

2002 No. 2782 (L. 12)

**MAGISTRATES' COURTS, ENGLAND AND WALES
PROCEDURE**

The Magistrates' Courts (Sex Offender Orders) Rules 2002

Made - - - - - *7th November 2002*
Laid before Parliament *11th November 2002*
Coming into force - - - *2nd December 2002*

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(a), after consultation with the rule committee appointed under the said section 144, hereby makes the following Rules:

Citation, commencement and interpretation

1. These Rules may be cited as the Magistrates' Courts (Sex Offender Orders) Rules 2002 and shall come into force on 2nd December 2002.
2. In these Rules—
 - (a) a reference to a numbered section is a reference to the section so numbered in the Crime and Disorder Act 1998(b); and
 - (b) a reference to a Schedule is a reference to a Schedule to these Rules.

Revocation

3. These Rules hereby revoke—the Magistrates' Courts (Sex Offender and Anti-social Behaviour Orders) Rules 1998(c).

Transitional provision

4. These Rules apply to applications for sex offender orders made under section 2 before, as well as after, the commencement of these Rules.

Sex offender orders and interim sex offender orders

- 5.—(1) An application for—
 - (a) a sex offender order made under section 2, or

(a) 1980 c. 43.

(b) 1998 c. 37. Relevant amendments were made by sections 67 and 68 of the Police Reform Act 2002 (c. 30).

(c) S.I. 1998/2682 (L. 10).

(b) an interim sex offender order made under section 2A, shall be in the form set out in Schedule 1.

(2) A summons directed to the defendant requiring him to appear before a magistrates' court to answer an application referred to in paragraph (1) shall be in the form set out in Schedule 2.

(3) A sex offender order shall be in the form set out in Schedule 3.

(4) An interim sex offender order shall be in the form set out in Schedule 4.

Variation and discharge of sex offender orders and interim sex offender orders

6.—(1) This rule applies to the making of an application for the variation or discharge of a sex offender order or an interim sex offender order.

(2) The application shall be made in writing to the appropriate court and shall specify the reason why the applicant believes the court should vary or discharge the order, as the case may be.

(3) Where the court considers that there are no grounds on which it might conclude that the order should be varied or discharged, as the case may be, it may determine the application without hearing representations from the applicant or any other person.

(4) In all other circumstances, the Justices' Chief Executive shall, unless the application is withdrawn, fix a date for the hearing of the application which shall not be earlier than fourteen days from the date on which it is fixed, and he shall issue a summons notifying the parties in writing of that date.

(5) The Justices' Chief Executive shall send with the summons a copy of the application to the recipients of that summons, apart from the applicant.

(6) Where, after a hearing of the application, the court either dismisses the application, varies the order or discharges it by further order, the Justices' Chief Executive shall send a copy of the order containing its decision to each of the recipients of the summons under paragraph (4).

(7) In this rule—

(a) “the application” means an application referred to in paragraph (1) and “the applicant” shall be construed accordingly;

(b) “the appropriate court” means—

(i) the court which made the order; or

(ii) in the case of a sex offender order only, any magistrates' court whose commission area includes any part of the police area of the applicant or of any other relevant chief officer of police; and

(c) “relevant chief officer of police” means a chief officer of police who believes that the defendant is in, or is intending to come to, his police area.

Service of documents on the defendant

7. Any summons or copy of an order required to be sent under these Rules to the defendant shall be either given to him in person or sent by post to his last known address and, if so given or sent, shall be deemed to have been received by him, unless the defendant proves that it was not received by him.

7th November 2002

Irvine of Lairg, C

FORM

Application for [Sex Offender Order] [and] [Interim Sex Offender Order] (Crime and Disorder Act 1998, [s.2(1)] [and] [2A(2)])

..... Magistrates' Court (Code)

Date:
Defendant:
Address:

The defendant is a sex offender by virtue of the following:

Offence:
.....

Date of conviction/finding/caution/punishment

.....
.....

[Court] [Police Station].....

And it is alleged that the defendant on..... [date(s)]

at [place(s)]

has acted in such a way as to give reasonable cause to believe that

[an order under section 2 of the Crime and Disorder Act 1998 is necessary to protect the public in the United Kingdom, or any particular members of that public, from serious harm from him]

[an order under section 2A of the Crime and Disorder Act 1998 is appropriate]

[an order under section 2 of the Crime and Disorder Act 1998 is necessary to protect the public in the United Kingdom, or any particular members of that public, from serious harm from him and that an order under section 2A of the Crime and Disorder Act 1998 is appropriate, pending the determination of the application].

Accordingly application is made for

[a sex offender order]

[an interim sex offender order]

[a sex offender order and an interim sex offender order] containing the following prohibition(s):

.....
.....

Short description of acts:

The complaint of

Address:

who [upon oath] states that the defendant was responsible for the acts of which particulars are given above, in respect of which this complaint is made.

Taken [and sworn] before me

Justice of the Peace [Justices' Clerk]

FORM

Summons on Application for [Sex Offender Order] [and] [Interim Sex Offender Order] (Crime and Disorder Act 1998, [s.2] [and] [s.2A])

..... **Magistrates' Court**
(Code)

Date:
To the defendant:
Address:
.....
.....

You are hereby summoned to appear on (date)
at before the Magistrates' Court at
to answer to an application for a sex offender order, which application is attached to this summons.

Justice of the Peace
[Justices' Clerk]

NOTE:

Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing, it may issue a warrant for your arrest or proceed in your absence.

If a sex offender order is made against you, you will be subject to the notification requirements of Part I of the Sex Offenders Act 1997, which oblige you to notify the police of:

- your name, home address and date of birth (within 3 days)
- any changes to your name or home address (within 14 days of the change)
- any address you stay at or plan to stay at in addition to your home address for a period of longer than 14 days within a twelve month period (within 14 days)
- any plans you have to travel abroad for a period of eight days or longer (no less than 48 hours in advance).

If, without reasonable excuse, you do anything you are prohibited from doing by such an order, or if you fail to comply with the requirements of the Sex Offenders Act 1997 (the 'register') you shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine, or to both.

SCHEDULE 3

Rule 5(3)

FORM

Sex Offender Order (Crime and Disorder Act 1998, s.2)

..... Magistrates' Court
(Code)

Date:
Defendant:
Address:
.....

On the complaint of

Complainant:
Address:
.....

It is adjudged that the defendant is a sex offender and acted in the following manner, which gave reasonable cause to believe that this order is necessary to protect the public in the United Kingdom, or any particular members of that public, from serious harm from him

.....
.....

And it is ordered that the defendant is prohibited from

Until [.....] [further order]

And, by virtue of section 2(5) of the Crime and Disorder Act 1998, while this order has effect, Part I of the Sex Offenders Act 1997 shall have effect as if:

- (a) the defendant were subject to the notification requirement of that Part; and
- (b) in relation to the defendant, the relevant date (within the meaning of that Part) were the date of service of the order.

Justice of the Peace
[Justices' Clerk]

NOTE:

One of the requirements of a sex offender order is that you (the defendant) will be subject to the notification requirements of Part I of the Sex Offenders Act 1997. The requirements of that Act oblige you to report to a prescribed police station within 3 days of the service of this order and to notify the police of:

- your name, home address and date of birth (within 3 days)
- any changes to your name or home address (within 14 days of the change)
- any address you stay at or plan to stay at in addition to your home address for a period of longer than 14 days within a twelve month period (within 14 days)
- any plans you have to travel abroad for a period of eight days or longer (no less than 48 hours in advance).

Your local Police Service Headquarters will be able to explain these conditions in more detail and tell you at which local police station you should attend.

The restrictions in this order apply throughout the United Kingdom (England and Wales, Scotland and Northern Ireland).

If, without reasonable excuse, you do anything you are prohibited from doing by such an order, or if you fail to comply with the requirements of the Sex Offenders Act 1997 (the 'register') you shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine, or to both.

FORM

Interim Sex Offender Order (Crime and Disorder Act 1998, s.2A)

..... Magistrates' Court
(Code)

Date:
Defendant:
Address:
.....

On the complaint of

Complainant:
Address:
.....

It is submitted by the complainant that the defendant, being a sex offender, acted in a manner which gave reasonable cause to believe that a sex offender order is necessary to protect the public, or any particular members of that public, from serious harm from him, and that this order is appropriate pending determination of the application.

It is adjudged that this order is appropriate and it is ordered that the defendant is prohibited from
.....
.....

Until [.....] [determination of the application]

And, by virtue of section 2A(5) of the Crime and Disorder Act 1998, while this order has effect, Part I of the Sex Offenders Act 1997 shall have effect as if:

- (a) the defendant were subject to the notification requirement of that Part; and
- (b) in relation to the defendant, the relevant date (within the meaning of that Part) were the date of service of the order.

Justice of the Peace
[Justices' Clerk]

NOTE:

One of the requirements of an interim sex offender order is that you (the defendant) will be subject to the notification requirements of Part 1 of the Sex Offenders Act 1997. The requirements of that Act oblige you to report to a prescribed police station within 3 days of the service of this order and to notify the police of:

- your name, home address and date of birth (within 3 days)
- any changes to your name or home address (within 14 days of the change)
- any address you stay at or plan to stay at in addition to your home address for a period of longer than 14 days within a twelve month period (within 14 days)
- any plans you have to travel abroad for a period of eight days or longer (no less than 48 hours in advance).

Your local Police Service Headquarters will be able to explain these conditions in more detail and tell you at which local police station you should attend.

The restrictions in this order apply throughout the United Kingdom (England and Wales, Scotland and Northern Ireland).

If, without reasonable excuse, you do anything you are prohibited from doing by such an order, or if you fail to comply with the requirements of the Sex Offenders Act 1997 (the 'register') you shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine, or to both.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules revoke the Magistrates' Courts (Sex Offender and Anti-social Behaviour Orders) Rules 1998 and replace the part of those Rules relating to sex offender orders. They prescribe the procedure to be followed for applications for sex offender orders and interim sex offender orders, and for discharge and variation of such orders. The provisions on interim sex offender orders are new, and result from an amendment to the Crime and Disorder Act 1998 made by section 68 of the Police Reform Act 2002.

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