



# Police, Crime, Sentencing and Courts Act 2022

## 2022 CHAPTER 32

### PART 10

#### MANAGEMENT OF OFFENDERS

### CHAPTER 3

#### MANAGEMENT OF SEX OFFENDERS

##### *Notification requirements*

#### **168 Locations for sexual offender notification**

- (1) Section 87 of the Sexual Offences Act 2003 (method of notification and related matters) is amended as follows.
- (2) For paragraph (a) of subsection (1) substitute—
  - “(a) attending at the police station in the person’s local police area that is for the time being specified in a document published for that local police area under this section or, if there is more than one such police station, at any one of them, and”.
- (3) After subsection (2) insert—
  - “(2A) The chief officer of police for each police area must publish, in such manner as the chief officer thinks fit, a document containing the name and address of each police station in that area at which a person may give a notification under section 83(1), 84(1) or 85(1).

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- (2B) A chief officer of police must keep under review a document published by the chief officer under this section and may from time to time publish a revised version of the document in such manner as the chief officer thinks fit.”

#### Commencement Information

- I1** S. 168 not in force at Royal Assent, see [s. 208\(1\)](#)  
**I2** S. 168 in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(a\)](#)

### 169 Offences outside the United Kingdom: notification requirements

- (1) The Sexual Offences Act 2003 is amended as follows.  
 (2) After section 96 insert—

*“Offences outside the United Kingdom: notification requirements*

#### **96ZA Offences outside the United Kingdom: notification requirements**

- (1) Where this section applies to a person (“P”), P is subject to the notification requirements of this Part for the notification period set out in section 82.

This is subject to sections 96ZB (young offenders: parental notices) and 96ZC (modifications of notification requirements).

- (2) This section applies to P if P has been given a notice under subsection (3) and that notice has not been cancelled.
- (3) A constable may give a notice to P if—
- the conditions in subsections (6), (7) and (8) are met in respect of P, and
  - an officer of at least the rank of inspector has authorised the giving of the notice to P.
- (4) A notice given to P under subsection (3) must be given to P in person and must contain details of—
- the notifications that P is required to give under this Part,
  - when those notifications must be given, and
  - where those notifications may be given.
- (5) A notice given under subsection (3) may be cancelled by a constable giving notice in writing to P in person but such a cancellation must be authorised by an officer of at least the rank of inspector.
- (6) The first condition is that under the law in force in a country outside the United Kingdom—
- P has been convicted of a relevant offence (whether or not P has been punished for it),
  - a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that P is not guilty by reason of insanity,

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- (c) such a court has made in respect of a relevant offence a finding equivalent to a finding that P is under a disability and did the act charged against P in respect of the offence, or
  - (d) P has been cautioned in respect of a relevant offence.
- (7) The second condition is that—
- (a) the first condition is met because of a conviction, finding or caution which occurred on or after 1 September 1997,
  - (b) the first condition is met because of a conviction or finding which occurred before that date, but P was dealt with in respect of the offence or finding on or after that date, or has yet to be dealt with in respect of it, or
  - (c) the first condition is met because of a conviction or finding which occurred before that date, but on that date P was, in respect of the offence or finding, subject under the law in force in the country concerned to detention, supervision or any other disposal equivalent to any of those mentioned in section 81(3) (read with sections 81(6) and 131).
- (8) The third condition is that the period set out in section 82 (as it would have effect as modified by section 96ZC(2) and (3) if this section applied to P) in respect of the relevant offence has not expired.
- (9) In this section and section 96ZC “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) if it had been done in any part of the United Kingdom.
- (10) For the purposes of subsection (9)(a), an act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law however it is described in that law.

### **96ZB Young offenders: parental notices**

- (1) Where the person (“P”) given a notice under section 96ZA is under 18 a constable may also give a notice (a “parental notice”) to a person (“the parent”) with parental responsibility for P.
- (2) Subsections (3)(b) to (5) of section 96ZA apply to the giving of a parental notice as if references to P were references to the parent.
- (3) If a parental notice has been given to the parent and has not been cancelled or ceased to have effect—
  - (a) the obligations that would (apart from this subsection) be imposed by virtue of section 96ZA on P are to be treated instead as obligations on the parent, and
  - (b) the parent must ensure that P attends with them at the police station when a notification under this Part is being given.
- (4) The parental notice ceases to have effect when P reaches the age of 18.

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- (5) If a parental notice is to be given, section 96ZA(4)(a) has effect in relation to the notice given to P as if the reference to the notifications that P is required to give under this Part were a reference to—
- (a) the notifications that the parent is required to give under this Part, and
  - (b) the notifications (if any) that P is required to give under this Part once the parental notice ceases to have effect.

### **96ZC Modifications of notification requirements**

- (1) The application of this Part to a person (“P”) to whom section 96ZA applies in respect of a conviction, finding or caution is subject to the modifications set out in this section.
- (2) References to the “relevant date”—
  - (a) in a case where P is within section 96ZA(6)(a), are to the date of the conviction,
  - (b) in a case where P is within section 96ZA(6)(b) or (c), are to the date of the finding, and
  - (c) in a case where P is within section 96ZA(6)(d), are to the date of the caution.
- (3) In section 82—
  - (a) references, except in the Table, to a person (or relevant offender) within any provision of section 80 are to be read as references to P;
  - (b) the reference in the Table to section 80(1)(d) is to be read as a reference to section 96ZA(6)(d);
  - (c) references to an order of any description are to be read as references to any corresponding disposal made in relation to P in respect of an offence or finding by reference to which a notice has been given to P under section 96ZA;
  - (d) the reference to offences listed in Schedule 3 is to be read as a reference to relevant offences (see section 96ZA(9)).
- (4) Section 83 has effect as if after subsection (1) there were inserted—
 

“(1A) In the case of a relevant offender who is subject to the notification requirements of this Part by virtue of a notice being given to the relevant offender under section 96ZA, the reference in subsection (1) to the period of 3 days beginning with the relevant date (or if later the commencement of this Part) is to be read as a reference to the period of 3 days beginning with the day on which the notice was given to the relevant offender.”
- (5) Section 83(4) has effect as if—
  - (a) for the words “Where a notification order is made” there were substituted “Where a relevant offender is subject to the notification requirements of this Part by virtue of a notice given under section 96ZA”, and
  - (b) in paragraph (a) for the words “the order was made” there were substituted “the notice was given to the relevant offender”.

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### **96ZD Appeal against the issue of a notice under section 96ZA or 96ZB**

- (1) A person (“P”) may appeal to a magistrates’ court against the decision to give them a notice under section 96ZA.
- (2) The grounds for bringing an appeal under subsection (1) include—
  - (a) that one or more of the conditions for the giving of the notice were not met in respect of P at the time the notice was given;
  - (b) that the conviction, finding or caution by reason of which P was given the notice falls within subsection (3).
- (3) A conviction, finding or caution falls within this subsection if—
  - (a) any investigations or proceedings leading to it were conducted in a way which contravened any of the Convention rights (within the meaning of section 1 of the Human Rights Act 1998) which P would have had if those investigations or proceedings had taken place in the United Kingdom, and
  - (b) that contravention was such that the conviction, finding or caution cannot be safely relied on for the purposes of meeting the condition in section 96ZA(6).
- (4) A person (“the parent”) may appeal to a magistrates’ court against the decision to give them a parental notice under section 96ZB.
- (5) The grounds for bringing an appeal under subsection (4) include—
  - (a) that one or more of the conditions for the giving of a notice under section 96ZA to the person (“P”) for whom the parent has parental responsibility were not met in respect of P at the time the notice under section 96ZA was given;
  - (b) that the conviction, finding or caution by reason of which P was given a notice under section 96ZA falls within subsection (3);
  - (c) that one or more of the requirements for giving the parent a parental notice under section 96ZB were not met at the time the parental notice was given.
- (6) On an appeal under subsection (1) or (4) a magistrates’ court may cancel or confirm the notice which is the subject of the appeal.”
- (3) In section 91(1)(a) (offences relating to notification) for “or 89(2)(b)” substitute “, 89(2)(b) or 96ZB(3)(b)”.
- (4) In section 91A(3) (review of indefinite notification requirements) for paragraph (c) substitute—
 

“(c) a notice given under section 96ZA.”
- (5) Omit sections 97 to 103 (notification orders) and section 103G(6) and (7) (notification order made on application for sexual harm prevention order or interim sexual harm prevention order).
- (6) In section 133(1) (general interpretation), in the definition of “relevant date” for “98, 100” substitute “, 96ZC”.
- (7) Subsection (5) does not affect—

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- (a) the validity or effect of any order made under section 97 or 100 of the Sexual Offences Act 2003 before the coming into force of this section or the application of Part 2 of that Act to any person in respect of whom such an order was so made;
  - (b) in respect of an application made under section 97(1) or section 100(2) of that Act before the coming into force of this section—
    - (i) the determination of such an application, or
    - (ii) the validity and effect of any order made on such an application or the application of Part 2 of that Act to any person in respect of whom such an order was so made.
- (8) The amendments made by subsections (4) and (6) do not apply in respect of any order to which, or any person to whom, subsection (7) applies.

#### Commencement Information

**I3** S. 169 not in force at Royal Assent, see [s. 208\(1\)](#)

**I4** S. 169 in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(b\)](#)

### 170 Notification orders: Scotland

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 97 (notification orders: applications and grounds)—
  - (a) in subsection (1), in the words before paragraph (a)—
    - (i) for the words from “A chief officer of police” to “police area” substitute “The chief constable of the Police Service of Scotland (“the chief constable”) may by application to any sheriff”, and
    - (ii) omit “(“the defendant””,
  - (b) in subsection (1)(a)—
    - (i) for “him” substitute “the chief constable”, and
    - (ii) for “defendant” substitute “person”,
  - (c) in subsection (1)(b)—
    - (i) for “defendant”, in both places it occurs, substitute “person”,
    - (ii) for “his police area”, in both places it occurs, substitute “Scotland”, and
    - (iii) for “chief officer” substitute “chief constable”,
  - (d) in subsection (2)—
    - (i) for “he”, in each place it occurs, substitute “the person”, and
    - (ii) in paragraph (c), for “him” substitute “the person”,
  - (e) in subsection (5) for “court” substitute “sheriff”, and
  - (f) after subsection (5) insert—
    - “(5A) A record of evidence must be kept on any application for an order under this section.
    - (5B) The clerk of the court by which a notification order under this section is made must cause a copy of the order as so made to be—
      - (a) given to the person named in the order,
      - (b) sent to the person by registered post, or

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(c) sent to the person by the recorded delivery service, and where a copy of the order is so sent to the person, an acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.”

(3) In section 98 (notification orders: effect)—

(a) in subsections (1)(a) and (3)(a) and (c) for “defendant” substitute “person in respect of whom the order has effect”, and

(b) in subsection (1)(b) for “defendant” substitute “person”.

(4) In section 99 (sections 97 and 98: relevant offences), in subsections (3) and (4), for “defendant” substitute “person in respect of whom the order is sought”.

(5) In section 100 (interim notification orders)—

(a) in subsection (2)—

(i) in paragraph (a), omit “the complaint containing”, and

(ii) in paragraph (b), for “by complaint to the court to which that application has been made” substitute “by further application to the sheriff to whom the main application has been made”,

(b) in subsection (5)—

(i) in paragraph (a), for “defendant” substitute “person in respect of whom the order has effect”, and

(ii) in paragraph (b), for “defendant” substitute “person”,

(c) in subsection (7)—

(i) for “defendant” substitute “person in respect of whom the order has effect”, and

(ii) for “complaint” substitute “application”, and

(d) after subsection (7) insert—

“(7A) A record of evidence must be kept on any application for an order under this section.

(7B) The clerk of the court by which an interim notification order is made, varied, renewed or discharged under this section must 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 to be sent to the person in accordance with subsection (7C).

(7C) A copy of the order may be sent to the person named in the order—

(a) by registered post, or

(b) by the recorded delivery service,

and where a copy of the order is so sent to the person, an acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.”

(6) Omit sections 101 (notification orders and interim notification orders: appeals in England and Wales) and 103 (sections 97 to 100: Scotland).

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#### Commencement Information

- I5** S. 170 not in force at Royal Assent, see **s. 208(1)**  
**I6** S. 170 in force at 29.11.2022 by **S.I. 2022/1227, reg. 3(c)**

### *Sexual harm prevention orders and sexual risk orders*

#### **171 Applications by British Transport Police and Ministry of Defence Police**

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) Section 103A (sexual harm prevention orders: applications and grounds) is amended in accordance with subsections (3) to (6).
- (3) In subsection (4), for the words before paragraph (a) substitute “A person mentioned in subsection (4A) (“the applicant”) may by complaint to a magistrates’ court apply for a sexual harm prevention order in respect of a person if it appears to the applicant that—”.
- (4) After subsection (4) insert—
 

“(4A) Those persons are—

  - (a) a chief officer of police;
  - (b) the Director General of the National Crime Agency (“the Director General”);
  - (c) the chief constable of the British Transport Police Force;
  - (d) the chief constable of the Ministry of Defence Police.”
- (5) For subsection (7) substitute—
 

“(7) If the Director General, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under subsection (4), that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.”
- (6) In subsection (9)(b)—
  - (a) in the words before sub-paragraph (i), after “the Director General” insert “, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police”, and
  - (b) in sub-paragraph (ii), for “Director General” substitute “applicant”.
- (7) In section 103F (interim sexual harm prevention orders), after subsection (6) (inserted by section 173 of this Act) insert—
 

“(7) If the Director General of the National Crime Agency, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under this section, that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.
- (8) In subsection (7), “relevant police area” has the same meaning as in section 103A (sexual harm prevention orders: applications and grounds) (see section 103A(9)).”



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(8) In section 103J(1) (sexual harm prevention orders and interim sexual harm prevention orders: guidance) for “chief officers of police and to the Director General of the National Crime Agency” substitute “chief officers of police, the Director General of the National Crime Agency, the chief constable of the British Transport Police Force and the chief constable of the Ministry of Defence Police”.

(9) Section 122A (sexual risk orders: applications, grounds and effect) is amended in accordance with subsections (10) and (11).

(10) For subsection (1) substitute—

“(1) A person mentioned in subsection (1A) (“the applicant”) may by complaint to a magistrates’ court apply for an order under this section (a “sexual risk order”) in respect of a person (“the defendant”) if it appears to the applicant that the condition in subsection (2) is met.

(1A) Those persons are—

- (a) a chief officer of police;
- (b) the Director General of the National Crime Agency (“the Director General”);
- (c) the chief constable of the British Transport Police Force;
- (d) the chief constable of the Ministry of Defence Police.”

(11) For subsection (5) substitute—

“(5) If the Director General, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under subsection (1), that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.”

(12) In section 122B(3)(b) (interpretation of section 122A)—

- (a) after “Agency” insert “, the chief constable of the British Transport Police Force or the chief constable for the Ministry of Defence Police”, and
- (b) in sub-paragraph (ii), for “Director General” substitute “applicant”.

(13) In section 122E (interim sexual risk orders), after subsection (6) (inserted by section 173 of this Act) insert—

“(7) If the Director General of the National Crime Agency, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under this section, that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.

(8) In subsection (7), “relevant police area” has the same meaning as in section 122A (sexual risk orders: applications, grounds and effect) (see section 122B(3)).”

(14) In section 122J(1) (sexual risk orders and interim sexual risk orders: guidance) for “chief officers of police and to the Director General of the National Crime Agency” substitute “chief officers of police, the Director General of the National Crime Agency, the chief constable of the British Transport Police Force and the chief constable of the Ministry of Defence Police”.

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### Commencement Information

- I7** S. 171 not in force at Royal Assent, see **s. 208(1)**  
**I8** S. 171 in force at 29.11.2022 by **S.I. 2022/1227, reg. 3(d)**

## 172 List of countries

- (1) The Secretary of State may—
  - (a) prepare a list of countries and territories outside the United Kingdom in which the Secretary of State considers children are at a high risk of sexual abuse or sexual exploitation from United Kingdom nationals or United Kingdom residents, or
  - (b) direct a relevant person to prepare a list of countries and territories outside the United Kingdom in which the relevant person considers children are at a high risk of sexual abuse or sexual exploitation from United Kingdom nationals or United Kingdom residents.
- (2) If a list is prepared by the Secretary of State, the Secretary of State must lay the list before Parliament.
- (3) If a list is prepared by a relevant person—
  - (a) the relevant person must submit the list to the Secretary of State, and
  - (b) the Secretary of State must lay the list before Parliament.
- (4) As soon as reasonably practicable after a list has been laid before Parliament, the person who prepared the list must publish it.
- (5) A list published under subsection (4) has effect for the purposes of—
  - (a) section 346 of the Sentencing Code (exercise of power to make sexual harm prevention order),
  - (b) section 350 of the Sentencing Code (sexual harm prevention orders: variations, renewals and discharges),
  - (c) section 103A of the Sexual Offences Act 2003 (sexual harm prevention orders: applications and grounds),
  - (d) section 103E of that Act (sexual harm prevention orders: variations, renewals and discharges),
  - (e) section 103F of that Act (interim sexual harm prevention orders),
  - (f) section 122A of that Act (sexual risk orders: applications, grounds and effect),
  - (g) section 122D of that Act (sexual risk orders: variations, renewals and discharges),
  - (h) section 122E of that Act (interim sexual risk orders),
  - (i) section 136ZG of that Act (variation of sexual harm prevention order made in Scotland by court in England and Wales),
  - (j) section 136ZH of that Act (variation of sexual offences prevention order or foreign travel order by court in England and Wales), and
  - (k) section 136ZI of that Act (variation of sexual risk order made in Scotland by court in England and Wales).
- (6) If a list has been published, the person who prepared it must keep it under review and may, from time to time, prepare a revised list (but see subsections (7) and (8)).

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- (7) If the function under subsection (6) is for the time being exercisable by the Secretary of State, the Secretary of State may direct a relevant person to exercise that function.
- (8) If the function under subsection (6) is for the time being exercisable by a relevant person, the Secretary of State may direct that the function is to be exercisable by another relevant person or by the Secretary of State.
- (9) A list published under this section may at any time be withdrawn by the Secretary of State.
- (10) Subsections (2) to (9) apply to a revised list as they apply to a list prepared under subsection (1).
- (11) In this section—
- “child” means a person under 18;
  - “relevant person” means a person whose statutory functions relate to—
    - (a) the prevention or detection of crime, or
    - (b) other law enforcement purposes;
  - “United Kingdom national” means—
    - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
    - (b) a person who under the British Nationality Act 1981 is a British subject, or
    - (c) a British protected person within the meaning of that Act;
  - “United Kingdom resident” means an individual who is resident in the United Kingdom.

#### Commencement Information

- I9** S. 172 not in force at Royal Assent, see [s. 208\(1\)](#)
- I10** S. 172(1)-(4)(11) in force at 28.6.2022 by [S.I. 2022/520](#), [reg. 5\(u\)](#)
- I11** [S. 172\(5\)\(a\)-\(h\)](#) in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(e\)\(i\)](#)
- I12** [S. 172\(5\)\(i\)-\(k\)](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(a\)](#)
- I13** [S. 172\(6\)-\(10\)](#) in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(e\)\(ii\)](#)

### 173 Requirement for courts and certain persons to have regard to the list of countries

- (1) In section 346 of the Sentencing Code (exercise of power to make sexual harm prevention order)—
- (a) the existing text becomes subsection (1), and
  - (b) after that subsection insert—
    - “(2) 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 a high risk of sexual abuse or sexual exploitation) and has not been withdrawn, the court must have regard to the list in considering—
      - (a) whether a sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the offender outside the United Kingdom, and

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- (b) in particular, whether a prohibition on foreign travel (see section 348) is necessary for that purpose.”
- (2) In section 350 of the Sentencing Code (sexual harm prevention orders: variations, renewals and discharges)—
- (a) after subsection (3) insert—
- “(3A) 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 (2)(b) or (c) must have regard to the list in considering—
- (a) whether to apply for an order varying or renewing a sexual harm prevention order for the purpose of protecting children generally, or any particular children, from sexual harm from the offender outside the United Kingdom, and
- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.”,
- and
- (b) after subsection (6A) (inserted by section 175) insert—
- “(6B) 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 an order varying or renewing the sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the offender 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.”
- (3) The Sexual Offences Act 2003 is amended as follows.
- (4) In section 103A (sexual harm prevention orders: applications and grounds)—
- (a) after subsection (3) insert—
- “(3A) 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, the court must have regard to the list in considering—
- (a) whether a sexual harm prevention 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 a prohibition on foreign travel (see section 103D) is necessary for that purpose.”,
- and
- (b) after subsection (4A) (inserted by section 171) insert—
- “(4B) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, a person mentioned in subsection (4A) must have regard to the list in considering—

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- (a) whether a person has since the appropriate date acted in such a way as to give reasonable cause to believe that it is necessary for a sexual harm prevention order to be made for the purpose of protecting children generally, or any particular children, from sexual harm from that person outside the United Kingdom, and
- (b) whether to apply for a prohibition on foreign travel (see section 103D) to be included in any such order for that purpose.”

(5) In section 103E (sexual harm prevention orders: variations, renewals and discharges)

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- (a) after subsection (2) insert—

“(2A) 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 (2)(b) to (d) must have regard to the list in considering—

- (a) whether to apply for an order varying or renewing a sexual harm prevention order 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 to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.”,

- (b) after subsection (5A) (inserted by section 175) insert—

“(5B) 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 sexual harm prevention 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.”,
- and

- (c) in subsection (6), for “subsection (5)” substitute “subsections (2A), (5) and (5B)”.

(6) In section 103F (interim sexual harm prevention orders)—

- (a) after subsection (2) insert—

“(2A) 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 who has made, or is considering making, an application under section 103A(4) must have regard to the list in considering—

- (a) whether to apply for an interim sexual harm prevention 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 a prohibition on foreign travel to be included in any such order for that purpose.”,
- (b) after subsection (3) insert—
  - “(3A) 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 to make an interim sexual harm prevention order 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 to include in any such order a prohibition on foreign travel for that purpose.”, and
- (c) after subsection (5) insert—
  - “(6) Subsections (2A) and (3A) apply in relation to an application for the variation or renewal of an interim sexual harm prevention order as they apply in relation to an application for such an order.”
- (7) In section 122A (sexual risk orders: applications, grounds and effect)—
  - (a) after subsection (2) insert—
    - “(2A) 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 (1A) must have regard to the list in considering—
      - (a) whether as a result of the act mentioned in subsection (2) there is reasonable cause to believe that it is necessary for a sexual risk order to be made for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
      - (b) whether to apply for a prohibition on foreign travel (see section 122C) to be included in any such order for that purpose.”, and
  - (b) after subsection (6) insert—
    - “(6A) 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 a sexual risk order is necessary for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
      - (b) in particular, whether a prohibition on foreign travel (see section 122C) is necessary for that purpose.”
- (8) In section 122D (sexual risk order: variations, renewals and discharges),
  - (a) after subsection (2) insert—
    - “(2A) 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

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withdrawn, a person mentioned in subsection (2)(b) to (d) must have regard to the list in considering—

- (a) whether to apply for an order varying or renewing a sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.”,
- (b) in subsection (3) for “the application” substitute “an application made under this section”, and
- (c) after subsection (4A) (inserted by section 176) insert—

“(4B) 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 sexual risk order is necessary for the purposes of protecting children generally, or any particular children, from 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.”

(9) In section 122E (interim sexual risk orders)—

- (a) after subsection (2) insert—

“(2A) 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 who has made, or is considering making, an application for a sexual risk order must have regard to the list in considering—

- (a) whether to apply for an interim sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to apply for a prohibition on foreign travel to be included in any such order for that purpose.”,
- (b) after subsection (3) insert—

“(3A) 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 to make an interim sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to include a prohibition on foreign travel in any such order for that purpose.”, and
- (c) after subsection (5) insert—

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“(6) Subsections (2A) and (3A) apply in relation to an application for the variation or renewal of an interim sexual risk order as they apply in relation to an application for such an order.”

#### Commencement Information

**I14** S. 173 not in force at Royal Assent, see [s. 208\(1\)](#)

**I15** S. 173 in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(f\)](#)

### 174 Standard of proof

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 103A(3) (sexual harm prevention orders: applications and grounds)—
  - (a) omit “and” at the end of paragraph (a), and
  - (b) for paragraph (b) substitute—
    - “(b) the court is satisfied on the balance of probabilities that since the appropriate date the defendant has acted in one or more of the ways alleged by the person making the application, and
    - (c) the court is satisfied that the defendant having acted in such a way makes it necessary to make a sexual harm prevention order, for the purpose of—
      - (i) protecting the public or any particular members of the public from sexual harm from the defendant, or
      - (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.”
- (3) In section 122A (sexual risk orders: applications, grounds and effect), for subsection (6) substitute—
  - “(6) On an application under subsection (1), the court may make a sexual risk order if—
    - (a) the court is satisfied on the balance of probabilities that the defendant has, whether before or after the commencement of this Part, done one or more of the acts of a sexual nature alleged by the person making the application, and
    - (b) the court is satisfied that as a result of the defendant acting in such a way it is necessary to make such an order for the purpose of—
      - (i) protecting the public or any particular members of the public from harm from the defendant, or
      - (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.”

#### Commencement Information

**I16** S. 174 not in force at Royal Assent, see [s. 208\(1\)](#)

**I17** S. 174 in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(g\)](#)



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## 175 Sexual harm prevention orders: power to impose positive requirements

(1) The Sentencing Code is amended in accordance with subsections (2) to (6).

(2) In section 343 (sexual harm prevention order)—

(a) for subsection (1) substitute—

“(1) In this Code a “sexual harm prevention order” means an order made under this Chapter in respect of an offender.

(1A) A sexual harm prevention order may—

(a) prohibit the offender from doing anything described in the order;

(b) require the offender to do anything described in the order.”,

(b) in subsection (2), after “prohibitions” insert “or requirements”, and

(c) after subsection (2) insert—

“(3) The prohibitions or requirements which are imposed on the offender by a sexual harm prevention order must, so far as practicable, be such as to avoid—

(a) any conflict with the offender’s religious beliefs,

(b) any interference with the times, if any, at which the offender normally works or attends any educational establishment, and

(c) any conflict with any other court order or injunction to which the offender may be subject (but see section 349).”

(3) In section 347 (sexual harm prevention order: matters to be specified)—

(a) in subsection (1)(a), after “prohibitions” insert “and requirements”,

(b) in subsection (1)(b)—

(i) after “each prohibition” insert “or requirement”, and

(ii) for ““prohibition period”” substitute ““specified period””,

(c) in subsection (2)—

(i) in the words before paragraph (a), for “prohibition period” substitute “specified period”, and

(ii) in paragraph (b), after “prohibition” insert “or requirement”, and

(d) in subsection (3), after “prohibitions”, in both places it occurs, insert “or requirements”.

(4) After section 347 insert—

### **“347A Sexual harm prevention orders: requirements included in order etc.**

(1) A sexual harm prevention order that imposes a requirement to do something on an offender must specify a person who is to be responsible for supervising compliance with the requirement.

The person may be an individual or an organisation.

(2) Before including such a requirement in a sexual harm prevention order, the court must receive evidence about its suitability and enforceability from—

(a) the individual to be specified under subsection (1), if an individual is to be specified;

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- (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.
- (3) Subsections (1) and (2) do not apply in relation to electronic monitoring requirements (see instead section 348A(5) and (6)).
- (4) It is the duty of a person specified under subsection (1)—
- (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (“the relevant requirements”);
  - (b) to promote the offender’s compliance with the relevant requirements;
  - (c) if the person considers that—
    - (i) the offender has complied with all the relevant requirements, or
    - (ii) the offender has failed to comply with a relevant requirement, to inform the appropriate chief officer of police.
- (5) In subsection (4)(c) the “appropriate chief officer of police means—
- (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the offender lives, or
  - (b) if it appears to that person that the offender lives in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.
- (6) An offender subject to a requirement imposed by a sexual harm prevention order must—
- (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
  - (b) notify that person of any change of the offender’s home address.
- These obligations have effect as requirements of the order.
- (7) In this section “home address”, in relation to an offender, means—
- (a) the address of the offender’s sole or main residence in the United Kingdom, or
  - (b) where the offender has no such residence, the address or location of a place in the United Kingdom where the offender can regularly be found and, if there is more than one such place, such one of those places as the offender may select.”
- (5) In section 350 (sexual harm prevention orders: variations, renewals and discharges)—
- (a) in subsection (6)—
    - (i) in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
    - (ii) in the words after paragraph (b), after “prohibitions” insert “and requirements”,
  - (b) after subsection (6) insert—
    - “(6A) Any additional prohibitions or requirements that are imposed on the offender must, so far as practicable, be such as to avoid—
      - (a) any conflict with the offender’s religious beliefs,

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- (b) any interference with the times, if any, at which the offender normally works or attends any educational establishment, and
    - (c) any conflict with any other court order or injunction to which the offender may be subject.”, and
  - (c) in subsection (8), after “other prohibitions” insert “or requirements”.
- (6) In section 354 (offence: breach of sexual harm prevention order)—
  - (a) for subsection (1) substitute—
    - “(1) A person commits an offence if, without reasonable excuse, the person—
      - (a) does anything that the person is prohibited from doing by a sexual harm prevention order, or
      - (b) fails to do something that the person is required to do by a sexual harm prevention order.”,
    - (b) in subsection (2), for “doing anything prohibited by such an order” substitute “breaching such an order”, and
    - (c) omit subsection (3).
- (7) In paragraph 98 of Schedule 22 to the Sentencing Act 2020 (amendment of section 354 of the Sentencing Code), in the substituted subsection (2) for “doing anything prohibited by such an order” substitute “breaching such an order”.
- (8) The Sexual Offences Act 2003 is amended as follows.
- (9) In section 103C (sexual harm prevention orders: effect)—
  - (a) for subsection (1) substitute—
    - “(1) A sexual harm prevention order may—
      - (a) prohibit the defendant from doing anything described in the order;
      - (b) require the defendant to do anything described in the order.”,
    - (b) in subsection (2), after “prohibition” insert “or requirement”,
    - (c) in subsection (3), after “prohibitions”, in both places it occurs, insert “or requirements”,
    - (d) in subsection (4), after “prohibitions” insert “or requirements”, and
    - (e) after subsection (4) insert—
      - “(4A) The prohibitions or requirements which are imposed on the defendant by a sexual harm prevention order must, so far as practicable, be such as to avoid—
        - (a) any conflict with the defendant’s religious beliefs,
        - (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
        - (c) any conflict with any other court order or injunction to which the defendant may be subject (but see subsection (6)).”
- (10) After section 103C insert—

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**“103CA SHPOs: requirements included in order etc.**

- (1) A sexual harm prevention order that imposes a requirement to do something on a defendant must specify a person who is to be responsible for supervising compliance with the requirement.

The person may be an individual or an organisation.

- (2) Before including such a requirement in a sexual harm prevention order, the court must receive evidence about its suitability and enforceability from—

- (a) the individual to be specified under subsection (1), if an individual is to be specified;
- (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.

- (3) Subsections (1) and (2) do not apply in relation to electronic monitoring requirements (see instead section 103FA(5) and (6)).

- (4) It is the duty of a person specified under subsection (1)—

- (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (“the relevant requirements”);
- (b) to promote the defendant’s compliance with the relevant requirements;
- (c) if the person considers that—
  - (i) the defendant has complied with all the relevant requirements, or
  - (ii) the defendant has failed to comply with a relevant requirement,

to inform the appropriate chief officer of police.

- (5) In subsection (4)(c) the “appropriate chief officer of police means—

- (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the defendant resides, or
- (b) if it appears to that person that the defendant resides in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.

- (6) A defendant subject to a requirement imposed by a sexual harm prevention order must—

- (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
- (b) notify that person of any change of the defendant’s home address.

These obligations have effect as requirements of the order.”

- (11) In section 103E (sexual harm prevention orders: variations, renewals and discharges)

- (a) in subsection (5)—

- (i) in the words before paragraph (a), after “prohibitions” insert “or requirements”, and

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- (ii) in the words after paragraph (b), after “prohibitions” insert “and requirements”,
- (b) after subsection (5) insert—
  - “(5A) Any additional prohibitions or requirements that are imposed on the defendant must, so far as practicable, be such as to avoid—
    - (a) any conflict with the defendant’s religious beliefs,
    - (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
    - (c) any conflict with any other court order or injunction to which the defendant may be subject.”, and
  - (c) in subsection (8), after “prohibitions” insert “or requirements”.
- (12) In section 103F(3) (interim sexual harm prevention orders), for the words from “, prohibiting the defendant” to the end of the subsection substitute “—
  - (a) prohibiting the defendant from doing anything described in the order;
  - (b) requiring the defendant to do anything described in the order.”
- (13) In section 103I (offence: breach of sexual harm prevention order or interim sexual harm prevention order)—
  - (a) before subsection (1) insert—
    - “(A1) A person who, without reasonable excuse—
      - (a) does anything that the person is prohibited from doing by a sexual harm prevention order or an interim sexual harm prevention order, or
      - (b) fails to do something that the person is required to do by a sexual harm prevention order or an interim sexual harm prevention order,
 commits an offence.”,
    - (b) in subsection (1), omit paragraphs (a) and (b), and
    - (c) omit subsection (2).

#### Commencement Information

**118** S. 175 not in force at Royal Assent, see [s. 208\(1\)](#)

**119** S. 175 in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(h\)](#)

### 176 Sexual risk orders: power to impose positive requirements

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 122A (sexual risk orders: applications, grounds and effect)—
  - (a) for subsection (7) substitute—
    - “(7) A sexual risk order may—
      - (a) prohibit the defendant from doing anything described in the order;
      - (b) require the defendant to do anything described in the order.”,
    - (b) in subsection (8), for the words from “may specify” to the end of the subsection substitute “—

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- (a) has effect for a fixed period (not less than 2 years) specified in the order or until further order, and
- (b) may specify different periods for different prohibitions or requirements.”,
- (c) in subsection (9), after “prohibitions” insert “or requirements”, and
- (d) after subsection (9) insert—

“(9A) The prohibitions or requirements which are imposed on the defendant by a sexual risk order must, so far as practicable, be such as to avoid—

- (a) any conflict with the defendant’s religious beliefs,
- (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
- (c) any conflict with any other court order or injunction to which the defendant may be subject (but see subsection (10)).”

- (3) After section 122B insert—

**“122BA Sexual risk orders: requirements included in order etc.**

- (1) A sexual risk order that imposes a requirement to do something on a defendant must specify a person who is to be responsible for supervising compliance with the requirement.

The person may be an individual or an organisation.

- (2) Before including such a requirement in a sexual risk order, the court must receive evidence about its suitability and enforceability from—

- (a) the individual to be specified under subsection (1), if an individual is to be specified;
- (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.

- (3) Subsections (1) and (2) do not apply in relation to electronic monitoring requirements (see instead section 122EA(5) and (6)).

- (4) It is the duty of a person specified under subsection (1)—

- (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (“the relevant requirements”);
- (b) to promote the defendant’s compliance with the relevant requirements;
- (c) if the person considers that—
  - (i) the defendant has complied with all the relevant requirements, or
  - (ii) the defendant has failed to comply with a relevant requirement,

to inform the appropriate chief officer of police.

- (5) In subsection (4)(c) the “appropriate chief officer of police means—

- (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the defendant resides, or

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- (b) if it appears that that person that the defendant resides in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.
- (6) A defendant subject to a requirement imposed by a sexual risk order must—
- (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
  - (b) notify that person of any change of the defendant’s home address.
- These obligations have effect as requirements of the order.”
- (4) In section 122D (sexual risk orders: variations, renewals and discharges)—
- (a) in subsection (4)—
    - (i) in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
    - (ii) in the words after paragraph (b), after “prohibitions” insert “and requirements”, and
  - (b) after that subsection, insert—
 

“(4A) Any additional prohibitions or requirements that are imposed on the defendant must, so far as practicable, be such as to avoid—

    - (a) any conflict with the defendant’s religious beliefs,
    - (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
    - (c) any conflict with any other court order or injunction to which the defendant may be subject.”
- (5) In section 122E(3) (interim sexual risk orders), for the words from “, prohibiting the defendant” to the end of the subsection substitute “—
- (a) prohibiting the defendant from doing anything described in the order;
  - (b) requiring the defendant to do anything described in the order.”
- (6) In section 122H (offence: breach of sexual risk order or interim sexual risk order etc)—
- (a) before subsection (1) insert—
 

“(A1) A person who, without reasonable excuse—

    - (a) does anything that the person is prohibited from doing by a sexual risk order or an interim sexual risk order, or
    - (b) fails to do something that the person is required to do by a sexual risk order or an interim sexual risk order,

commits an offence.”,
  - (b) in subsection (1), omit paragraphs (a) and (b), and
  - (c) omit subsection (2).

#### Commencement Information

**I20** S. 176 not in force at Royal Assent, see [s. 208\(1\)](#)

**I21** [S. 176](#) in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(i\)](#)

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*Status: Point in time view as at 26/05/2023. This version of this chapter contains provisions that are prospective.*  
*Changes to legislation: Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 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)*

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## 177 Positive requirements: further amendments

- (1) In section 351 of the Sentencing Code (variation of sexual harm prevention order by court in Northern Ireland)—
  - (a) in subsection (6), in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
  - (b) in subsection (7), in the words before paragraph (a), after “prohibitions” insert “and requirements”.
- (2) In section 113 of the Sexual Offences Act 2003 (offence: breach of SOPO or interim SOPO etc), for subsection (1ZA) substitute—
 

“(1ZA) A person commits an offence if, without reasonable excuse, the person—

  - (a) contravenes a prohibition imposed by—
    - (i) a sexual harm prevention order,
    - (ii) an order under Chapter 2 of Part 11 of the Sentencing Code (sexual harm prevention order on conviction), or
    - (iii) an interim sexual harm prevention order,
 other than a prohibition on foreign travel, or
  - (b) fails to comply with a requirement imposed by—
    - (i) a sexual harm prevention order,
    - (ii) an order under Chapter 2 of Part 11 of the Sentencing Code (sexual harm prevention order on conviction), or
    - (iii) an interim sexual harm prevention order.”
- (3) In section 128 of the Sexual Offences Act 2003 (offence: breach of RSHO or interim RSHO etc)—
  - (a) in subsection (1) omit paragraphs (c) and (d), and
  - (b) after subsection (1) insert—
 

“(1A) A person who, without reasonable excuse—

    - (a) does anything that the person is prohibited from doing by a sexual risk order or an interim sexual risk order, or
    - (b) fails to do something that the person is required to do by a sexual risk order or an interim sexual risk order,
 commits an offence.”
- (4) In section 136ZA(2) of the Sexual Offences Act 2003 (application of orders throughout the United Kingdom), after “prohibitions” insert “or requirements”.
- (5) In section 136ZC of the Sexual Offences Act 2003 (variation of sexual harm prevention order by court in Northern Ireland)—
  - (a) in subsection (5), in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
  - (b) in subsection (6), in the words before paragraph (a), after “prohibitions” insert “and requirements”.
- (6) In section 136ZD of the Sexual Offences Act 2003 (variation of sexual risk order by court in Northern Ireland)—
  - (a) in subsection (4), in the words before paragraph (a), after “prohibitions” insert “or requirements”, and



*Status: Point in time view as at 26/05/2023. This version of this chapter contains provisions that are prospective.*

*Changes to legislation: Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 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) in subsection (5), in the words before paragraph (a), after “prohibitions” insert “and requirements”.
- (7) In section 37 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22) (breach of orders equivalent to orders in Chapters 3 and 4: offence)—
- (a) after subsection (1) insert—

“(1A) A person commits an offence if, without reasonable excuse, the person fails to do something which the person is required to do by an equivalent order from elsewhere in the United Kingdom.”,
  - (b) in each of subsections (2) and (3), after “subsection (1)” insert “or (1A)”, and
  - (c) in subsection (4), after “prohibitions” insert “or requirements”.

#### Commencement Information

**I22** S. 177 not in force at Royal Assent, see **s. 208(1)**

**I23** S. 177(1)-(6) in force at 29.11.2022 by S.I. 2022/1227, **reg. 3(j)**

**I24** S. 177(7) in force at 31.3.2023 by S.I. 2023/387, **reg. 3(b)**

PROSPECTIVE

### 178 Electronic monitoring requirements

- (1) The Sentencing Code is amended in accordance with subsections (2) to (5).
- (2) In section 343 (sexual harm prevention order), after subsection (3) (inserted by section 175 of this Act) insert—

“(4) A sexual harm prevention order may require the offender to submit to electronic monitoring of the offender’s compliance with the prohibitions and requirements imposed by the order (see section 348A for further provision about such a requirement).”
- (3) In section 347 (sexual harm prevention orders: matters to be specified)—
  - (a) in subsection (1), in the words after paragraph (b), after “United Kingdom” insert “and section 348A for further matters to be included in the case of an electronic monitoring requirement”, and
  - (b) in subsection (2), in the words after paragraph (b), after “travel)” insert “and section 348A(8) (electronic monitoring requirements)”.
- (4) After section 348 insert—

#### “348A Sexual harm prevention orders: electronic monitoring requirements

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 343(4), an electronic monitoring requirement on the offender in a sexual harm prevention order.
- (2) If there is a person (other than the offender) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.

*Status:* Point in time view as at 26/05/2023. This version of this chapter contains provisions that are prospective.

*Changes to legislation:* Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 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 court may impose the requirement only if—
- (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
  - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
- (a) the local justice area in which it appears to the court that the offender resides or will reside, and
  - (b) in a case where it is proposed to include in the order—
    - (i) a requirement that the offender must remain, for specified periods, at a specified place, or
    - (ii) a provision prohibiting the offender from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.
- “Specified” means specified in the sexual harm prevention order under which the electronic monitoring requirement is imposed.
- (5) A sexual harm prevention order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual harm prevention order imposes an electronic monitoring requirement on the offender, the offender must (among other things)—
- (a) submit, as required from time to time by the responsible person, to—
    - (i) being fitted with, or the installation of, any necessary apparatus, and
    - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
  - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
  - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (8) A sexual harm prevention order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 350.

*Status: Point in time view as at 26/05/2023. This version of this chapter contains provisions that are prospective.*

*Changes to legislation: Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 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)*

### **348B Data from electronic monitoring: code of practice**

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of offenders under electronic monitoring requirements imposed by sexual harm prevention orders.
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”
- (5) In section 350 (sexual harm prevention orders: variations, renewals, discharges), after subsection (6B) (inserted by section 173 of this Act) insert—
  - “(6C) Section 348A (electronic monitoring requirements) applies in relation to—
    - (a) the variation of an 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 harm prevention order, subject to subsection (6D).
  - (6D) In its application to the variation or renewal of an order, section 348A(4)(b) has effect as if—
    - (a) the reference 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, and
    - (b) the reference 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.”
- (6) The Sexual Offences Act 2003 is amended in accordance with subsections (7) to (16).
- (7) In section 103C (sexual harm prevention orders: effect)—
  - (a) in subsection (2), for “section 103D(1)” substitute “sections 103D(1) and 103FA(8)”, and
  - (b) after subsection (4A) (inserted by section 175 of this Act) insert—
    - “(4B) A sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).”
- (8) In section 103E (sexual harm prevention orders: variations, renewals and discharges) after subsection (5B) (inserted by section 173 of this Act) insert—
  - “(5C) Section 103FA (electronic monitoring requirements) applies in relation to—
    - (a) the variation of an 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 harm prevention order, subject to subsection (5D).

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(5D) In its application to the variation or renewal of an order, section 103FA(4)(b) has effect as if—

- (a) the reference 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, and
- (b) the reference 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.”

(9) In section 103F (interim sexual harm prevention orders)—

(a) after subsection (3A) (inserted by section 173 of this Act) insert—

“(3B) An interim sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).”, and

(b) in subsection (4) for “Such an order” substitute “An interim sexual harm prevention order”.

(10) After section 103F insert—

**“103FA SHPOs and interim SHPOs: electronic monitoring requirements**

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 103C(4B) or section 103F(3B), an electronic monitoring requirement on the defendant in a sexual harm prevention order or interim sexual harm prevention order.
- (2) If there is a person (other than the defendant) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (3) The court may impose the requirement only if—
  - (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
  - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
  - (a) the local justice area in which it appears to the court that the defendant resides or will reside, and
  - (b) in a case where it is proposed to include in the order—
    - (i) a requirement that the defendant must remain, for specified periods, at a specified place, or
    - (ii) a provision prohibiting the defendant from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.

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“Specified” means specified in the sexual harm prevention order or interim sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (5) A sexual harm prevention order or interim sexual harm prevention order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual harm prevention order or interim sexual harm prevention order imposes an electronic monitoring requirement on the defendant, the defendant must (among other things)—
  - (a) submit, as required from time to time by the responsible person, to—
    - (i) being fitted with, or the installation of, any necessary apparatus, and
    - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
  - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
  - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual harm prevention order or interim sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (8) A sexual harm prevention order or an interim sexual harm prevention order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 103E.

### **103FB Data from electronic monitoring: code of practice**

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of defendants under electronic monitoring requirements imposed by—
  - (a) sexual harm prevention orders,
  - (b) relevant Scottish orders within the meaning of section 136ZG that have been renewed or varied as mentioned in subsection (11) of that section (variation etc by court in England and Wales to impose electronic monitoring requirement), and
  - (c) sexual offences prevention orders that have been renewed or varied as mentioned in section 136ZH(10) (variation etc by court in England and Wales to impose electronic monitoring requirement).
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”

*Status: Point in time view as at 26/05/2023. This version of this chapter contains provisions that are prospective.*

*Changes to legislation: Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 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)*

(11) In section 122A (sexual risk orders: applications, grounds and effect)—

(a) after subsection (8) insert—

“(8A) Subsection (8) is subject to section 122C(1) (duration of prohibitions on foreign travel) and section 122EA(8) (duration of electronic monitoring requirements).”, and

(b) after subsection (9A) (as inserted by section 176 of this Act) insert—

“(9B) A sexual risk order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).”

(12) In section 122D (sexual risk orders: variations, renewals and discharges) after subsection (4B) (inserted by section 173 of this Act) insert—

“(4C) Section 122EA (electronic monitoring requirements) applies in relation to—

(a) the variation of an 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 (4D).

(4D) In its application to the variation or renewal of an order, section 122EA(4)(b) has effect as if—

(a) the reference 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, and

(b) the reference 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.”

(13) In section 122E (interim sexual risk orders)—

(a) after subsection (3A) (inserted by section 173 of this Act) insert—

“(3B) An interim sexual risk order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).”, and

(b) in subsection (4) for “Such an order” substitute “An interim sexual risk order”.

(14) After section 122E insert—

**“122EA Sexual risk orders and interim sexual risk orders: electronic monitoring requirements**

(1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 122A(9B) or section 122E(3B), an electronic monitoring requirement on the defendant in a sexual risk order or interim sexual risk order.

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- (2) If there is a person (other than the defendant) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (3) The court may impose the requirement only if—
- (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
  - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
- (a) the local justice area in which it appears to the court that the defendant resides or will reside, and
  - (b) in a case where it is proposed to include in the order—
    - (i) a requirement that the defendant must remain, for specified periods, at a specified place, or
    - (ii) a provision prohibiting the defendant from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.

“Specified” means specified in the sexual risk order or interim sexual risk order under which the electronic monitoring requirement is imposed.

- (5) A sexual risk order or interim sexual risk order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual risk order or interim sexual risk order imposes an electronic monitoring requirement on the defendant, the defendant must (among other things)—
- (a) submit, as required from time to time by the responsible person, to—
    - (i) being fitted with, or the installation of, any necessary apparatus, and
    - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
  - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
  - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual risk order or interim sexual risk order under which the electronic monitoring requirement is imposed.

- (8) A sexual risk order or an interim sexual risk order may not provide for an electronic monitoring requirement to have effect for more than 12 months.

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*Changes to legislation: Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

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- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 122D.

### **122EB Data from electronic monitoring: code of practice**

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of defendants under electronic monitoring requirements imposed by—
- (a) sexual risk orders,
  - (b) relevant Scottish orders within the meaning of section 136ZI that have been renewed or varied as mentioned in subsection (11) of that section (variation etc by court in England and Wales to impose electronic monitoring requirement), and
  - (c) risk of sexual harm orders that have been renewed or varied as mentioned in section 136ZJ(7) (variation etc by court in England and Wales to impose electronic monitoring requirement).
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”

- (15) In section 136ZA, after subsection (2) insert—

“(3) A requirement that is imposed by a relevant order and that relates to the electronic monitoring of a person’s compliance with the prohibitions or requirements imposed by the order is to be treated for the purposes of subsection (2) as a requirement that is expressly confined to a particular locality.”

- (16) In section 138(3), after “containing” insert “only regulations under section 103FA(6) or section 122EA(6) or”.

#### **Commencement Information**

**I25** S. 178 not in force at Royal Assent, see [s. 208\(1\)](#)

## **179 Positive requirements and electronic monitoring requirements: service courts**

In section 137(3) of the Sexual Offences Act 2003 (service courts: sexual harm prevention orders)—

- (a) in paragraph (a)—
  - (i) after “103A(3)” insert “and (4)”, and
  - (ii) for the words from “and 103J” to “Sentencing Code” substitute “, 103FA(3)(a), (4) and (6) and 103J of this Act, and sections 348A(3)(a), (4) and (6) and 355 to 357 of the Sentencing Code”,
- (b) in paragraph (b), in the words before sub-paragraph (i)—
  - (i) for “103A(1) and (2)” substitute “103A(1), (2) and (3A), and
  - (ii) for the words from “and 103G” to “Sentencing Code” substitute “, 103FA(1), (2), (3)(b) and (5) to (9), 103FB and 103G to 103I of this



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**Changes to legislation:** Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.

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Act, and sections 343 to 348, 348A(1), (2), (3)(b) and (5) to (9), 348B to 354 and 358 of the Sentencing Code”,

- (c) in paragraph (b)(i), after “paragraphs” insert “(ba), (bb)”,
- (d) after paragraph (b) insert—
  - “(ba) if section 103CA applies to the defendant at a time when the defendant is a person subject to service law or a civilian subject to service discipline, the reference in section 103CA(4)(c) (requirements included in order: report on compliance) to the appropriate chief officer of police is to be read as a reference to a Provost Marshal;
  - (bb) if section 347A applies to the defendant at a time when the defendant is a person subject to service law or a civilian subject to service discipline, the reference in section 347A(4)(c) of the Sentencing Code (requirements included in order: report on compliance) to the appropriate chief office of police is to be read as a reference to a Provost Marshal;”,
- (e) in paragraph (c), for “Provost Martial”, in both places it occurs, substitute “Provost Marshal”, and
- (f) in paragraph (c), after sub-paragraph (i) insert—
  - “(ia) the reference in section 103E(2A) to a person mentioned in subsection (2)(b) to (d) is to be read as a reference to a Provost Marshal;
  - (ib) the reference in section 350(3A) of the Sentencing Code to a person mentioned in subsection (2)(b) or (c) is to be read as a reference to a Provost Marshal;”.

#### Commencement Information

**I26** S. 179 not in force at Royal Assent, see [s. 208\(1\)](#)

**I27** S. 179 in force at 29.11.2022 by [S.I. 2022/1227](#), [reg. 3\(k\)](#)

### *Orders made in different parts of the United Kingdom*

#### **180 Enforcement of requirements of orders made in Scotland or Northern Ireland**

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 103I (offence: breach of SHPO or interim SHPO etc), after subsection (1) insert—
  - “(1A) A person who, without reasonable excuse, fails to do something that the person is required to do by a sexual offences prevention order or an interim sexual offences prevention order commits an offence.
  - (1B) A person who, without reasonable excuse—
    - (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
    - (b) fails to do something that the person is required to do by a relevant Scottish order,
 commits an offence.

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(1C) In subsection (1B) “relevant Scottish order” means—

- (a) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or
- (b) an interim sexual harm prevention order made under section 21 of that Act.”

(3) In section 113 (offence: breach of SOPO or interim SOPO etc), after subsection (1ZA) insert—

“(1ZB) A person commits an offence if, without reasonable excuse, the person—

- (a) contravenes a prohibition imposed by a relevant Scottish order other than a prohibition on foreign travel, or
- (b) fails to comply with a requirement imposed by a relevant Scottish order.

(1ZC) In subsection (1ZB)—

“prohibition on foreign travel” has the meaning given by section 17(2) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22);

“relevant Scottish order” means—

- (a) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, or
- (b) an interim sexual harm prevention order made under section 21 of that Act.”

(4) In section 122(1) (offence: breach of foreign travel order)—

- (a) omit the “or” at the end of paragraph (a), and
- (b) at the end of paragraph (b) insert “, or
- (c) he contravenes a prohibition on foreign travel imposed by a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).”

(5) In section 122H (offence: breach of sexual risk order or interim sexual risk order etc)—

- (a) in subsection (1) omit paragraphs (e) and (f), and
- (b) after subsection (1) insert—

“(1A) A person who, without reasonable excuse, does anything that the person is required to do by a risk of sexual harm order that has been renewed or varied as mentioned in section 136ZJ(7) commits an offence.

(1B) A person who, without reasonable excuse—

- (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
- (b) fails to do something that the person is required to do by a relevant Scottish order,

commits an offence.

(1C) In subsection (1B) “relevant Scottish order” means—

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*Changes to legislation: Police, Crime, Sentencing and Courts Act 2022, CHAPTER 3 is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date.*

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- (a) a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)), or
  - (b) an interim sexual risk order made under section 31 of that Act.”
- (6) In section 128 (offence: breach of risk of sexual harm order or interim risk of sexual harm order etc)—
- (a) in subsection (1) omit paragraphs (e) and (f), and
  - (b) after subsection (1A) (inserted by section 177) insert—
- “(1B) A person who, without reasonable excuse—
- (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
  - (b) fails to do something that the person is required to do by a relevant Scottish order,
- commits an offence.
- (1C) In subsection (1B) “relevant Scottish order” means—
- (a) a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)), or
  - (b) an interim sexual risk order made under section 31 of that Act.”
- (7) In section 136ZA (application of orders throughout the United Kingdom) in subsection (1)—
- (a) after paragraph (i) insert—
- “(ia) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#));
- (ib) an interim sexual harm prevention order made under section 21 of that Act;
  - (ic) a sexual risk order made under section 27 of that Act;
  - (id) an interim sexual risk order made under section 31 of that Act.”, and
- (b) omit paragraphs (j) and (k).

#### Commencement Information

**I28** S. 180 not in force at Royal Assent, see [s. 208\(1\)](#)

**I29** [S. 180\(1\)\(2\)\(5\)-\(7\)](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(c\)](#) (with [reg. 4\(1\)](#))

**I30** [S. 180\(3\)\(4\)](#) in force at 31.3.2023 for N.I. by [S.I. 2023/387](#), [reg. 3\(c\)](#)

#### 181 Effect of conviction for breach of Scottish order etc

- (1) In section 122I of the Sexual Offences Act 2003 (effect of conviction etc of an offence under section 122H etc)—

- (a) in subsection (2), omit paragraph (b),
- (b) after subsection (2) insert—

“(2A) This section also applies to a person (“the defendant”) who—

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- (a) is convicted of an offence mentioned in subsection (2B),
- (b) is acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995, or
- (c) is found, in respect of such an offence, to be unfit for trial under section 53F of that Act in a case where the court determines that the defendant has done the act constituting the offence.

(2B) Those offences are—

- (a) an offence under section 34 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)) (breach of sexual risk order or interim sexual risk order in Scotland);
- (b) an offence under section 37 of that Act (breach of equivalent orders) in respect of a breach of an order made under section 122A, 122E, 123 or 126 of this Act.”,

(c) in subsection (6)—

- (i) in paragraph (a), for “or caution” substitute “, caution or acquittal”,
- (ii) in that paragraph, after “subsection (1)” insert “or (2A)”,
- (iii) in paragraph (b), for “or caution” substitute “, caution or acquittal”, and
- (iv) in that paragraph, after “subsection (1)” insert “or (2A)”,

(d) after subsection (6) insert—

“(6A) In subsection (6) “sexual risk order” and “interim sexual risk order” include orders under sections 27 and 31 (respectively) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and

(e) omit subsection (7).

(2) In section 129 of the Sexual Offences Act 2003 (effect of conviction etc of an offence under section 128 etc)—

- (a) in subsection (1A), omit paragraph (b),
- (b) after subsection (1A) insert—

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

- (a) is convicted of an offence mentioned in subsection (1C),
- (b) is acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995, or
- (c) is found, in respect of such an offence, to be unfit for trial under section 53F of that Act in a case where the court determines that the defendant has done the act constituting the offence.

(1C) Those offences are—

- (a) an offence under section 34 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)) (breach of sexual risk order or interim sexual risk order in Scotland);
- (b) an offence under section 37 of that Act (breach of equivalent orders) in respect of a breach of an order made under section 122A, 122E, 123 or 126 of this Act.”,

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- (c) in subsection (5)—
  - (i) in paragraph (a), for “or caution” substitute “, caution or acquittal”,
  - (ii) in that paragraph, after “subsection (1)” insert “or (1B)”,
  - (iii) in paragraph (b), for “or caution” substitute “, caution or acquittal”, and
  - (iv) in that paragraph, after “subsection (1)” insert “or (1B)”,
- (d) after subsection (5) insert—
 

“(5A) In subsection (5) “sexual risk order” and “interim sexual risk order” include orders under sections 27 and 31 (respectively) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and
- (e) omit subsection (6).

#### Commencement Information

**I31** S. 181 not in force at Royal Assent, see [s. 208\(1\)](#)

**I32** S. 181 in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(d\)](#) (with [reg. 4\(1\)](#))

## 182 Orders superseding, or superseded by, Scottish orders

- (1) In section 349(2) of the Sentencing Code (making of sexual harm prevention order: effect on other orders)—
  - (a) omit the “or” at the end of paragraph (a), and
  - (b) at the end of paragraph (b) insert “, or
  - (c) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)).”.
- (2) Section 136ZB of the Sexual Offences Act 2003 (order ceases to have effect when new order made) is amended as follows.
- (3) In subsection (1), in the table—
  - (a) in the entry relating to a sexual harm prevention order, in the second column, after “—foreign travel order” insert—
 

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— “sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act [2016 \(asp 22\)](#).”, and
  - (b) in the entry relating to a sexual risk order, in the second column, after “—foreign travel order” insert—
 

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— “sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”
- (4) In subsection (2)—
  - (a) in the words before the table—
    - (i) omit “or Scotland”, and
    - (ii) after “England and Wales” insert “or Scotland”, and
  - (b) in the table—

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- (i) in the entry relating to a sexual offences prevention order, in the second column, after “—in the case of a sexual harm prevention order containing a prohibition on foreign travel, each of its other prohibitions” insert—

- 
- “sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 not containing a prohibition on foreign travel;
  - in the case of a sexual harm prevention order made under section 11 or 12 of that Act containing a prohibition on foreign travel, each of its other prohibitions.”,

- (ii) in the entry relating to a foreign travel order, in the second column, after “—prohibition on foreign travel contained in a sexual harm prevention order” insert—

- 
- “prohibition on foreign travel contained in a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and

- (iii) in the entry relating to a risk of sexual harm order, in the second column, after “—in the case of a sexual risk order containing a prohibition on foreign travel, each of its other prohibitions” insert—

- 
- “sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 not containing a prohibition on foreign travel;
  - in the case of a sexual risk order made under section 27 of that Act containing a prohibition on foreign travel, each of its other prohibitions.”

- (5) After subsection (2) insert—

“(2ZA) Where a court in Scotland makes an order listed in the first column of the following Table in relation to a person who is already subject to an order or prohibition listed opposite it in the second column, the earlier order or prohibition ceases to have effect (even though it was made or imposed by a court in England and Wales or Northern Ireland) unless the court orders otherwise.

| <i>New order</i>  | <i>Earlier order or prohibition</i>   |
|---|---|
| Sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 | <ul style="list-style-type: none"> <li>— sexual harm prevention order;</li> <li>— sexual offences prevention order;</li> <li>— foreign travel order.</li> </ul> |
| Sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016                  | <ul style="list-style-type: none"> <li>— sexual risk order;</li> <li>— risk of sexual harm order;</li> <li>— foreign travel order.”</li> </ul>                  |

- (6) In subsection (2A), after “subsection (2)” insert “or subsection (2ZA)”.

- (7) In subsection (3), omit paragraph (b).

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#### Commencement Information

**I33** S. 182 not in force at Royal Assent, see [s. 208\(1\)](#)

**I34** [S. 182](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(e\)](#) (with [reg. 4](#))

### 183 Variation etc of order by court in another part of the United Kingdom

- (1) Schedule 18 contains amendments enabling a court in one part of the United Kingdom to vary, renew or discharge an order made in another.
- (2) In that Schedule—
  - (a) Part 1 enables a court in Northern Ireland to renew or discharge orders made in England and Wales and to vary, renew or discharge orders made in Scotland;
  - (b) Part 2 enables a court in Scotland to vary, renew or discharge orders made in England and Wales or Northern Ireland;
  - (c) Part 3 enables a court in England and Wales to vary, renew or discharge orders made in Scotland or Northern Ireland.

#### Commencement Information

**I35** S. 183 not in force at Royal Assent, see [s. 208\(1\)](#)

**I36** [S. 183](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(f\)](#)

**Status:**

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**Changes to legislation:**

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