

SCHEDULES

SCHEDULE 4

Section 57

NOTIFICATION ORDERS

Introductory

- 1 A “notification order” is an order applying the notification requirements of this Part to a person who has been dealt with outside the United Kingdom in respect of a corresponding foreign offence.

Corresponding foreign offences

- 2 (1) A “corresponding foreign offence” means an act that—
- (a) constituted an offence under the law in force in a country outside the United Kingdom, and
 - (b) corresponds to an offence to which this Part applies.
- (2) For this purpose an act punishable under the law in force in a country outside the United Kingdom is regarded as constituting an offence under that law however it is described in that law.
- (3) An act corresponds to an offence to which this Part applies if—
- (a) it would have constituted an offence to which this Part applies by virtue of section 41 if it had been done in any part of the United Kingdom, or
 - (b) it was, or took place in the course of, an act of terrorism or was done for the purposes of terrorism.
- (4) On an application for a notification order the condition in sub-paragraph (3)(a) or (b) is to be taken to be met unless—
- (a) the defendant serves on the applicant, not later than rules of court may provide, a notice—
 - (i) stating that, on the facts as alleged with respect to the act concerned, the condition is not in the defendant’s opinion met,
 - (ii) showing the defendant’s grounds for that opinion, and
 - (iii) requiring the applicant to prove that the condition is met; or
 - (b) the court permits the defendant to require the applicant to prove that the condition is met without service of such a notice.
- (5) In the application of this paragraph in Scotland, for “defendant” substitute “respondent”.

Conditions for making a notification order

- 3 (1) The conditions for making a notification order in respect of a person are as follows.

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- (2) The first condition is that under the law in force in a country outside the United Kingdom—
- (a) the person has been convicted of a corresponding foreign offence and has received in respect of the offence a sentence equivalent to a sentence mentioned in section 45(1)(a), (2)(a) or (3)(a), or
 - (b) a court exercising jurisdiction under that law has, in respect of a corresponding foreign offence—
 - (i) convicted the person or made a finding in relation to the person equivalent to a finding mentioned in section 45(1)(b)(ii) or (iii), (2)(b)(ii) or (iii) or (3)(b)(ii) or (iii) (finding of insanity or disability), and
 - (ii) made the person subject to an order equivalent to a hospital order.
- (3) This condition is not met if there was a flagrant denial of the person’s right to a fair trial.
- (4) The second condition is that—
- (a) the sentence was imposed or order made after the commencement of this Part, or
 - (b) the sentence was imposed or order made before the commencement of this Part and immediately before that time the person—
 - (i) was imprisoned or detained in pursuance of the sentence or order,
 - (ii) would have been so imprisoned or detained but for being unlawfully at large or otherwise unlawfully absent, lawfully absent on a temporary basis or on bail pending an appeal, or
 - (iii) had been released on licence, or was subject to an equivalent form of supervision, having served the whole or part of a sentence of imprisonment for the offence.
- (5) The third condition is that the period for which the notification requirements would apply in respect of the offence (in accordance with section 53 as modified by paragraph 8(e)) has not expired.
- (6) If on an application for a notification order it is proved that the conditions in subparagraphs (2), (4) and (5) are met, the court must make the order.

Application for notification order

- 4 (1) In England and Wales an application for a notification order in respect of a person may only be made by a chief officer of police.
- (2) An application may only be made if—
- (a) the person resides in the chief officer’s police area, or
 - (b) the chief officer believes that the person is in, or is intending to come to, that area.
- (3) The application must be made to the High Court.
- 5 (1) In Scotland an application for a notification order in respect of a person may only be made by a chief constable.
- (2) An application may only be made if—
- (a) the person resides in the area of the chief constable’s police force, or

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- (b) the chief constable believes that the person is in, or is intending to come to, that area.
- (3) The application must be made to the Court of Session.
- 6 (1) In Northern Ireland an application for a notification order in respect of a person may only be made by the Chief Constable of the Police Service of Northern Ireland.
- (2) An application may only be made if—
 - (a) the person resides in Northern Ireland, or
 - (b) the Chief Constable believes that the person is in, or is intending to come to, Northern Ireland.
- (3) The application must be made to the High Court.

Effect of notification order

- 7 The effect of a notification order is that the notification requirements of this Part apply to the person in respect of whom it is made.

Adaptation of provisions of this Part in relation to foreign proceedings

- 8 The provisions of this Part have effect with the following adaptations in relation to foreign proceedings and cases where the notification requirements apply because a notification order has been made—
 - (a) in section 61(1) (references to dealing with an offence) for “being sentenced, or made subject to a hospital order” substitute “being made subject by the foreign court to a sentence or order within paragraph 3(2) (a) or (b) of Schedule 4”;
 - (b) in section 61(2) (references to time when person dealt with for an offence) for paragraphs (a) to (c) substitute “by the foreign court of first instance”;
 - (c) for the purposes of section 47 (initial notification) the period within which notification is to be made begins with the date of service of the notification order;
 - (d) in section 51 (meaning of “local police area”) the reference in subsection (1) (c) to the court of trial shall be read as a reference to the court by which the notification order was made;
 - (e) in section 53 (period for which notification requirements apply) a reference to a sentence or order of any description is to be read as a reference to an equivalent sentence or order of the foreign court.