



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 11

#### MISCELLANEOUS

#### *Sex offenders*

#### **140 Disclosure of information about convictions etc. of child sex offenders to members of the public**

(1) After section 327 of the Criminal Justice Act 2003 (c. 44) insert—

#### **“327A Disclosure of information about convictions etc. of child sex offenders to members of the public**

- (1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.
- (2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.
- (3) The case is where the responsible authority for the area has reasonable cause to believe that—
  - (a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and

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**Changes to legislation:** *Criminal Justice and Immigration Act 2008, Section 140 is up to date with all changes known to be in force on or before 03 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) View outstanding changes*

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- (b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by the offender.
- (4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.
- (5) Where the responsible authority makes a disclosure under this section—
  - (a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and
  - (b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.
- (6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.
- (7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.
- (8) The record must include the following information—
  - (a) the reasons for making a decision to disclose information under this section,
  - (b) the reasons for making a decision not to disclose information under this section, and
  - (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.
- (9) Nothing in this section requires or authorises the making of a disclosure which contravenes the Data Protection Act 1998.
- (10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

### **327B Section 327A: interpretation**

- (1) This section applies for the purposes of section 327A.
- (2) “Child” means a person under 18.
- (3) “Child sex offence” means an offence listed in Schedule 34A, whenever committed.
- (4) “Child sex offender” means any person who—
  - (a) has been convicted of such an offence,
  - (b) has been found not guilty of such an offence by reason of insanity,
  - (c) has been found to be under a disability and to have done the act charged against the person in respect of such an offence, or
  - (d) has been cautioned in respect of such an offence.

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- (5) In relation to a responsible authority, references to information about the relevant previous convictions of a child sex offender are references to information about—
- (a) convictions, findings and cautions mentioned in subsection (4)(a) to (d) which relate to the offender, and
  - (b) anything under the law of any country or territory outside England and Wales which in the opinion of the responsible authority corresponds to any conviction, finding or caution within paragraph (a) (however described).
- (6) References to serious harm caused by a child sex offender are references to serious physical or psychological harm caused by the offender committing any offence listed in any paragraph of Schedule 34A other than paragraphs 1 to 6 (offences under provisions repealed by Sexual Offences Act 2003).
- (7) A responsible authority for any area manages a child sex offender if the offender is a person who poses risks in that area which fall to be managed by the authority under the arrangements established by it under section 325.
- (8) For the purposes of this section the provisions of section 4 of, and paragraph 3 of Schedule 2 to, the Rehabilitation of Offenders Act 1974 (protection for spent convictions and cautions) are to be disregarded.
- (9) In this section “cautioned”, in relation to any person and any offence, means—
- (a) cautioned after the person has admitted the offence, or
  - (b) reprimanded or warned within the meaning given by section 65 of the Crime and Disorder Act 1998.
- (10) Section 135(1), (2)(a) and (c) and (3) of the Sexual Offences Act 2003 (mentally disordered offenders) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act.”
- (2) After Schedule 34 to that Act insert the Schedule 34A set out in Schedule 24 to this Act.

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#### Commencement Information

**II** S. 140 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 43

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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):

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)