

POLICE REFORM ACT 2002

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Schedule 6: Specific offences which are arrestable offences

Section 67: Sex offenders: England and Wales

354. Sections 2 to 4 of the Crime and Disorder Act 1998 provide for sex offender orders in England and Wales. A sex offender order is a civil preventative order made by a magistrates' court on application by the police. If the police consider that a sex offender has acted in a way that gives reasonable cause to believe that an order is necessary to protect the public from serious harm by him, then they can apply for an order. The order may place a number of prohibitions as necessary to protect the public from serious harm by that person. For example, he might be prevented from entering children's playgrounds or visiting swimming pools. The breach of any of these prohibitions carries a maximum penalty of five years imprisonment.
355. In June 2002, the Home Office published *The police perspective on sex offender orders: a preliminary review of policy and practice* (Police Research Series Paper 155). Some of the recommendations contained in that report are enacted in sections 67 to 74.
356. This section amends section 2 of the Crime and Disorder Act 1998.
357. *Subsection (2)(a)* relates to the circumstances in which a police force may apply for an order. At present, the police can only apply for a sex offender order if the offender is already in their police area. This amendment allows police forces that know or believe that an offender is intending to come to their area to apply for an order in advance of him arriving. *Subsection (2)(b)* amplifies the definition of the public that may be protected by an order to be consistent with *subsection (4)*. *Subsection (4)* extends the persons for whose protection a sex offender order may be granted to persons throughout the United Kingdom. Currently orders may afford protection only to persons in England and Wales.
358. *Subsection (3)* means police forces will be able to make an application to any magistrates' court in their police area rather than only to a court in the area where the relevant trigger behaviour took place.
359. *Subsections (5) and (6)* amend existing legislation so that police forces will be able to vary or discharge orders at courts in their own police area, rather than being required to go back to the original court that made the order.
360. *Subsections (7) and (8)* make clear that only one order can be in force against a sex offender at any one time: if a court makes an order against an offender who is already subject to an order, the earlier order will be discharged.
361. *Subsection (9)* seeks to improve the drafting of the original legislation but effects no substantive change.

*These notes refer to the Police Reform Act 2002
(c.30) which received Royal Assent on 24 July 2002*

362. *Subsection (10)* provides for the changes in subsections (4) to (6) to apply to existing orders as well as ones made after the coming into force of this section. This means that existing orders can be varied using the new variation provisions. As part of such variation, the prohibitions may be extended to protect the public throughout the whole of the United Kingdom.