



Sexual Offences Act 2003

2003 CHAPTER 42

PART 3

GENERAL

137 Service courts

- (1) In this Act—
- (a) a reference to a court order or a conviction or finding includes a reference to an order of or a conviction or finding by a service court,
 - (b) a reference to an offence includes a reference to an offence triable by a service court,
 - (c) “proceedings” includes proceedings before a service court, and
 - (d) a reference to proceedings for an offence under this Act includes a reference to proceedings for [^{F1}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 that offence.]
- (2) In sections 92 and 104(1), “court” includes a service court.
- (3) Where the court making a sexual offences prevention order is a service court—
- (a) sections 104(1)(a) and (4) to (6), 105, 109, 111 and 112 do not apply,
 - (b) in section 108, “the appropriate court” means the Crown Court in England and Wales, and
 - (c) in section 110(3)(a), the references to the Crown Court and Court of Appeal are references to the Crown Court and Court of Appeal in England and Wales.
- (4) In this section “service court” means [^{F2}the Court Martial or the Service Civilian Court].
- [^{F3}(5) In subsection (1)(a) the reference to a service court includes a reference to the following—
- (a) the Court Martial Appeal Court;
 - (b) the Supreme Court on an appeal brought from the Court Martial Appeal Court;

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- (c) a court-martial;
- (d) a Standing Civilian Court.]

Textual Amendments

- F1** Words in s. 137(1)(d) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 211\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F2** Words in s. 137(4) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 211\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F3** S. 137(5) added (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 211\(4\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Modifications etc. (not altering text)

- C1** S. 137 modified (24.4.2009 for certain purposes and otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 52\(2\)](#)

138 Orders and regulations **E+W+N.I.**

- (1) Any power to make orders or regulations conferred by this Act on the Secretary of State is exercisable by statutory instrument.
- (2) A statutory instrument containing an order or regulations under section 21, [^{F4}any of sections 83 to 86 [^{F5}, section 130 or section 136Q(1)]] may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (3) Any other statutory instrument, except one containing an order under section 141, is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- [^{F6}(4) Orders or regulations made by the Secretary of State under this Act may—
 - (a) make different provision for different purposes;
 - (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.]
- [^{F7}(5) Any power of the Department of Justice in Northern Ireland to make orders or regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (6) An order or regulations under any of sections 83 to 86 or section 130 may not be made by the Department of Justice unless a draft of the order or regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.
- (8) Any other order or regulations made by the Department of Justice are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).
- (9) Orders or regulations made by the Department of Justice may—

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- (a) make different provision for different purposes;
- (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.]

Extent Information

E1 This version of this provision extends to England, Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

- F4** Words in s. 138(2) substituted (E.W.N.I.) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 142\(10\), 153\(7\)](#); S.I. 2008/1586, [art. 2](#), Sch. 1 para. 45 (subject to Sch. 2)
- F5** Words in s. 138(2) substituted (E.W.N.I.) (1.4.2010 for E.W. and otherwise prosp.) by [Policing and Crime Act 2009 \(c. 26\), ss. 21\(1\), 116\(1\), Sch. 2 para. 2](#); S.I. 2010/507, [art. 5\(t\)](#) (subject to art. 6)
- F6** S. 138(4) inserted (E.W.N.I.) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 148\(1\), 153\(7\), Sch. 26 para. 57\(1\)](#); S.I. 2008/1586, [art. 2](#), Sch. 1 para. 48(r) (subject to Sch. 2)
- F7** S. 138(5)-(9) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 14 para. 77\(3\)](#) (with arts. 28-31)

138 Orders and regulations **S**

- (1) Any power to make orders or regulations conferred by this Act on the Secretary of State is exercisable by statutory instrument.
- (2) A statutory instrument containing an order or regulations under section 21, ^[F13]83, 84, ^[F14]85, ^[F15]86 ^[F15F16], 88H or 130 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (3) Any other statutory instrument, except one containing an order under section 141, is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- ^[F17](4) Orders or regulations made by the Scottish Ministers under this Act may—
 - (a) make different provision for different purposes,
 - (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.]

Extent Information

E2 This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

Textual Amendments

- F13** Words in s. 138(2) inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 78\(9\), 104](#); S.S.I. 2006/432, [art. 2\(d\)](#)
- F14** Words in s. 138(2) inserted (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 102\(6\), 206\(1\)](#); S.I. 2011/178, art. 2 {Sch.}
- F15** Word in s. 138(2) inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), [4\(2\)](#) (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

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- F16** Word in s. 138(2) inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), 4(2) (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see art. 5)
- F17** S. 138(4) inserted (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 102(6), 206(1); S.I. 2011/178, art. 2 {Sch.}

139 Minor and consequential amendments

Schedule 6 contains minor and consequential amendments.

140 Repeals and revocations

The provisions listed in Schedule 7 are repealed or revoked to the extent specified.

141 Commencement

- (1) This Act, except this section and sections 138, 142 and 143, comes into force in accordance with provision made by the Secretary of State by order.
- (2) An order under subsection (1) may—
 - (a) make different provision for different purposes;
 - (b) include supplementary, incidental, saving or transitional provisions.

Subordinate Legislation Made

- P1** S. 141 power fully exercised: 1.5.2004 appointed by [{S.I. 2004/874}](#), art. 2; [{S.S.I. 2004/138}](#), art. 2

142 Extent, saving etc.

- (1) Subject to section 137 and to subsections (2) to (4), this Act extends to England and Wales only.
- (2) The following provisions also extend to Northern Ireland—
 - ^{F8}(a) sections 46 and 57 to 60C,
 - (b) ^{F9}Schedule 2,
 - (c) ^{F10}Parts 2 and 2A], and
 - (d) sections 138, 141, 143 and this section.
- (3) The following provisions also extend to Scotland—
 - (a) Part 2 except sections 93 ^{F11}, 110] and 123 to 129 and Schedule 4, and
 - (b) sections 138, 141, 143 and this section.
- (4) Unless otherwise provided, any amendment, repeal or revocation made by this Act has the same extent as the provision to which it relates.
- (5) ^{F12}Section 16B of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) continues to have effect despite the repeal by this Act of section 8 of the Sex Offenders Act 1997 (c. 51).]
- (6) For the purposes of the Scotland Act 1998 (c. 46), this Act is to be taken to be a pre-commencement enactment.

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Textual Amendments

- F8** S. 142(2)(a) substituted (E.W.N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland Consequential Amendments\) Order 2008 \(S.I. 2008/1779\)](#), arts. 2(3), **11(a)**; S.R. 2008/510, **art. 2**
- F9** S. 142(2)(b) omitted (E.W.N.I.) (2.2.2009) by virtue of [The Sexual Offences \(Northern Ireland Consequential Amendments\) Order 2008 \(S.I. 2008/1779\)](#), arts. 2(3), **11(b)**; S.R. 2008/510, **art. 2**
- F10** Words in s. 142(2)(c) substituted (E.W.N.I.) (1.4.2010 for E.W. and otherwise prosp.) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 21(1), 116(1), **Sch. 2 para. 3**; S.I. 2010/507, **art. 5(t)** (subject to art. 6)
- F11** Word in s. 142(3) inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), **ss. 17(6)**, 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))
- F12** S. 142(5) repealed (S.) (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), ss. 61(2), 62(2), **Sch. 6**; S.S.I. 2010/357, **art. 2(a)**

143 Short title

This Act may be cited as the Sexual Offences Act 2003.

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