



Sexual Offences Act 2003

2003 CHAPTER 42

PART 2

NOTIFICATION AND ORDERS

General

[^{F1}136ZIVariation, renewal or discharge of sexual risk order made in Scotland by court in England and Wales

- (1) This section applies where a relevant Scottish order has been made in respect of a person (“the defendant”) who now—
 - (a) is residing in England and Wales, or
 - (b) is in or is intending to come to England and Wales.
- (2) In this section “relevant Scottish order” means a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)).
- (3) A person within subsection (4) may by complaint to the appropriate court apply for an order varying, renewing or discharging the relevant Scottish order.
- (4) Those 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, that officer’s police area.
- (5) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (4) (b) or (c) must have regard to the list in considering—
 - (a) whether to apply for an order varying or renewing the relevant Scottish order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and

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- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.
- (6) Subject to subsections (7) to (14), 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 (4), may make any order varying, renewing or discharging the relevant Scottish order that the court considers appropriate.
- (7) In determining the application the court must have regard to—
- (a) the time for which the defendant is likely to remain in England and Wales, and
 - (b) whether the defendant is likely to return to, or to visit, Scotland.
- (8) A relevant Scottish order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of—
- (a) protecting the public in England and Wales, or any particular members of the public in England and Wales, from harm from the defendant, or
 - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.
- (9) A relevant Scottish order as renewed or varied under this section may contain only such prohibitions and requirements as are necessary for the purpose of—
- (a) protecting the public or any particular members of the public from harm from the defendant, or
 - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.
- (10) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—
- (a) whether any order varying or renewing the relevant Scottish order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
 - (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.
- (11) A relevant Scottish order may be renewed or varied under this section so as to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order.
- (12) Section 122EA (electronic monitoring requirements) applies in relation to—
- (a) the variation under this section of a relevant Scottish order to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order, or
 - (b) the renewal of an order to continue such a requirement,
- as it applies in relation to the making of a sexual risk order, subject to subsection (13).
- (13) In its application to the variation or renewal of a relevant Scottish order, section 122EA has effect as if—
- (a) the reference in subsection (4)(b) to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision,

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- (b) the reference in subsection (4)(b) to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated, and
 - (c) the reference in subsection (9) to section 122D were to this section.
- (14) The court must not discharge a relevant Scottish order, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer necessary for the purpose of—
- (a) protecting the public, or any particular members of the public, from harm from the defendant, or
 - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.
- (15) In this section—
- “adult magistrates’ court” means a magistrates’ court that is not a youth court;
 - “the appropriate court” means—
 - (a) where the defendant is aged 18 or over, an adult magistrates’ court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area;
 - (b) where the defendant is under the age of 18, a youth court for the area in which the defendant resides or, where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer’s police area;
 - “child” means a person under 18;
 - “harm” and “vulnerable adult” have the same meanings as in Chapter 4 of Part 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (see sections 26 and 36 of that Act);
 - “prohibition on foreign travel” includes a prohibition on foreign travel within the meaning of Chapter 4 of Part 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (see sections 29 and 36 of that Act).]

Textual Amendments

- F1** Ss. 136ZG-136ZJ inserted (31.3.2023 for specified purposes) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 18 para. 6](#); S.I. 2023/387, reg. 3(g)(iii)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60B(5)(i) substituted for s. 60B(5)(i)(ii) by [2015 c. 9 \(N.I.\) Sch. 1 para. 123\(1\)Sch. 9 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). S. 60B already repealed (N.I.) (14.1.2015) by [2015 c. 2 \(N.I.\)](#), s. 28(2), Sch. 5; and omitted (E.W.) (31.7.2015) by virtue of [2015 c. 30](#), Sch. 5 para. 5(2); S.I. 2015/1476, reg. 2(j))
- s. 103C(4B) inserted by [2022 c. 32 s. 178\(7\)\(b\)](#)
- s. 103E(5C)(5D) inserted by [2022 c. 32 s. 178\(8\)](#)
- s. 103F(3B) inserted by [2022 c. 32 s. 178\(9\)\(a\)](#)
- s. 103FA103FB inserted by [2022 c. 32 s. 178\(10\)](#)
- s. 108(9) inserted by [2011 c. 18 s. 17\(2\)](#)
- s. 122A(8A) inserted by [2022 c. 32 s. 178\(11\)\(a\)](#)
- s. 122A(9B) inserted by [2022 c. 32 s. 178\(11\)\(b\)](#)
- s. 122D(4C)(4D) inserted by [2022 c. 32 s. 178\(12\)](#)
- s. 122E(3B) inserted by [2022 c. 32 s. 178\(13\)\(a\)](#)
- s. 122EA122EB inserted by [2022 c. 32 s. 178\(14\)](#)
- s. 136ZA(3) inserted by [2022 c. 32 s. 178\(15\)](#)