



Sexual Offences Act 2003

2003 CHAPTER 42

PART 2 **U.K.**

NOTIFICATION AND ORDERS

[^{F1}Sexual offences prevention orders [^{F2}(Scotland and Northern Ireland)]

Textual Amendments

- F1** Ss. 104-122 repealed (E.W.) (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 5 para. 3](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F2** Words in s. 104 cross-heading inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 59](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

104 Sexual offences prevention orders: applications and grounds **S+N.I.**

- (1) A court may make an order under this section in respect of a person (“the defendant”) where any of subsections (2) to (4) applies to the defendant and—
- where subsection (4) applies, it is satisfied that the defendant’s behaviour since the appropriate date makes it necessary to make such an order, for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant;
 - in any other case, it is satisfied that it is necessary to make such an order, for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- (2) This subsection applies to the defendant where the court deals with him in respect of an offence listed in Schedule 3 or 5.
- (3) This subsection applies to the defendant where the court deals with him in respect of a finding—
- that he is not guilty of an offence listed in Schedule 3 or 5 by reason of insanity, or

Status: Point in time view as at 08/03/2015.

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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) that he is under a disability and has done the act charged against him in respect of such an offence.
- (4) This subsection applies to the defendant where—
- (a) an application under subsection (5) has been made to the court in respect of him, and
 - (b) on the application, it is proved that he is a qualifying offender.
- (5) A chief officer of police may by complaint to a magistrates' court apply for an order under this section in respect of a person who resides in his police area or who the chief officer believes is in, or is intending to come to, his police area if it appears to the chief officer that—
- (a) the person is a qualifying offender, and
 - (b) the person has since the appropriate date acted in such a way as to give reasonable cause to believe that it is necessary for such an order to be made.
- (6) An application under subsection (5) may be made to any magistrates' court whose commission area includes—
- (a) any part of the applicant's police area, or
 - (b) any place where it is alleged that the person acted in a way mentioned in subsection (5)(b).

105 SOPOs: further provision as respects Scotland **S+N.I.**

- (1) ^{F3}A chief constable^{F3}The chief constable of the Police Service of Scotland] may apply for an order under this section in respect of a person who he believes is in, or is intending to come to, ^{F4}the area of his police force^{F4}Scotland] if it appears to the chief constable that—
- (a) the person has been convicted of, found not guilty by reason of insanity of or found to be under a disability and to have done the act charged against him in respect of—
 - (i) an offence listed in paragraph 60 of Schedule 3; or
 - (ii) before the commencement of this Part, an offence in Scotland other than is mentioned in paragraphs 36 to 59 of that Schedule if the chief constable considers that had the conviction or finding been after such commencement it is likely that a determination such as is mentioned in paragraph 60 would have been made in relation to the offence; and
 - (b) the person has since the conviction or finding acted in such a way as to give reasonable cause to believe that it is necessary for such an order to be made.
- (2) An application under subsection (1) may be made by summary application to a sheriff
- ^{F5}(aa) within whose sheriffdom the person in respect of whom the order is sought resides;
 - (ab) within whose sheriffdom the person is believed by the applicant to be;
 - (ac) to whose sheriffdom the person is believed by the applicant to be intending to come;]
 - (b) ^{F6}Within whose sheriffdom lies] any place where it is alleged that the person acted in a way mentioned in subsection (1)(b).
- (3) The sheriff may make the order where satisfied—
- (a) that the person's behaviour since the conviction or finding makes it necessary to make such an order, for the purposes of protecting the public or any

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- particular members of the public from serious sexual harm from the person;
and
- (b) where the application is by virtue of subsection (1)(a)(ii), that there was a significant sexual aspect to the person’s behaviour in committing the offence.
- (4) Subsection (3) of section 106 applies for the purposes of this section as it applies for the purposes of section 104 and subsections (2) and (3) of section 112 apply in relation to a summary application made by virtue of subsection (1) as they apply in relation to one made by virtue of subsection [F7(1)(e)] of that section.

Textual Amendments

- F3** Words in s. 105(1) substituted (S.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **Sch. 1 para. 20(9)(a)**
- F4** Word in s. 105(1) substituted (S.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **Sch. 1 para. 20(9)(b)**
- F5** Words in s. 105(2) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(1)(a)(i)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F6** Words in s. 105(2)(b) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(1)(a)(ii)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F7** Words in s. 105(4) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(1)(b)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))

106 Section 104: supplemental **S+N.I.**

- (1) In this Part, “sexual offences prevention order” means an order under section 104 or 105.
- (2) Subsections (3) to (8) apply for the purposes of section 104.
- (3) “Protecting the public or any particular members of the public from serious sexual harm from the defendant” means protecting the public in the United Kingdom or any particular members of that public from serious physical or psychological harm, caused by the defendant committing one or more offences listed in Schedule 3.
- (4) Acts, behaviour, convictions and findings include those occurring before the commencement of this Part.
- (5) “Qualifying offender” means a person within subsection (6) or (7).
- (6) A person is within this subsection if, whether before or after the commencement of this Part, he—
- has been convicted of an offence listed in Schedule 3 (other than at paragraph 60) or in Schedule 5,
 - has been found not guilty of such an offence by reason of insanity,
 - has been found to be under a disability and to have done the act charged against him in respect of such an offence, or

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- (d) in England and Wales or Northern Ireland, has been cautioned in respect of such an offence.
- (7) A person is within this subsection if, under the law in force in a country outside the United Kingdom and whether before or after the commencement of this Part—
- (a) he has been convicted of a relevant offence (whether or not he 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 he 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 he is under a disability and did the act charged against him in respect of the offence, or
 - (d) he has been cautioned in respect of a relevant offence.
- (8) “Appropriate date”, in relation to a qualifying offender, means the date or (as the case may be) the first date on which he was convicted, found or cautioned as mentioned in subsection (6) or (7).
- (9) In subsection (7), “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) or in Schedule 5 if it had been done in any part of the United Kingdom.
- (10) An act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law for the purposes of subsection (9), however it is described in that law.
- (11) Subject to subsection (12), on an application under section 104(5) the condition in subsection (9)(b) (where relevant) is to be taken as met unless, not later than rules of court may provide, the defendant serves on the applicant a notice—
- (a) stating that, on the facts as alleged with respect to the act concerned, the condition is not in his opinion met,
 - (b) showing his grounds for that opinion, and
 - (c) requiring the applicant to prove that the condition is met.
- (12) The court, if it thinks fit, may permit the defendant to require the applicant to prove that the condition is met without service of a notice under subsection (11).
- [^{F8}(13) Subsection (14) applies for the purposes of section 104 and this section [^{F9}in their application in relation to England and Wales or Northern Ireland].
- (14) In construing any reference to an offence listed in Schedule 3, any condition subject to which an offence is so listed that relates—
- (a) to the way in which the defendant is dealt with in respect of an offence so listed or a relevant finding (as defined by section 132(9)), or
 - (b) to the age of any person,
- is to be disregarded.]

Textual Amendments

- F8** S. 106(13)(14) inserted (E.W.N.I.) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 141\(1\), 153\(7\)](#); S.I. 2008/1586, [art. 2](#), Sch. 1 para. 44 (subject to Sch. 2)

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

F9 Words in s. 106(13) repealed (S.) (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 100(2)(a), 206(1)**; S.S.I. 2011/354, art. 2, sch.

107 SOPOs: effect **S+N.I.**

- (1) A sexual offences prevention order—
 - (a) prohibits the defendant from doing anything described in the order [^{F10}or requires the defendant to do anything described in the order (or both)], and
 - (b) has effect for a fixed period (not less than 5 years) specified in the order or until further order.
- (2) The only prohibitions [^{F11}or requirements] that may be included in the order are those necessary for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- (3) Where—
 - (a) an order is made in respect of a defendant who was a relevant offender immediately before the making of the order, and
 - (b) the defendant would (apart from this subsection [^{F12}and sections 88F and 88G]) cease to be subject to the notification requirements of this Part while the order (as renewed from time to time) has effect,the defendant remains subject to the notification requirements.
- [^{F13}(3A) Where—
 - (a) a sexual offences prevention order is in effect in relation to a relevant sex offender (within the meaning of section 88A); and
 - (b) by virtue of section 88F or 88G the relevant sex offender ceases to be subject to the notification requirements of this Part,the sexual offences prevention order ceases to have effect.
- (3B) Subsection (3A) applies to the orders mentioned in section 108(8)(b) and (c) as it applies to sexual offences prevention orders.]
- (4) Where an order is made in respect of a defendant who was not a relevant offender immediately before the making of the order—
 - (a) the order causes the defendant to become subject to the notification requirements of this Part from the making of the order until the 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 (5).
- (5) The “relevant date” is the date of service of the order.
- (6) Where a court makes a sexual offences prevention 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.
- (7) Section 106(3) applies for the purposes of this section and section 108.

Textual Amendments

F10 Words in s. 107(1)(a) inserted (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013](#) (c. 7), **ss. 5(2)(a), 15(2)(c)**; S.R. 2014/179, art. 2(c)

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- F11** Words in s. 107(2) inserted (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 5\(2\)\(b\), 15\(2\)\(c\)](#); S.R. 2014/179, art. 2(c)
- F12** Words in s. 107(3)(b) inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), [4\(1\)\(a\)](#)
- F13** S. 107(3A) inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), [4\(1\)\(b\)](#)

108 SOPOs: variations, renewals and discharges **S+N.I.**

- (1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a sexual offences prevention order.
- (2) The persons are—
 - (a) the defendant;
 - (b) the chief officer of police for the area in which the defendant resides;
 - (c) a chief officer of police who believes that the defendant is in, or is intending to come to, his police area;
 - (d) where the order was made on an application under section 104(5), the chief officer of police who made the application.
- (3) An application under subsection (1) may be made—
 - (a) where the appropriate court is the Crown Court, in accordance with rules of court;
 - (b) in any other case, by complaint.
- (4) Subject to subsections (5) and (6), on the application the court, after hearing the person making the application and (if they wish to be heard) the other persons mentioned in subsection (2), may make any order, varying, renewing or discharging the sexual offences prevention order, that the court considers appropriate.
- (5) An order may be renewed, or varied so as to impose additional prohibitions [^{F14}or requirements] on the defendant, only if it is necessary to do so for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant (and any renewed or varied order may contain only such prohibitions [^{F14}or requirements] as are necessary for this purpose).
- (6) The court must not discharge an order before the end of 5 years beginning with the day on which the order was made, without the consent of the defendant and—
 - (a) where the application is made by a chief officer of police, that chief officer, or
 - (b) in any other case, the chief officer of police for the area in which the defendant resides.
- (7) In this section “the appropriate court” means—
 - (a) where the Crown Court or the Court of Appeal made the sexual offences prevention order, the Crown Court;
 - (b) where a magistrates' court made the order, that court, a magistrates' court for the area in which the defendant resides or, where the application is made by a chief officer of police, any magistrates' court whose commission area includes any part of the chief officer's police area;
 - (c) where a youth court made the order, that court, a youth court for the area in which the defendant resides or, where the application is made by a chief

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

officer of police, any youth court whose commission area includes any part of the chief officer's police area.

- (8) This section applies to orders under—
- (a) section 5A of the Sex Offenders Act 1997 (c. 51) (restraining orders),
 - (b) section ^{F15}... 20 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders made in ^{F15}... Scotland), and
 - (c) Article 6 of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/2839 (N.I. 20)) (sex offender orders made in Northern Ireland),
- as it applies to sexual offences prevention orders.

Textual Amendments

- F14** Words in s. 108(5) inserted (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 5\(3\), 15\(2\)\(c\)](#); S.R. 2014/179, art. 2(c)
- F15** Words in s. 108(8)(b) omitted (8.3.2015) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 60](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2015/373, art. 2(g)(i)

109 Interim SOPOs **S+N.I.**

- (1) This section applies where an application under section 104(5) or 105(1) (“the main application”) has not been determined.
- (2) An application for an order under this section (“an interim sexual offences prevention 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 the person who has made that application, 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 sexual offences prevention order, prohibiting the defendant from doing anything described in the order [^{F16}or requiring the defendant to do anything described in the order (or both)].
- (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) [^{F17}Section [^{F18}107(3)][^{F18}107(2)]] [^{F17}Section 107(2)] to (5) apply to an interim sexual offences prevention order as if references to an order were references to such an order, and with the omission of “as renewed from time to time” in both places.
- (6) The applicant or the defendant may by complaint apply to the court that made the interim sexual offences prevention order for the order to be varied, renewed or discharged.
- (7) Subsection (6) applies to orders under—
 - (a) section ^{F19}... 20(4)(a) of the Crime and Disorder Act 1998 (c. 37) (interim orders made in ^{F19}... Scotland), and
 - (b) Article 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/2839 (N.I. 20)) (interim orders made in Northern Ireland),

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

as it applies to interim sexual offences prevention orders.

Textual Amendments

- F16** Words in s. 109(3) inserted (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\), ss. 5\(4\)\(a\), 15\(2\)\(c\)](#); S.R. 2014/179, art. 2(c)
- F17** Words in s. 109(5) substituted (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\), ss. 5\(4\)\(b\), 15\(2\)\(c\)](#); S.R. 2014/179, art. 2(c)
- F18** Word in s. 109(5) substituted (S.) (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 100\(2\)\(b\), 206\(1\)](#); S.S.I. 2011/354, art. 2, Sch.
- F19** Words in s. 109(7)(a) omitted (8.3.2015) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 61](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

110 [F20 Appeals in relation to SOPOs and interim SOPOs: Northern Ireland] **N.I.**

- (1) A defendant may appeal against the making of a sexual offences prevention order—
- where section 104(2) applied to him, as if the order were a sentence passed on him for the offence;
 - where section 104(3) (but not section 104(2)) applied to him, as if he had been convicted of the offence and the order were a sentence passed on him for that offence;
 - where the order was made on an application under section 104(5), to [F21a county court].
- (2) A defendant may appeal to [F22a county court] against the making of an interim sexual offences prevention order.
- (3) A defendant may appeal against the making of an order under section 108, or the refusal to make such an order—
- where the application for such an order was made to the Crown Court, to the Court of Appeal;
 - in any other case, to [F23a county court].
- (4) On an appeal under subsection (1)(c), (2) or (3)(b), [F24the 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.
- [F25(5) Any order made by a county court on an appeal under subsection (1)(c) or (2) (other than an order directing that an application be re-heard by a court of summary jurisdiction) is for the purposes of section 108(7) or 109(6) (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).]

Textual Amendments

- F20** S. 110 heading substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 62\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F21** Words in s. 110(1)(c) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 62\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F22** Words in s. 110(2) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 62\(3\)](#) (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: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- F23** Words in s. 110(3)(b) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 62\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F24** Words in s. 110(4) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 62\(4\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F25** S. 110(5) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 62\(5\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

111 Appeals in relation to SOPOs and interim SOPOs: Scotland **S+N.I.**

In Scotland—

- (a) an interlocutor granting, ^{F26} . . . a sexual offences prevention order [^{F27}on an application under section 104(5) or 105(1)] or interim sexual offences prevention order [^{F28}or refusing, varying, renewing or discharging either such order] is an appealable interlocutor; ^{F29} . . .
- (b) where an appeal is taken against an interlocutor so granting, varying or renewing such an order the order shall, without prejudice to any power of the court to vary or recall it, continue to have effect pending the disposal of the appeal.
- [^{F30}(c) a sexual offences prevention order made in any other case and any order granting or refusing a variation, renewal or discharge of such a sexual offences prevention order are, for the purposes of appeal, to be regarded—
- (i) in the case of solemn proceedings, as if they were orders of the kind referred to in [^{F31}section 106(1)(dza) of the Criminal Procedure (Scotland) Act 1995 (c.46) (appeal against community payback order)];
- (ii) in the case of summary proceedings, as if they were orders of the kind referred to in [^{F32}section 175(2)(cza) of that Act (appeal against community payback order)]; and
- (d) where an appeal is taken by virtue of paragraph (c) above, the High Court of Justiciary may, in the appeal proceedings, suspend the order appealed against pending the disposal of the appeal.]

Textual Amendments

- F26** Words in s. 111(a) repealed (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), [ss. 17\(2\)\(a\)\(i\)](#); S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F27** Words in s. 111(a) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), [ss. 17\(2\)\(a\)\(ii\)](#), 20; S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F28** Words in s. 111(a) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), [ss. 17\(2\)\(a\)\(iii\)](#), 20; S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F29** Word in s. 111 repealed (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), [ss. 17\(2\)\(b\)](#), 20; S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F30** S. 111(c)(d) added (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), [ss. 17\(2\)\(c\)](#), 20; S.S.I. 2005/480, [art. 2](#) (subject to [art. 3](#)) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- F31** Words in s. 111(c)(i) substituted (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, **Sch. para. 2(3)(a)** (with art. 3)
- F32** Words in s. 111(c)(ii) substituted (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, **Sch. para. 2(3)(b)** (with art. 3)

[^{F33}111ASOPO and interim SOPO requirements: Scotland **S**

- (1) This section applies in relation to a sexual offences prevention order or an interim sexual offences prevention order made, or to be made, by a court in Scotland.
- (2) Such an order, in addition to or instead of prohibiting the defendant from doing anything described in the order, may require the defendant to do anything described in the order.
- (3) Accordingly, in relation to such an order—
 - (a) the references in sections 107(2) and 108(5) to a prohibition include a reference to a requirement, and
 - (b) the reference in section 113(1) to a person's doing anything which he is prohibited from doing includes a reference to his failing to do anything which he is required to do.]

Textual Amendments

- F33** S. 111A inserted (S.) (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 100(2)(c), 206(1)**; [S.S.I. 2011/354](#), art. 2, sch.

112 Sections 104 and 106 to 109: Scotland **S+N.I.**

- (1) Sections 104 and 106 to 109 apply to Scotland with the following modifications—
 - ^{F34}[^{F35}(aa) the references in subsection (2) and (3)(a) of section 104 to an offence listed in Schedule 3 or 5 shall be read as references to an offence listed at paragraphs 36 to 60 of Schedule 3;]
 - (b) an application under subsection (5) of section 104 shall not be competent in respect of a person who is a qualifying offender by virtue only of a conviction or finding which relates to any offence listed at paragraphs 64 to 111 of Schedule 5;
 - (c) references to a chief officer of police and to his police area are to be read, respectively, as references to [^{F36}the chief constable of the Police Service of Scotland and to Scotland];
 - (d) references to the defendant are to be read as references to the person in respect of whom the order is sought or has effect;
 - [^{F37}(da) a court may make an order under section 104(1)—
 - (i) at its own instance, or
 - (ii) on the motion of the prosecutor;]
 - (e) an application for a sexual offences prevention order ^{F38}. . . is made by summary application to any sheriff
 - [^{F39}(ia) within whose sheriffdom the person in respect of whom the order is sought resides;

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- (ib) within whose sheriffdom that person is believed by the applicant to be;
- (ic) to whose sheriffdom that person is believed by the applicant to be intending to come;]
- (ii) [^{F40}within whose sheriffdom lies] any place where it is alleged that [^{F41}that person] acted in a way mentioned in subsection (5)(b) of section 104,
(^{F42}and, in relation to such an order, references to a court or the court shall be] construed accordingly);
- [^{F43}(ea) an application for an interim sexual offences prevention order—
 - (i) is made by way of the main application; or
 - (ii) if the main application has been made, is made, by application to a sheriff for the sheriffdom of the sheriff to whom the main application was made, by the person who made that application,
(and, in relation to such an order, references to a court or the court shall be construed accordingly),]
- (f) an application for the variation, renewal or discharge of [^{F44}a sexual offences prevention order which was made on an application under section 104(5) or 105(1) or an interim sexual offences prevention order] is made by summary application to the sheriff who made the order or to a sheriff—
 - (i) within whose sheriffdom the person subject to the order resides; ^{F45} . . .
 - [^{F46}(ia) within whose sheriffdom that person is believed by the applicant to be; or
 - (iib) to whose sheriffdom that person is believed by the applicant to be intending to come,]
 - (^{F47}and, in relation to an application made by virtue of this paragraph, references to a court or the court shall be] construed accordingly).
- [^{F48}(g) an application for the variation, renewal or discharge of a sexual offences prevention order which was made where subsection (2) or (3) of section 104 applies may be made only by the person in respect of whom the order has effect or the prosecutor;
- (h) such an application is made—
 - (i) where the sexual offences prevention order sought to be varied, renewed or discharged was made by the High Court of Justiciary, to that court;
 - (ii) where that order was made by the sheriff, to the appropriate sheriff.]
- [^{F49}(1A) In subsection (1)(h)(ii), the “appropriate sheriff” is—
 - (a) in a case where the person in respect of whom the order has effect is, at the time of the application for its variation, renewal or discharge, resident in a sheriffdom other than the sheriffdom of the sheriff who made the order, any sheriff exercising criminal jurisdiction in the sheriffdom in which the person is resident;
 - (b) in any other case, any sheriff exercising criminal jurisdiction in the sheriff court district of the sheriff who made the order.]
- (2) A record of evidence shall be kept on any summary application made by virtue of subsection (1)(e) or (f) above.

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- (3) The clerk of the court by which, by virtue of that subsection, a sexual offences prevention order or interim sexual offences prevention order is made, varied, renewed or discharged shall cause a copy of, as the case may be—
- (a) the order as so made, varied or renewed; or
 - (b) the interlocutor by which discharge is effected,
- to be given to the person named in the order or sent to him by registered post or by the recorded delivery service (an acknowledgement or certificate of delivery of a copy so sent, issued by the Post Office, being sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate).

Textual Amendments

- F34** S. 112(1)(a) repealed (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(a)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F35** S. 112(1)(aa) inserted (7.10.2005) in place of s. 112(1)(a) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(b)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F36** Words in s. 112(1)(c) substituted (S.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **Sch. 1 para. 20(10)**
- F37** S. 112(1)(da) inserted (S.) (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 100(2)(d)**, 206(1); S.S.I. 2011/354, art. 2, sch.
- F38** Words in s. 112(1)(e) omitted (7.10.2005) by virtue of [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(c)(i)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F39** Words in s. 112(1)(e) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(c)(ii)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F40** Words in s. 112(1)(e)(ii) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(c)(iii)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F41** Words in s. 112(1)(e)(ii) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(c)(iv)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F42** Words in s. 112(1)(e) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(c)(v)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F43** S. 112(1)(ea) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(d)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))
- F44** Words in s. 112(1)(f) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(4)(e)(i)**, 20; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(a))

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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)

- F45** Word in s. 112(1)(f) repealed (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), ss. 17\(4\)\(e\)\(ii\), 20; S.S.I. 2005/480, art. 2](#) (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 56\(1\)\(a\)](#))
- F46** S. 112(1)(f)(ia)(iib) substituted (7.10.2005) for s. 112(1)(f)(ii) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), ss. 17\(4\)\(e\)\(iii\), 20; S.S.I. 2005/480, art. 2](#) (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 56\(1\)\(a\)](#))
- F47** Words in s. 112(1)(f) substituted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), s. 17\(4\)\(e\)\(iv\)](#) (as amended (8.11.2006) by 2006 c. 38, s. 56(1)(a)); S.S.I. 2005/480, [art. 2](#) (subject to art. 3)
- F48** S. 112(1)(g)(h) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), ss. 17\(4\)\(f\), 20; S.S.I. 2005/480, art. 2](#) (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 56\(1\)\(a\)](#))
- F49** S. 112(1A) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\), ss. 17\(5\), 20; S.S.I. 2005/480, art. 2](#) (subject to art. 3) (which amending s. 17 was extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 56\(1\)\(a\)](#))

113 **Offence: breach of SOPO or interim SOPO** [^{F50} etc] **S+N.I.**

- (1) A person commits an offence if, without reasonable excuse, he does anything which he is prohibited from doing by—
- a sexual offences prevention order;
 - an interim sexual offences prevention order;
 - an order under section 5A of the Sex Offenders Act 1997 (c. 51) (restraining orders);
 - an order under section ^{F51}... 20 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders and interim orders made ^{F51}... in Scotland);
 - an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/2839 (N.I. 20)) (sex offender orders and interim orders made in Northern Ireland).
- [^{F52}(1ZA) A person commits an offence if, without reasonable excuse, he contravenes a prohibition imposed by—
- a sexual harm prevention order, or
 - an interim sexual harm prevention order,
- other than a prohibition on foreign travel.]
- [^{F53}(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.]
- (2) A person guilty of an offence under this section is liable—
- on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - 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 or, in Scotland, a [^{F54}community payback order].]

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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

- F50** Word in s. 113 heading inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 63\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F51** Words in s. 113(1)(d) omitted (8.3.2015) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 63\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F52** S. 113(1ZA) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 63\(4\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F53** S. 113(1A) inserted (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 5\(5\), 15\(2\)\(c\)](#); S.R. 2014/179, art. 2(c)
- F54** Words in s. 113(3) substituted (S.) (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, [Sch. para. 2\(4\)](#) (with art. 3)

Status:

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

Changes to legislation:

Sexual Offences Act 2003, Cross Heading: Sexual offences prevention orders (Scotland and Northern Ireland) is up to date with all changes known to be in force on or before 07 July 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.