has referred P's case to the Commissioners; and
- (b) the Commissioners are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be detained.

(4) P may require the Department to refer P's case to the Commissioners at any time—

- (a) after P has served the relevant part of P's sentence; and
- (b) where there has been a previous reference of P's case to the Commissioners under paragraph (3) or Article 46B(4), after the end of the period of 12 months beginning with the disposal of that reference.

(5) In determining for the purposes of this Article whether P has served the relevant part of P's sentence, no account shall be taken of any time during which P was unlawfully at large, unless the Department otherwise directs.

(6) The Department may at any time release P on licence if it is satisfied that exceptional circumstances exist which justify P's release on compassionate grounds.

(7) Before releasing P under paragraph (6), the Department shall consult the Commissioners, unless the circumstances are such as to render such consultation impracticable.

(8) Nothing in this Article requires the Department to release a person in respect of a sentence under Article 45(2) at any time when that person is liable to be detained in respect of any other sentence.

Status: This version of this Act contains provisions that are prospective.
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Duration and conditions of licences under Article 46

46A.—(1) Where a person is released on licence under Article 46, the licence shall, unless previously revoked under Article 46B, remain in force until the expiry of the period for which the person was sentenced to be detained.

(2) A person released on licence under Article 46 shall comply with such conditions as may for the time being be specified in the licence (which may include on release conditions as to supervision by a probation officer).

(3) The Department of Justice shall not, except in accordance with recommendations of the Parole Commissioners for Northern Ireland—

- (a) include a condition in a licence on release,
- (b) subsequently insert a condition in a licence, or
- (c) vary or cancel any condition in a licence.

Recall of licensees

46B.—(1) In this Article —

“P” means a person who has been released on licence under Article 46; “the Commissioners” and “the Department” have the meanings given in Article 46(1).

(2) The Department may revoke P's licence and recall P to detention—

- (a) if recommended to do so by the Commissioners, or
- (b) without such a recommendation, if it appears to the Department that it is expedient in the public interest to recall P before such a recommendation is practicable.

(3) P—

- (a) shall, on P's return to detention, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); and
- (b) may make representations in writing to the Department with respect to the recall.

(4) The Department shall refer P's case to the Commissioners.

(5) Where on a reference under paragraph (4) the Commissioners direct P's immediate release on licence under Article 46, the Department shall give effect to the direction.

(6) The Commissioners shall not give a direction under paragraph (5) unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be detained.

(7) On the revocation of P's licence, P shall be liable to be detained in pursuance of P's sentence and, if at large, shall be treated as being unlawfully at large.”.

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act (Northern Ireland) 2013. (See end of Document for details)

(4) In Article 46(3) of the Criminal Justice (Northern Ireland) Order 2008 (functions of Parole Commissioners for Northern Ireland) at the end add “ or Articles 46 to 46B of the Criminal Justice (Children) (Northern Ireland) Order 1998. ”

^{F2}(5)

[^{F3}(6) Subsection (7) applies where—

- (a) on commencement a person is detained in pursuance of a sentence under Article 45(2) of the 1998 Order, and
- (b) that person is a person whose licence has been revoked under Article 46(2) of the 1998 Order.]

(7) Where this subsection applies, paragraphs (3) to (6) of Article 46B of the 1998 Order have effect as if that person had been recalled to prison under paragraph (2) of that Article on commencement.

(8) Articles 46A and 46B of the 1998 Order apply to an existing licensee as they apply to a person who is released on licence under Article 46 of that Order (as substituted).

(9) In this section—

- “commencement” means the date on which this section comes into operation;
- “existing licensee” means a person who, before commencement, has been discharged on licence under Article 46 of the 1998 Order and whose licence is in force on commencement;
- “the 1998 Order” means the Criminal Justice (Children) (Northern Ireland) Order 1998.

Textual Amendments

- F2** S. 10(5) repealed (25.7.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 99\(2\), 106\(1\)\(c\), Sch. 9 Pt. 6](#)
- F3** S. 10(6) substituted (25.7.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 99\(3\), 106\(1\)\(c\)](#)

Examination of accused through intermediary

Examination of accused through intermediary **N.I.**

11.—(1) In section 12(1) of the Justice Act (Northern Ireland) 2011 (which at the passing of this Act is not in operation), the inserted Article 21BA of the Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.

- (2) At the beginning of paragraph (2) insert “ Subject to paragraph (2A), ”.
- (3) After paragraph (2) insert—

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- “(2A) A court may not give a direction under paragraph (3) unless—
- (a) the court has been notified by the Department of Justice that arrangements for implementing such a direction have been made in relation to that court; and
 - (b) the notice has not been withdrawn.
- (2B) The withdrawal of a notice given to a court under paragraph (2A) does not affect the operation of any direction under paragraph (3) given by that court before the notice is withdrawn.”.

Abolition of scandalising the judiciary as form of contempt of court

Abolition of scandalising the judiciary as form of contempt of court **N.I.**

12.—(1) Scandalising the judiciary (also referred to as scandalising the court or scandalising judges) is abolished as a form of contempt of court under the common law.

(2) That abolition does not prevent proceedings for contempt of court being brought against a person for conduct that immediately before that abolition would have constituted both scandalising the judiciary and some other form of contempt of court.

Criminal proceedings on Sunday

Criminal proceedings on Sunday **N.I.**

13.—(1) Section 7 of the Sunday Observance Act (Ireland) 1695 (which prohibits the service or execution on a Sunday of any writ, process, warrant, order, judgment or decree, except in certain cases) and any rule of law preventing or restricting the holding of a court on a Sunday do not apply, at any time when this subsection is in operation, in relation to—

- (a) the holding of a magistrates' court for the purpose of exercising any criminal jurisdiction; or
- (b) anything done in the course of, or in connection with, the exercise by a magistrates' court of any criminal jurisdiction.

(2) Subsection (1)—

- (a) comes into operation on such day as the Department may by order appoint; and
- (b) ceases to be in operation one month after that day.

(3) The Department may by order made at any time when subsection (1) is not in operation provide for that subsection to come into operation again on such day as is appointed by the order.

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(4) Where subsection (1) comes into operation on a day appointed under subsection (3), it ceases to be in operation one month after that day.

(5) An order under subsection (2) or (3) requires the approval of the First Minister and deputy First Minister acting jointly; and no such order shall be made unless—

- (a) the Chief Constable has requested the Department to make the order; and
- (b) the Department, after consulting the Lord Chief Justice, is of the opinion that such exceptional circumstances exist as to justify the making of the order.

Commencement Information

I5 S. 13(1) in force at 8.6.2013 by [S.R. 2013/162](#), [art. 2](#)

I6 S. 13(1) in operation at 10.7.2015 by [S.R. 2015/296](#), [art. 2](#) (See s. 13(4) of the Act)

Supplementary

Repeals **N.I.**

14 The statutory provisions set out in Schedule 4 are repealed to the extent specified in the second column of that Schedule.

Commencement Information

I7 Art. 14 partly in operation; art. 14 in operation for specified purposes at 26.4.2013 see s. 15(2)(e)

Commencement and transitional, etc. provisions **N.I.**

15.—(1) Except as provided by subsection (2) and section 13, this Act comes into operation on the day after Royal Assent.

(2) The following provisions of this Act come into operation on such day or days as the Department may by order appoint—

- (a) section 1 and Schedule 1;
- (b) section 2;
- (c) sections 4 and 5;
- (d) section 9 and Schedules 2 and 3;
- (e) Parts 1 and 3 of Schedule 4 and section 14 so far as relating thereto.

(3) An order under subsection (2) may contain such transitional or saving provisions as the Department of Justice thinks appropriate.

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(4) Subsection (3) does not apply in relation to an order bringing section 9 or the repeals in Part 3 of Schedule 4 into operation (as to which see section 9(3)).

Short title **N.I.**

16 This Act may be cited as the Criminal Justice Act (Northern Ireland) 2013.

Status:

This version of this Act contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice Act (Northern Ireland) 2013.