



Sexual Offences Act 2003

2003 CHAPTER 42

PART 2

NOTIFICATION AND ORDERS

[^{F1}Risk of sexual harm orders [^{F2}(Northern Ireland)]]

Textual Amendments

- F1** Ss. 123-129 repealed (E.W.) (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 5 para. 5(1)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F2** Words in s. 123 cross-heading inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 69** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

123 Risk of sexual harm orders: applications, grounds and effect

(1) [^{F3}The Chief Constable of the Police Service of Northern Ireland] may by complaint to [^{F4}a court of summary jurisdiction] apply for an order under this section (a “risk of sexual harm order”) in respect of a person aged 18 or over (“the defendant”) who resides in [^{F5}Northern Ireland] or who [^{F6}the Chief Constable] believes is in, or is intending to come to, [^{F5}Northern Ireland] if it appears to [^{F6}the Chief Constable] that—

- (a) the defendant has on at least two occasions, whether before or after the commencement of this Part, done an act within subsection (3), and
- (b) as a result of those acts, there is reasonable cause to believe that it is necessary for such an order to be made.

^{F7}(2)

(3) The acts are—

- (a) engaging in sexual activity involving a child or in the presence of a child;
- (b) causing or inciting a child to watch a person engaging in sexual activity or to look at a moving or still image that is sexual;

Status: Point in time view as at 08/03/2015.

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Risk of sexual harm orders (Northern Ireland) is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) giving a child anything that relates to sexual activity or contains a reference to such activity;
 - (d) communicating with a child, where any part of the communication is sexual.
- (4) On the application, the court may make a risk of sexual harm order if it is satisfied that—
- (a) the defendant has on at least two occasions, whether before or after the commencement of this section, done an act within subsection (3); and
 - (b) it is necessary to make such an order, for the purpose of protecting children generally or any child from harm from the defendant.
- (5) Such an order—
- (a) prohibits the defendant from doing anything described in the order;
 - (b) has effect for a fixed period (not less than 2 years) specified in the order or until further order.
- (6) The only prohibitions that may be imposed are those necessary for the purpose of protecting children generally or any child from harm from the defendant.
- (7) Where a court makes a risk of sexual harm order in relation to a person already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

Textual Amendments

- F3** Words in s. 123(1) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 70\(2\)\(a\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F4** Words in s. 123(1) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 70\(2\)\(b\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F5** Words in s. 123(1) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 70\(2\)\(c\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F6** Words in s. 123(1) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 70\(2\)\(d\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F7** S. 123(2) repealed (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 70\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

124 Section 123: interpretation

- (1) Subsections (2) to (7) apply for the purposes of section 123.
- (2) “Protecting children generally or any child from harm from the defendant” means protecting children generally or any child from physical or psychological harm, caused by the defendant doing acts within section 123(3).
- (3) “Child” means a person under 16.
- (4) “Image” means an image produced by any means, whether of a real or imaginary subject.
- (5) “Sexual activity” means an activity that a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider to be sexual.
- (6) A communication is sexual if—
 - (a) any part of it relates to sexual activity, or

Status: Point in time view as at 08/03/2015.

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Risk of sexual harm orders (Northern Ireland) is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider that any part of the communication is sexual.
- (7) An image is sexual if—
 - (a) any part of it relates to sexual activity, or
 - (b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider that any part of the image is sexual.
- ^{F8}(8)

Textual Amendments

F8 S. 124(8) repealed (N.I.) (5.7.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\), s. 111\(2\), Sch. 7 para. 12\(2\), Sch. 8 Pt. 5](#)

125 RSHOs: variations, renewals and discharges

- (1) A person within subsection (2) may by complaint to the appropriate court apply for an order varying, renewing or discharging a risk of sexual harm order.
- (2) The persons are—
 - (a) the defendant;
 - [^{F9}(b) the Chief Constable of the Police Service of Northern Ireland.]
- (3) Subject to subsections (4) and (5), on the application the court, after hearing the person making the application [^{F10}, and the other person mentioned in subsection (2) (if that person wishes to be heard)], may make any order, varying, renewing or discharging the risk of sexual harm order, that the court considers appropriate.
- (4) An order may be renewed, or varied so as to impose additional prohibitions on the defendant, only if it is necessary to do so for the purpose of protecting children generally or any child from harm from the defendant (and any renewed or varied order may contain only such prohibitions as are necessary for this purpose).
- (5) The court must not discharge an order before the end of 2 years beginning with the day on which the order was made, without the consent of the defendant and [^{F11}the Chief Constable of the Police Service of Northern Ireland].
- (6) Section 124(2) applies for the purposes of this section.
- (7) In this section “the appropriate court” means—
 - (a) the court which made the risk of sexual harm order;
 - [^{F12}(b) a court of summary jurisdiction for the petty sessions district which includes the area where the defendant resides;
 - (c) where the application is made by the Chief Constable of the Police Service of Northern Ireland, any court of summary jurisdiction.]

Textual Amendments

F9 S. 125(2)(b) substituted for s. 125(2)(b)-(d) (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 71\(2\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/373, art. 2\(g\)\(i\)](#)

Status: Point in time view as at 08/03/2015.

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Risk of sexual harm orders (Northern Ireland) is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F10** Words in s. 125(3) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 71\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F11** Words in s. 125(5) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 71\(4\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F12** S. 125(7)(b)(c) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 71\(5\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

126 Interim RSHOs

- (1) This section applies where an application for a risk of sexual harm order (“the main application”) has not been determined.
- (2) An application for an order under this section (“an interim risk of sexual harm order”)—
 - (a) may be made by the complaint by which the main application is made, or
 - (b) if the main application has been made, may be made by ^[F13]the Chief Constable of the Police Service of Northern Ireland], by complaint to the court to which that application has been made.
- (3) The court may, if it considers it just to do so, make an interim risk of sexual harm order, prohibiting the defendant from doing anything described in the order.
- (4) Such an order—
 - (a) has effect only for a fixed period, specified in the order;
 - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
- (5) The applicant or the defendant may by complaint apply to the court that made the interim risk of sexual harm order for the order to be varied, renewed or discharged.

Textual Amendments

- F13** Words in s. 126(2)(b) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 72](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

127 RSHOs and interim RSHOs: appeals

- (1) A defendant may appeal to ^[F14]a county court]—
 - (a) against the making of a risk of sexual harm order;
 - (b) against the making of an interim risk of sexual harm order; or
 - (c) against the making of an order under section 125, or the refusal to make such an order.
- (2) On any such appeal, ^[F15]the county court] may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.
- ^[F16](3) Any order made by a county court on an appeal under subsection (1)(a) or (b) (other than an order directing that an application be re-heard by a court of summary jurisdiction) is for the purposes of section 125(7) or 126(5) (respectively) to be treated as if it were an order of the court from which the appeal was brought (and not an order of the county court).]

Status: Point in time view as at 08/03/2015.

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Risk of sexual harm orders (Northern Ireland) is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F14** Words in s. 127(1) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 73(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F15** Words in s. 127(2) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 73(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F16** S. 127(3) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 73(4)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

128 Offence: breach of RSHO or interim RSHO^[F17] etc]

^[F18](1) A person who, without reasonable excuse, does anything that the person is prohibited from doing by—

- (a) a risk of sexual harm order,
- (b) an interim risk of sexual harm order,
- (c) a sexual risk order,
- (d) an interim sexual risk order,
- (e) an order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (risk of sexual harm orders in Scotland), or
- (f) an order under section 5 of that Act (interim risk of sexual harm orders in Scotland),

commits an offence.]

(2) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

(3) Where a person is convicted of an offence under this section, it is not open to the court by or before which he is convicted to make, in respect of the offence, an order for conditional discharge.

Textual Amendments

- F17** Word in s. 128 heading inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 74(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F18** S. 128(1) substituted for s. 128(1)(1A) (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 74(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

129 Effect of conviction etc. of an offence under section 128 ^[F19] etc]

(1) This section applies to a person (“the defendant”) who—

- (a) is convicted of an offence ^[F20]mentioned in subsection (1A) ;
- (b) is found not guilty of such an offence by reason of insanity;
- (c) is found to be under a disability and to have done the act charged against him in respect of such an offence; or
- (d) is cautioned in respect of such an offence.

Status: Point in time view as at 08/03/2015.

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Risk of sexual harm orders (Northern Ireland) is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F21}(1A) Those offences are—

- (a) an offence under section [^{F22}122H or] 128 of this Act;
- (b) an offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (contravention of RSHO or interim RSHO in Scotland).]

(2) Where —

- (a) a defendant was a relevant offender immediately before this section applied to him, and
- (b) the defendant would (apart from this subsection) cease to be subject to the notification requirements of this Part while the relevant order (as renewed from time to time) has effect,

the defendant remains subject to the notification requirements.

(3) Where the defendant was not a relevant offender immediately before this section applied to him—

- (a) this section causes the defendant to become subject to the notification requirements of this Part from the time the section first applies to him until the relevant order (as renewed from time to time) ceases to have effect, and
- (b) this Part applies to the defendant, subject to the modification set out in subsection (4).

(4) The “relevant date” is the date on which this section first applies to the defendant.

[^{F23}(5) In this section “relevant order” means—

- (a) where the conviction, finding or caution within subsection (1) is in respect of a breach of a risk of sexual harm order or a sexual risk order, that order;
- (b) where the conviction, finding or caution within subsection (1) is in respect of a breach of an interim risk of sexual harm order or an interim sexual risk order, any risk of sexual harm order or sexual risk order made on the hearing of the application to which the interim order relates or, if no such order is made, the interim order.

(6) In subsection (5)—

“risk of sexual harm order” includes an order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005;

“interim risk of sexual harm order” includes an order under section 5 of that Act.]]

Textual Amendments

F19 Word in s. 129 heading inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 75\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

F20 Words in s. 129(1)(a) substituted (8.11.2006) by [Violent Crime Reduction Act 2006](#) (c. 38), [ss. 56\(3\), 66\(2\)](#)

F21 S. 129(1A) inserted (8.11.2006) by [Violent Crime Reduction Act 2006](#) (c. 38), [ss. 56\(3\), 66\(2\)](#)

F22 Words in s. 129(1A)(a) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 75\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

F23 S. 129(5)(6) substituted for s. 129(5) (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 75\(4\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

Status:

Point in time view as at 08/03/2015.

Changes to legislation:

Sexual Offences Act 2003, Cross Heading: Risk of sexual harm orders (Northern Ireland) is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.