

SCHEDULES

SCHEDULE 2

Section 21

CLOSURE ORDERS

1 After Part 2 of the [Sexual Offences Act 2003 \(c. 42\)](#) insert the following new Part—

“PART 2A

CLOSURE ORDERS

Basic definitions

136A Meaning of specified prostitution offence etc.

- (1) This section applies for the purposes of this Part.
- (2) The specified prostitution offences are—
 - (a) an offence under section 47 of this Act or Article 37 of the Sexual Offences (Northern Ireland) Order 2008 (“the Northern Ireland Order”);
 - (b) an offence under section 48 of this Act, or Article 38 of the Northern Ireland Order, committed by causing or inciting a child to become a prostitute;
 - (c) an offence under section 49 of this Act, or Article 39 of the Northern Ireland Order, committed by controlling the activities of a child relating to the child’s prostitution;
 - (d) an offence under section 50 of this Act, or Article 40 of the Northern Ireland Order, committed by arranging or facilitating a child’s prostitution;
 - (e) an offence under section 52 of this Act or Article 62 of the Northern Ireland Order;
 - (f) an offence under section 53 of this Act or Article 63 of the Northern Ireland Order.
- (3) The specified pornography offences are—
 - (a) an offence under section 48 of this Act, or Article 38 of the Northern Ireland Order, committed by causing or inciting a child to be involved in pornography;
 - (b) an offence under section 49 of this Act, or Article 39 of the Northern Ireland Order, committed by controlling the activities of a child relating to the child’s involvement in pornography;
 - (c) an offence under section 50 of this Act, or Article 40 of the Northern Ireland Order, committed by arranging or facilitating a child’s involvement in pornography.

Status: This is the original version (as it was originally enacted).

- (4) Premises are being used for activities related to a specified prostitution offence—
- (a) in the case of an offence under section 47 of this Act or Article 37 of the Northern Ireland Order, at any time when the sexual services mentioned in subsection (1)(a) of that section or, as the case may be, paragraph (1)(a) of that Article are being provided on the premises, and
 - (b) in the case of any other specified prostitution offence, at any time when the person in respect of whom the offence is committed is providing sexual services as a prostitute on the premises.
- (5) Premises are being used for activities related to a specified pornography offence at any time when the person in respect of whom the offence is committed is doing anything on the premises which enables an indecent image of himself or herself to be recorded.
- (6) Any reference to an offence under this Act includes a reference to—
- (a) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of the Act in question) is such an offence;
 - (b) an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is such an offence.

Closure notices

136B Power to authorise issue of closure notice

- (1) A member of a police force not below the rank of superintendent (“the authorising officer”) may authorise the issue of a closure notice in respect of any premises if three conditions are met.
- (2) The first condition is that the officer has reasonable grounds for believing that either subsection (3) or (4) (or both) applies.
- (3) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified prostitution offences.

But this subsection does not apply if only one person obtained all of the sexual services in question (whether or not on a single occasion).
- (4) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified pornography offences.
- (5) In subsections (3) and (4), “the relevant period” means the period of 3 months ending with the day on which the officer is considering whether to authorise the issue of the notice.
- (6) The second condition is that the officer has reasonable grounds for believing that the making of a closure order under section 136D is necessary to prevent the premises being used for activities related to one or more specified prostitution or pornography offences.

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

- (7) The third condition is that the officer is satisfied—
 - (a) that the local authority for the area in which the premises are situated has been consulted, and
 - (b) that reasonable steps have been taken to establish the identity of any person who resides on the premises or who has control of or responsibility for or an interest in the premises.
- (8) For the purposes of the second condition, it does not matter whether the officer believes that the offence or offences in question have been committed or that they will be committed (or will be committed unless a closure order is made).
- (9) An authorisation under subsection (1) may be given orally or in writing, but if it is given orally the authorising officer must confirm it in writing as soon as it is practicable.
- (10) The issue of a closure notice may be authorised whether or not a person has been convicted of any specified prostitution or pornography offence that the authorising officer believes has been committed.
- (11) The Secretary of State may by regulations specify premises or descriptions of premises to which this section does not apply.

136C Contents and service of closure notice

- (1) A closure notice must—
 - (a) state that no-one other than a person who regularly resides on, or owns, the premises may enter or remain on them,
 - (b) state that failure to comply with the notice amounts to an offence,
 - (c) specify the offence or offences in respect of which the authorising officer considers that the first and second conditions in section 136B are met,
 - (d) state that an application will be made under section 136D for the closure of the premises,
 - (e) specify the date and time when, and the place at which, that application will be heard, and
 - (f) explain the effects of an order under section 136D.
- (2) A closure notice must be served by a constable.
- (3) Service is effected by—
 - (a) fixing a copy of the notice to at least one prominent place on the premises,
 - (b) fixing a copy of the notice to each normal means of access to the premises,
 - (c) fixing a copy of the notice to any outbuildings which appear to the constable to be used with or as part of the premises, and
 - (d) giving a copy of the notice to the persons identified in pursuance of section 136B(7)(b) and to any other person appearing to the constable to be a person of a description mentioned in that provision.

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

- (4) A constable must also serve a copy of the notice on any person who occupies any other part of a building or other structure in which the premises are situated if, at the time of acting under subsection (3), the constable reasonably believes that the person's access to the other part of the building or structure will be impeded if a closure order is made.
- (5) Subsection (3)(d) or (4) does not require a constable to serve a copy of the notice on a person if it is not reasonably practicable to do so.
- (6) A constable acting under subsection (3) may enter any premises, using reasonable force if necessary, for the purpose of complying with subsection (3)(a) to (c).
- (7) A closure notice has effect until an application for a closure order is determined under section 136D.
- (8) But, if the hearing of an application for a closure order is adjourned, the closure notice ceases to have effect unless the court makes an order under section 136E(2).

Closure orders

136D Power to make a closure order

- (1) If a closure notice has been issued, a constable must apply under this section to a magistrates' court for a closure order.
- (2) A closure order is an order that the premises in respect of which the order is made are closed to all persons for such period not exceeding 3 months as is specified in the order.
- (3) The application must be heard by the magistrates' court not later than 48 hours after the notice was served in pursuance of section 136C(3)(a).
- (4) The magistrates' court may make a closure order if three conditions are met.
- (5) The first condition is that the court is satisfied that either subsection (6) or subsection (7) (or both) applies.
- (6) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified prostitution offences.

But this subsection does not apply if only one person obtained all of the sexual services in question (whether or not on a single occasion).
- (7) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified pornography offences.
- (8) In subsections (6) and (7), "the relevant period" means the period of 3 months ending with the day on which the issue of the closure notice was authorised.
- (9) The second condition is that the court is satisfied that the making of the closure order is necessary to prevent the premises being used for activities related to one or more specified prostitution or pornography offences during the period to be specified in the order.

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

- (10) The third condition is that the court is satisfied that—
 - (a) before the issue of the closure notice was authorised, reasonable steps were taken to establish the identity of any person of a description mentioned in section 136B(7)(b), and
 - (b) a constable complied with section 136C(3)(d) in relation to the persons so identified.
- (11) For the purposes of the second condition, it does not matter whether the court is satisfied that the offence or offences in question have been committed or that they will be committed (or will be committed unless a closure order is made).
- (12) A closure order may be made whether or not a person has been convicted of any specified prostitution or pornography offence that the court is satisfied has been committed.

136E Making of closure orders: supplementary provision

- (1) The magistrates' court may adjourn the hearing of an application for a closure order for a period of not more than 14 days to enable any of the following to show why a closure order should not be made—
 - (a) an occupier of the premises;
 - (b) a person who has control of or responsibility for the premises;
 - (c) any other person with an interest in the premises.
- (2) If the court adjourns the hearing, it may order that the closure notice continues in effect until the end of the period of the adjournment.
- (3) A closure order may include such provision as the court thinks appropriate relating to access to any other part of a building or other structure in which the premises are situated.
- (4) A closure order may be made in respect of the whole or any part of the premises in respect of which the closure notice was issued.

Enforcement

136F Closure order: enforcement

- (1) This section applies if a closure order is made.
- (2) A constable or an authorised person may—
 - (a) enter the premises in respect of which the order is made;
 - (b) do anything reasonably necessary to secure the premises against entry by any person.
- (3) A constable or an authorised person seeking to enter premises for the purposes of subsection (2) must, if required to do so by or on behalf of the owner, occupier or other person in charge of the premises, produce evidence of the constable's or (as the case may be) the authorised person's identity and authority before entering the premises.

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

- (4) A constable or an authorised person may also enter the premises at any time while the order has effect for the purpose of carrying out essential maintenance of, or repairs to, the premises.
- (5) A constable or an authorised person acting under subsection (2) or (4) may use reasonable force.
- (6) In this section “authorised person”—
 - (a) in the application of this section to England and Wales, means a person authorised by the chief officer of police for the area in which the premises are situated;
 - (b) in the application of this section to Northern Ireland, means a person authorised by the Chief Constable of the Police Service of Northern Ireland.

136G Closure of premises: offences

- (1) A person who remains on or enters premises in contravention of a closure notice commits an offence.
- (2) A person who remains on or enters premises in contravention of a closure order commits an offence.
- (3) A person does not commit an offence under subsection (1) or (2) if the person has a reasonable excuse for remaining on or entering the premises.
- (4) A person who obstructs a constable or an authorised person acting under section 136C(3) or (4) or 136F(2) or (4) commits an offence.
- (5) A person guilty of an offence under this section is liable on summary conviction—
 - (a) to imprisonment for a period not exceeding 51 weeks, or
 - (b) to a fine not exceeding level 5 on the standard scale,
 or to both.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection
- (7) In the application of this section to Northern Ireland—
 - (a) the reference in subsection (5)(a) to 51 weeks is to be read as a reference to 6 months, and
 - (b) subsection (6) is omitted.
- (8) In this section “authorised person” has the same meaning as in section 136F.

Extension and discharge of closure orders

136H Applications for extension of closure order

- (1) At any time before the end of the period for which a closure order is made or extended a constable may make a complaint to the appropriate judicial officer for an extension or further extension of the period for which it has effect.

- (2) A complaint may not be made under subsection (1) unless it is authorised by a member of a police force not below the rank of superintendent.
- (3) Authorisation may be given under subsection (2) if two conditions are met.
- (4) The first condition is that the officer has reasonable grounds for believing that it is necessary to extend the period for which the order has effect to prevent the premises being used for activities related to any of the specified prostitution or pornography offences in respect of which section 136D(9) applied.
- (5) The second condition is that the officer is satisfied that the local authority has been consulted about the intention to make a complaint.
- (6) If a complaint is made under subsection (1) the appropriate judicial officer may issue a summons directed to—
 - (a) any person on whom the closure notice relating to the closed premises was served under section 136C(3)(d) or (4), or
 - (b) any other person who appears to the judicial officer to have an interest in the closed premises but on whom the closure notice was not served,requiring such person to appear before the magistrates' court to answer to the complaint.
- (7) If a summons is issued in accordance with subsection (6), a notice stating the date and time when, and the place at which, the complaint will be heard must be served on—
 - (a) the persons to whom the summons is directed,
 - (b) such constable as the judicial officer thinks appropriate (unless the complainant is a constable), and
 - (c) the local authority.
- (8) In this section “the appropriate judicial officer” means—
 - (a) in the application of this section to England and Wales, a justice of the peace;
 - (b) in the application of this section to Northern Ireland, a lay magistrate.

136I Orders extending closure orders

- (1) This section applies where a complaint is made under section 136H.
- (2) The court may make an order extending the period for which the closure order has effect by a period specified in the order if the court is satisfied that the extension is necessary to prevent the premises being used for activities related to any of the specified prostitution or pornography offences in respect of which section 136D(9) applied.
- (3) The period specified in the order may not exceed 3 months.
- (4) The total period for which a closure order has effect may not exceed 6 months.

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

- (5) An order under this section may include such provision as the court thinks appropriate relating to access to any other part of a building or other structure in which the premises are situated.

136J Discharge of closure order

- (1) Any of the following persons may make a complaint to an appropriate judicial officer for an order that a closure order be discharged—
- (a) a constable;
 - (b) the local authority;
 - (c) a person on whom the closure notice relating to the closed premises was served under section 136C(3)(d) or (4);
 - (d) any other person who has an interest in the closed premises but on whom the closure notice was not served.
- (2) If a complaint is made under subsection (1) by a person other than a constable the judicial officer may issue a summons directed to such constable as the judicial officer thinks appropriate requiring the constable to appear before the magistrates' court to answer to the complaint.
- (3) The court may not make an order discharging a closure order unless it is satisfied that the order is no longer necessary to prevent the premises being used for activities related to any of the specified prostitution or pornography offences in respect of which section 136D(9) applied.
- (4) If a complaint is made under subsection (1), a notice stating the date and time when, and the place at which, the complaint will be heard must be served on—
- (a) the persons mentioned in subsection (1)(c) and (d) (other than the complainant),
 - (b) a constable (unless a constable is the complainant), and
 - (c) the local authority (unless it is the complainant).
- (5) In this section “appropriate judicial authority” has the same meaning as in section 136H.

Appeals against closure orders etc.

136K Appeals

- (1) An appeal against an order under section 136D or 136I, or an appeal against a decision not to be make an order under section 136J, may be made to the appropriate appeal court by—
- (a) a person on whom the closure notice relating to the closed premises was served under section 136C(3)(d), or
 - (b) any other person who has an interest in the closed premises but on whom the closure notice was not served.
- (2) An appeal against a decision of a court not to make an order under section 136D or 136I, or an appeal against an order under section 136J, may be made to the appropriate appeal court by—
- (a) a constable, or

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

- (b) the local authority.
- (3) An appeal under subsection (1) or (2) must be made before the end of the period of 21 days beginning with the day on which the order or decision is made.
- (4) On an appeal under this section the court may make such order as it thinks appropriate.
- (5) In this section “the appropriate appeal court” means—
 - (a) in the application of this section to England and Wales, the Crown Court;
 - (b) in the application of this section to Northern Ireland, a county court.

Access to other premises

136L Access to other premises

- (1) This section applies to any person who occupies or has an interest in any part of a building or other structure—
 - (a) in which closed premises are situated, and
 - (b) in respect of which the closure order does not have effect.
- (2) A person to whom this section applies may at any time while a closure order has effect apply to—
 - (a) the magistrates' court in respect of an order made under section 136D or 136I, or
 - (b) the appropriate appeal court in respect of an order made by that court under section 136K.
- (3) If an application is made under this section notice of the date and time when, and the place at which, the hearing to consider the application will take place must be given to—
 - (a) a constable,
 - (b) the local authority.
 - (c) each person on whom the closure notice relating to the closed premises was served under section 136C(3)(d) or (4), and
 - (d) any other person who appears to the court to have an interest in the closed premises but on whom the closure notice was not served.
- (4) On an application under this section the court may make such order as it thinks appropriate in relation to access to any other part of a building or other structure in which the closed premises are situated.
- (5) It is immaterial whether any provision has been made as mentioned in section 136E(3) or 136I(5).
- (6) In this section “appropriate appeal court” has the same meaning as in section 136K.

Reimbursement of costs, compensation etc.

136M Reimbursement of costs

- (1) A police authority or a local authority which incurs expenditure for the purpose of clearing, securing, repairing or maintaining closed premises may apply to the court which made the closure order for an order under this section.
- (2) On an application under this section, the court may make such order as it thinks appropriate in the circumstances for the reimbursement (in full or in part) by the owner of the premises of the expenditure mentioned in subsection (1).
- (3) An application under this section must not be entertained unless it is made before the end of the period of three months beginning with the day the closure order ceases to have effect.
- (4) An application under this section must be served on—
 - (a) the police authority for the area in which the premises are situated, if the application is made by the local authority,
 - (b) the local authority, if the application is made by a police authority, and
 - (c) the owner of the premises.
- (5) In the application of this section to Northern Ireland references to the police authority are to be read as references to the Northern Ireland Policing Board.

136N Exemption from liability for certain damages

- (1) A constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of the constable's functions under this Part.
- (2) A chief officer of police who has direction or control of a constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of the constable's functions under this Part.
- (3) An authorised person is not liable for relevant damages in respect of anything done or omitted to be done by the authorised person in the performance or purported performance of the authorised person's functions under this Part.
- (4) No person is vicariously liable for anything done or omitted to be done by an authorised person as mentioned in subsection (3).
- (5) Subsections (1) to (4) do not apply—
 - (a) if the act or omission is shown to have been in bad faith;
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.

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

- (6) This section does not affect any other exemption from liability for damages (whether at common law or otherwise).
- (7) In this section—
 - (a) “authorised person” has the same meaning as in section 136F;
 - (b) “relevant damages” means damages in proceedings for judicial review or for the tort of negligence or misfeasance in public office.
- (8) In the application of this section to Northern Ireland, the reference in subsection (2) to the chief officer of police is to be read as a reference to the Chief Constable of the Police Service of Northern Ireland.

136O Compensation

- (1) A person who claims to have incurred financial loss in consequence of a closure notice or closure order may apply for compensation.
- (2) The application must be made—
 - (a) to the appropriate appeal court, if the closure order was made or extended by an order of that court on an appeal under section 136K;
 - (b) in any other case, to the magistrates' court which considered the application for a closure order.
- (3) In a case where a closure notice is issued but a closure order is not made, the application must not be entertained unless it is made before the end of the period of three months beginning with—
 - (a) the day the magistrates' court decides not to make a closure order, or
 - (b) if there is an appeal against that decision, the day the appropriate appeal court dismisses that appeal.
- (4) In a case where a closure order is made, the application must not be entertained unless it is made before the end of the period of three months beginning with the day the closure order ceases to have effect.
- (5) The court which hears the application may order the payment of compensation out of central funds if it is satisfied—
 - (a) that the person was not associated with the use of the premises for the activities in relation to which the first condition in section 136B was met,
 - (b) if the person is the owner or occupier of the premises, that the person took reasonable steps to prevent that use,
 - (c) that the person has incurred financial loss as mentioned in subsection (1), and
 - (d) having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss.
- (6) In this section—
 - (a) “appropriate appeal court” has the same meaning as in section 136K;
 - (b) “central funds” has the same meaning as in enactments providing for the payment of costs.
- (7) In the application of this section to Northern Ireland—

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

- (a) the reference in subsection (5) to “central funds” is to be read as a reference to monies provided by Parliament, and
- (b) subsection (6)(b) is omitted.

General

136P Guidance

- (1) The Secretary of State may issue guidance relating to the discharge of any functions under or for the purposes of this Part by a constable or by an authorised person (within the meaning of section 136F).
- (2) A person discharging a function to which guidance under this section relates must have regard to the guidance in discharging the function.

136Q Issue of closure notices by persons other than police officers

- (1) The Secretary of State may by order amend this Part so as to extend the power to authorise the issue of a closure notice to persons other than members of police forces.
- (2) An order under subsection (1) may make such further amendments of this Part as the Secretary of State thinks appropriate in consequence of the extension of that power to persons other than members of police forces.

136R Interpretation

- (1) This section applies for the purposes of this Part.
- (2) “A closure notice” means a notice issued under section 136B.
- (3) “A closure order” means—
 - (a) an order made under section 136D;
 - (b) an order extended under section 136I;
 - (c) an order made or extended under section 136K which has the like effect as an order made or extended under section 136D or 136I (as the case may be).
- (4) “Closed premises” means premises in respect of which a closure order has effect.
- (5) “Local authority”, in relation to England, means—
 - (a) a district council;
 - (b) a London borough council;
 - (c) a county council for an area for which there is no district council;
 - (d) the Common Council of the City of London in its capacity as a local authority;
 - (e) the Council of the Isles of Scilly.
- (6) “Local authority”, in relation to Wales, means—
 - (a) a county council;
 - (b) a county borough council.

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

- (7) “Local authority”, in relation to Northern Ireland, means a district council.
- (8) In the application of this Part to England and Wales, references to the local authority in relation to—
- (a) any premises,
 - (b) a closure notice relating to any premises, or
 - (c) a closure order relating to any premises,
- are references to the local authority for the area in which the premises are situated.
- (9) In the application of this Part to Northern Ireland, references to the local authority in relation to—
- (a) any premises,
 - (b) a closure notice relating to any premises, or
 - (c) a closure order relating to any premises,
- are references to the council for the district in which the premises are situated.
- (10) In the application of this Part to Northern Ireland, the reference in section 136B(7)(a) to the area is to be read as a reference to the district.
- (11) “The owner”, in relation to premises, means—
- (a) a person who, whether alone or jointly with another person, is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion (apart from a mortgagee not in possession);
 - (b) a person who, whether alone or jointly with another person, holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.
- (12) “Premises” includes—
- (a) any land or other place (whether enclosed or not);
 - (b) any outbuildings which are, or are used as, part of the premises.
- (13) “Specified prostitution offence” means an offence listed in section 136A(2).
- (14) “Specified pornography offence” means an offence listed in section 136A(3).”
- 2 In section 138 of that Act (orders and regulations), in subsection (2) for “or section 130” substitute “, section 130 or section 136Q(1)”.
- 3 In section 142 of that Act (extent), in subsection (2)(c) for “Part 2” substitute “Parts 2 and 2A”.