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# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 13

#### MISCELLANEOUS

##### *Assessing etc. risks posed by sexual or violent offenders*

#### **325 Arrangements for assessing etc risks posed by certain offenders**

- (1) In this section—
  - “relevant sexual or violent offender” has the meaning given by section 327;
  - “responsible authority”, in relation to any area, means the chief officer of police, the local probation board for that area and the Minister of the Crown exercising functions in relation to prisons, acting jointly.
- (2) The responsible authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by—
  - (a) relevant sexual and violent offenders, and
  - (b) other persons who, by reason of offences committed by them (wherever committed), are considered by the responsible authority to be persons who may cause serious harm to the public.
- (3) In establishing those arrangements, the responsible authority must act in co-operation with the persons specified in subsection (6); and it is the duty of those persons to co-operate in the establishment by the responsible authority of those arrangements, to the extent that such co-operation is compatible with the exercise by those persons of their functions under any other enactment.
- (4) Co-operation under subsection (3) may include the exchange of information.
- (5) The responsible authority for each area (“the relevant area”) and the persons specified in subsection (6) must together draw up a memorandum setting out the ways in which they are to co-operate.
- (6) The persons referred to in subsections (3) and (5) are—

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- (a) every youth offending team established for an area any part of which falls within the relevant area,
  - (b) the Ministers of the Crown exercising functions in relation to social security, child support, war pensions, employment and training,
  - (c) every local education authority any part of whose area falls within the relevant area,
  - (d) every local housing authority or social services authority any part of whose area falls within the relevant area,
  - (e) every registered social landlord which provides or manages residential accommodation in the relevant area in which persons falling within subsection (2)(a) or (b) reside or may reside,
  - (f) every Health Authority or Strategic Health Authority any part of whose area falls within the relevant area,
  - (g) every Primary Care Trust or Local Health Board any part of whose area falls within the relevant area,
  - (h) every NHS trust any part of whose area falls within the relevant area, and
  - (i) every person who is designated by the Secretary of State by order for the purposes of this paragraph as a provider of electronic monitoring services.
- (7) The Secretary of State may by order amend subsection (6) by adding or removing any person or description of person.
- (8) The Secretary of State may issue guidance to responsible authorities on the discharge of the functions conferred by this section and section 326.
- (9) In this section—
- “local education authority” has the same meaning as in the Education Act 1996 (c. 56);
  - “local housing authority” has the same meaning as in the Housing Act 1985 (c. 68);
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
  - “NHS trust” has the same meaning as in the [F<sup>1</sup>National Health Service Act 2006];
  - “prison” has the same meaning as in the Prison Act 1952 (c. 52);
  - “registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996 (c. 52);
  - “social services authority” means a local authority for the purposes of the Local Authority Social Services Act 1970 (c. 42).

#### Textual Amendments

- F1** In s. 325(9) in definition of "NHS Trust" words substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 5, 8, [Sch. 1 para. 254](#) (with [Sch. 3 Pt. 1](#))

#### Commencement Information

- II** [S. 325](#) wholly in force at 5.4.2004, see [s. 336\(3\)](#) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

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### 326 Review of arrangements

- (1) The responsible authority for each area must keep the arrangements established by it under section 325 under review with a view to monitoring their effectiveness and making any changes to them that appear necessary or expedient.
- (2) The responsible authority for any area must exercise their functions under subsection (1) in consultation with persons appointed by the Secretary of State as lay advisers in relation to that authority.
- (3) The Secretary of State must appoint two lay advisers under subsection (2) in relation to each responsible authority.
- (4) The responsible authority must pay to or in respect of the persons so appointed such allowances as the Secretary of State may determine.
- (5) As soon as practicable after the end of each period of 12 months beginning with 1st April, the responsible authority for each area must—
  - (a) prepare a report on the discharge by it during that period of the functions conferred by section 325 and this section, and
  - (b) publish the report in that area.
- (6) The report must include—
  - (a) details of the arrangements established by the responsible authority, and
  - (b) information of such descriptions as the Secretary of State has notified to the responsible authority that he wishes to be included in the report.

#### Commencement Information

- I2** S. 326 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

### 327 Section 325: interpretation

- (1) For the purposes of section 325, a person is a relevant sexual or violent offender if he falls within one or more of subsections (2) to (5).
- (2) A person falls within this subsection if he is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42).
- (3) A person falls within this subsection if—
  - (a) he is convicted by a court in England or Wales of murder or an offence specified in Schedule 15, and
  - (b) one of the following sentences is imposed on him in respect of the conviction—
    - (i) a sentence of imprisonment for a term of 12 months or more,
    - (ii) a sentence of detention in a young offender institution for a term of 12 months or more,
    - (iii) a sentence of detention during Her Majesty's pleasure,
    - (iv) a sentence of detention for public protection under section 226,
    - (v) a sentence of detention for a period of 12 months or more under section 91 of the Sentencing Act (offenders under 18 convicted of certain serious offences),

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- (vi) a sentence of detention under section 228,
  - (vii) a detention and training order for a term of 12 months or more, or
  - (viii) a hospital or guardianship order within the meaning of the Mental Health Act 1983 (c. 20).
- (4) A person falls within this subsection if—
- (a) he is found not guilty by a court in England and Wales of murder or an offence specified in Schedule 15 by reason of insanity or to be under a disability and to have done the act charged against him in respect of such an offence, and
  - (b) one of the following orders is made in respect of the act charged against him as the offence—
    - (i) an order that he be admitted to hospital, or
    - (ii) a guardianship order within the meaning of the Mental Health Act 1983.
- (5) A person falls within this subsection if—
- (a) the first condition set out in section 28(2) or 29(2) of the Criminal Justice and Court Services Act 2000 (c. 43) or the second condition set out in section 28(3) or 29(3) of that Act is satisfied in his case, or
  - (b) an order under section 29A of that Act has been made in respect of him.
- (6) In this section “court” does not include a service court, as defined by section 305(1).

#### Commencement Information

- I3** S. 327 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, **art. 2(1)(2)** (subject to **art. 2(3)-(6)**)

VALID FROM 14/07/2008

#### **[<sup>F2</sup>327A Disclosure of information about convictions etc. of child sex offenders to members of the public**

- (1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.
- (2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.
- (3) The case is where the responsible authority for the area has reasonable cause to believe that—
  - (a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and
  - (b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by the offender.

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- (4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.
- (5) Where the responsible authority makes a disclosure under this section—
  - (a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and
  - (b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.
- (6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.
- (7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.
- (8) The record must include the following information—
  - (a) the reasons for making a decision to disclose information under this section,
  - (b) the reasons for making a decision not to disclose information under this section, and
  - (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.
- (9) Nothing in this section requires or authorises the making of a disclosure which contravenes the Data Protection Act 1998.
- (10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

#### Textual Amendments

**F2** Ss. 327A, 327B inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 140, 153**; [S.I. 2008/1586](#), **art. 2(1)**, Sch. 1 para. 43

VALID FROM 14/07/2008

#### **327B Section 327A: interpretation**

- (1) This section applies for the purposes of section 327A.
- (2) “Child” means a person under 18.
- (3) “Child sex offence” means an offence listed in Schedule 34A, whenever committed.
- (4) “Child sex offender” means any person who—
  - (a) has been convicted of such an offence,
  - (b) has been found not guilty of such an offence by reason of insanity,
  - (c) has been found to be under a disability and to have done the act charged against the person in respect of such an offence, or
  - (d) has been cautioned in respect of such an offence.

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- (5) In relation to a responsible authority, references to information about the relevant previous convictions of a child sex offender are references to information about—
- (a) convictions, findings and cautions mentioned in subsection (4)(a) to (d) which relate to the offender, and
  - (b) anything under the law of any country or territory outside England and Wales which in the opinion of the responsible authority corresponds to any conviction, finding or caution within paragraph (a) (however described).
- (6) References to serious harm caused by a child sex offender are references to serious physical or psychological harm caused by the offender committing any offence listed in any paragraph of Schedule 34A other than paragraphs 1 to 6 (offences under provisions repealed by Sexual Offences Act 2003).
- (7) A responsible authority for any area manages a child sex offender if the offender is a person who poses risks in that area which fall to be managed by the authority under the arrangements established by it under section 325.
- (8) For the purposes of this section the provisions of section 4 of, and paragraph 3 of Schedule 2 to, the Rehabilitation of Offenders Act 1974 (protection for spent convictions and cautions) are to be disregarded.
- (9) In this section “cautioned”, in relation to any person and any offence, means—
- (a) cautioned after the person has admitted the offence, or
  - (b) reprimanded or warned within the meaning given by section 65 of the Crime and Disorder Act 1998.
- (10) Section 135(1), (2)(a) and (c) and (3) of the Sexual Offences Act 2003 (mentally disordered offenders) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act.]

#### **Textual Amendments**

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