



Sexual Offences Act 2003

2003 CHAPTER 42

PART 2

NOTIFICATION AND ORDERS

General

131 Young offenders: application

This Part applies to—

- (a) a period of detention which a person is liable to serve under a detention and training order [^{F1}(including an order under section 211 of the Armed Forces Act 2006)], or a secure training order,
- (b) a period for which a person is ordered to be detained in residential accommodation under section 44(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46),
- (c) a period of training in a training school, or of custody in a remand centre, which a person is liable to undergo or serve by virtue of an order under section 74(1)(a) or (e) of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.)),
- (d) a period for which a person is ordered to be detained in a juvenile justice centre under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)),
- (e) a period for which a person is ordered to be kept in secure accommodation under Article 44A of the Order referred to in paragraph (d),
- (f) a sentence of detention in a young offender institution, a young offenders institution or a young offenders centre,
- (g) a sentence under a custodial order within the meaning of section 71AA of, or paragraph 10(1) of Schedule 5A to, the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 43AA of, or paragraph 10(1) of Schedule 4A to, the Naval Discipline Act 1957 (c. 53),

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- (h) a sentence of detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), [^{F2}section 209 or 218 of the Armed Forces Act 2006,] section 208 of the Criminal Procedure (Scotland) Act 1995 or Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998,
- (i) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6),
- (j) a sentence of detention, or custody for life, under section 71A of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 43A of the Naval Discipline Act 1957 (c. 53),
- [^{F3}(k) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 [^{F4}(including one passed as a result of section 221 of the Armed Forces Act 2006)],
- (l) an extended sentence under section [^{F5}226B or] 228 of [^{F6}the Criminal Justice Act 2003 (including one passed as a result of section [^{F7}221A or] 222 of the Armed Forces Act 2006)],]
- [^{F8}(m) a sentence of detention under Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008,]

as it applies to an equivalent sentence of imprisonment; and references in this Part to prison or imprisonment are to be interpreted accordingly.

Textual Amendments

- F1** Words in s. 131(a) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 208\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F2** Words in s. 131(h) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 208\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F3** S. 131(k)(l) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 304, 336, [Sch. 32 para. 143](#); S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(39) (subject to [art. 2\(2\)](#), Sch. 2 (as amended by S.I. 2005/2122, [art. 2](#)))
- F4** Words in s. 131(k) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 208\(4\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F5** Words in s. 131(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 19](#); S.I. 2012/2906, [art. 2\(s\)](#)
- F6** Words in s. 131(l) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 208\(5\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F7** Words in s. 131(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 20](#); S.I. 2012/2906, [art. 2\(t\)](#)
- F8** S. 131(m) added (N.I.) (15.5.2008) by [The Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), [art. 1](#), [Sch. 5 para. 10\(2\)](#); S.R. 2008/217, [art. 2](#), Sch. para. 18(e) (subject to [art. 3](#))

132 Offences with thresholds

- (1) This section applies to an offence which in Schedule 3 is listed subject to a condition relating to the way in which the defendant is dealt with in respect of the offence or (where a relevant finding has been made in respect of him) in respect of the finding (a “sentencing condition”).

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- (2) Where an offence is listed if either a sentencing condition or a condition of another description is met, this section applies only to the offence as listed subject to the sentencing condition.
- (3) For the purposes of this Part (including in particular section 82(6))—
 - (a) a person is to be regarded as convicted of an offence to which this section applies, or
 - (b) (as the case may be) a relevant finding in relation to such an offence is to be regarded as made,at the time when the sentencing condition is met.
- (4) In the following subsections, references to a foreign offence are references to an act which—
 - (a) constituted an offence under the law in force in a country outside the United Kingdom (“the relevant foreign law”), and
 - (b) would have constituted an offence to which this section applies (but not an offence, listed in Schedule 3, to which this section does not apply) if it had been done in any part of the United Kingdom.
- (5) In relation to a foreign offence, references to the corresponding UK offence are references to the offence (or any offence) to which subsection (4)(b) applies in the case of that foreign offence.
- (6) For the purposes of this Part, a person is to be regarded as convicted under the relevant foreign law of a foreign offence at the time when he is, in respect of the offence, dealt with under that law in a way equivalent to that mentioned in Schedule 3 as it applies to the corresponding UK offence.
- (7) Where in the case of any person a court exercising jurisdiction under the relevant foreign law makes in respect of a foreign offence a finding equivalent to a relevant finding, the court’s finding is, for the purposes of this Part, to be regarded as made at the time when the person is, in respect of the finding, dealt with under that law in a way equivalent to that mentioned in Schedule 3 as it applies to the corresponding UK offence.
- (8) Where (by virtue of an order under section 130 or otherwise) an offence is listed in Schedule 5 subject to a sentencing condition, this section applies to that offence as if references to Schedule 3 were references to Schedule 5.
- (9) In this section, “relevant finding”, in relation to an offence, means—
 - (a) a finding that a person is not guilty of the offence by reason of insanity, or
 - (b) a finding that a person is under a disability and did the act charged against him in respect of the offence.

[^{F9}132A Disapplication of time limit for complaints

Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under any provision of this Part.]

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Textual Amendments

- F9** S. 132A inserted (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 22(2)**, 116(1) (with [s. 22\(4\)](#)); S.I. 2010/507, **art. 5(i)** (subject to [art. 6](#))

133 Part 2: general interpretation

(1) In this Part—

“admitted to a hospital” means admitted to a hospital under—

- (a) section 37 of the Mental Health Act 1983 (c. 20), section 57(2)(a) or ^{F10}57A(2) of the Criminal Procedure (Scotland) Act 1995 (c. 46) or Article 44 or 50A(2) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));
- (b) Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25); or
- (c) ^{F11}section 46 of the Mental Health Act 1983, ^{F12}section 69 of the Mental Health (Scotland) Act 1984 or Article 52 of the Mental Health (Northern Ireland) Order 1986;

^{F13}^{F14}“applicable date” has the meaning given by section 88D(5)

“cautioned” means—

- (a) cautioned ^{F15}(or, in Northern Ireland, cautioned by a police officer) after the person concerned has admitted the offence, ^{F16}...
- (b) ^{F16}...

and “caution” is to be interpreted accordingly;

“community order” means—

- (a) a community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) ^{F17}(as that Act had effect before the passing of the Criminal Justice Act 2003);
- (b) ^{F18}a community payback order made under the Criminal Procedure (Scotland) Act 1995 (c.46);
- (c) a community order within the meaning of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)), a probation order under section 1 of the Probation Act (Northern Ireland) 1950 (c. 7 (N.I.)) or a community service order under Article 7 of the Treatment of Offenders (Northern Ireland) Order 1976 (S.I. 1976/226 (N.I. 40)); or
- (d) a community supervision order;

“community supervision order” means an order under paragraph 4 of Schedule 5A to the Army Act 1955 or the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957;

“country” includes territory;

^{F19}^{F20}“date of discharge” has the meaning given by section 88B(1)

“detained in a hospital” means detained in a hospital under—

- (a) Part 3 of the Mental Health Act 1983, ^{F21}section 136 of the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13), Part 6 of the Criminal Procedure (Scotland) Act 1995 or Part III of the Mental Health (Northern Ireland) Order 1986;
- (b) Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991; or

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(c) [^{F22}section 46 of the Mental Health Act 1983, [^{F23}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]

^{F24}[^{F25}“further date of discharge” has the meaning given by section 88B(3)]

“guardianship order” means a guardianship order under section 37 of the Mental Health Act 1983 (c. 20), section 58 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or Article 44 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));

“home address” has the meaning given by section 83(7);

“interim notification order” has the meaning given by section 100(2);

“interim risk of sexual harm order” has the meaning given by section 126(2);

[^{F26}“interim sexual harm prevention order” has the meaning given by section 103F(2);]

“interim sexual offences prevention order” has the meaning given by section 109(2);

[^{F26}“interim sexual risk order” has the meaning given by section 122E(2);]

[^{F27}“kept in service custody” means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (but see also subsection (3));]

“local police area” has the meaning given by section 88(3);

“local probation board” has the same meaning as in the Criminal Justice and Court Services Act 2000 (c. 43);

^{F28}[^{F29}“notification continuation order” has the meaning given by section 88C(2)]

“notification order” has the meaning given by section 97(1);

“notification period” has the meaning given by section 80(1);

[^{F30}“order for conditional discharge” means an order under any of the following provisions discharging the offender conditionally—

(a) section 12 of the Powers of Criminal Courts (Sentencing) Act 2000;

(b) Article 4 of the Criminal Justice (Northern Ireland) Order 1996;

(c) section 185 of the Armed Forces Act 2006;

(d) paragraph 3 of Schedule 5A to the Army Act 1955 or Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957;]

“parental responsibility” has the same meaning as in the Children Act 1989 (c. 41) or the Children (Northern Ireland) Order 1995 (S.I. 1995/ 755 (N.I. 2)), and “parental responsibilities” has the same meaning as in Part 1 of the Children (Scotland) Act 1995 (c. 36);

“the period of conditional discharge” has the meaning given by each of the following—

(a) section 12(3) of the Powers of Criminal Courts (Sentencing) Act 2000;

(b) Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996;

(c) [^{F31}section 185(2) of the Armed Forces Act 2006;]

^{F32}

^{F32}

[^{F26}“prohibition on foreign travel” has the meaning given by section 103D(2) or 122C(2);]

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“relevant date” has the meaning given by section 82(6) (save in the circumstances mentioned in sections ^{F33}[^{F34}88B,]^{F35}[^{F35}98]^{F35}[^{F35}96A(6)] , 100, 107, 109 and 129);

“relevant offender” has the meaning given by section 80(2);

“restriction order” means—

- (a) an order under section 41 of the Mental Health Act 1983, section 57(2) (b) or 59 of the Criminal Procedure (Scotland) Act 1995 or Article 47(1) of the Mental Health (Northern Ireland) Order 1986;
- (b) a direction under paragraph 2(1)(b) of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25) or Article 50A(3)(b) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)); or
- (c) [^{F36}a direction under section 46 of the Mental Health Act 1983, [^{F37}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]

“risk of sexual harm order” has the meaning given by section 123(1);

[^{F38}“service detention” has the meaning given by section 374 of the Armed Forces Act 2006;]

[^{F26}“sexual harm prevention order” has the meaning given by section 103A(1);]

“sexual offences prevention order” has the meaning given by section 106(1);

[^{F26}“sexual risk order” has the meaning given by section 122A(1);]

[^{F39}“specified”, in relation to an offender supervision requirement, means specified in the requirement.]

“supervision” means supervision in pursuance of an order made for the purpose or, in the case of a person released from prison on licence, in pursuance of a condition contained in his licence;

^{F40}
.....

[^{F41}(1A) A reference to a provision specified in paragraph (a) of the definition of “admitted to a hospital”, “detained in a hospital” or “restriction order” includes a reference to the provision as it applies by virtue of—

- (a) section 5 of the Criminal Procedure (Insanity) Act 1964,
- (b) section 6 or 14 of the Criminal Appeal Act 1968,

[^{F42}(ba) section 16(2) of the Court Martial Appeals Act 1968,]

- (c) section 116A of the Army Act 1955 or the Air Force Act 1955 or section 63A of the Naval Discipline Act 1957, or
- (d) section 16 or 23 of the Courts-Martial (Appeals) Act 1968.]

(2) Where under section 141 different days are appointed for the commencement of different provisions of this Part, a reference in any such provision to the commencement of this Part is to be read (subject to section 98(4)) as a reference to the commencement of that provision.

[^{F43}(3) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006, “kept in service custody” means being kept in military, air-force or naval custody by virtue of an order made under section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be).]

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Textual Amendments

- F10** S. 133(1): words in definition of "admitted to a hospital" substituted (S.) (27.9.2005) and otherwise (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 2, [Sch. 1 para. 33\(2\)\(a\)](#) and [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 15, [Sch. 1 para. 7\(a\)](#)
- F11** In s. 133(1) in definition of "admitted to a hospital" para. (c) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 57\(2\)\(a\)](#); S.I. 2005/579, [art. 3\(f\)\(g\)](#)
- F12** S. 133(1): words in definition of "admitted to a hospital" repealed (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 3, [Sch. 2](#)
- F13** S. 133(1): definition of "applicable date" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), [4\(2\)\(a\)](#) (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see [art. 5](#))
- F14** S. 133(1): definition of "applicable date" inserted (S.) (25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), [4\(1\)\(a\)](#) (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F15** S. 133(1): words in definition of "cautioned" substituted for "by a police officer" (E.W.N.I.) (14.7.2008) by virtue of [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), [Sch. 26 para. 56\(2\)\(a\)](#); S.I. 2008/1586, [art. 2](#), [Sch. 1 para. 48\(r\)](#) (subject to [Sch. 2](#))
- F16** S. 133(1): words in definition of "cautioned" omitted (8.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 25](#) (with s. 135(4)); S.I. 2013/453, [art. 4\(f\)](#)
- F17** S. 133(1): words in definition of "community order" inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 304, 336, [Sch. 32 para. 144](#); S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(39\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#) (as amended by S.I. 2005/2122, [art. 2](#)))
- F18** Words in definition of "community order" in s. 133(1) substituted (S.) (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, [Sch. para. 2\(6\)\(a\)](#) (with [art. 3](#))
- F19** S. 133(1): definition of "date of discharge" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), [4\(2\)\(a\)](#) (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see [art. 5](#))
- F20** S. 133(1): definition of "date of discharge" inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), [4\(1\)\(a\)](#) (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F21** S. 133(1): words in definition of "detained in a hospital" substituted (S.) (27.9.2005) and otherwise (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 2, [Sch. 1 para. 33\(2\)\(b\)](#) and [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 15, [Sch. 1 para. 7\(b\)](#)
- F22** In s. 133(1) in definition of "detained in a hospital" para. (c) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 57\(2\)\(b\)](#); S.I. 2005/579, [art. 3\(f\)\(g\)](#)
- F23** S. 133(1): words in definition of "detained in a hospital" repealed (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 3, [Sch. 2](#)

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- F24** S. 133(1): definition of "further date of discharge" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), **4(2)(a)** (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see art. 5)
- F25** S. 133(1): definition of "further date of discharge" inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), **4(1)(a)** (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F26** Definitions in s. 133(1) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 76(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F27** S. 133(1): definition of "kept in service custody" inserted (E.W.N.I.) (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), **Sch. 26 para. 56(2)(b)**; S.I. 2009/2606, **art. 3(i)**
- F28** S. 133(1): definition of "notification continuation order" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), **4(2)(a)** (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see art. 5)
- F29** S. 133(1): definition of "notification continuation order" inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), **4(1)(a)** (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F30** S. 133(1): definition of "order for conditional charge" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 209(2)(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F31** S. 133(1): words in definition of "the period of conditional discharge" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 209(2)(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F32** S. 133(1): definitions of "probation order" and "probation period" repealed (S.) (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, **Sch. para. 2(6)(b)** (with art. 3)
- F33** S. 133(1): words in definition of "relevant date" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), **4(2)(b)** (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see art. 5)
- F34** S. 133(1): words in definition of "relevant date" inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), **4(1)(b)** (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F35** S. 133(1): word in definition of "relevant date" substituted (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), ss. **4(5)**, 15(2)(c); S.R. 2014/179, art. 2(b)
- F36** In s. 133(1) in definition of "restriction order" para. (c) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, **Sch. 10 para. 57(2)(c)**; S.I. 2005/579, **art. 3(f)(g)**
- F37** S. 133(1): words in definition of "restriction order" repealed (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 3, **Sch. 2**
- F38** S. 133(1): definition of "service detention" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 209(2)(c)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F39** S. 133(1): definition of "specified" inserted (S.) (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, **Sch. para. 2(6)(c)** (with art. 3)

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- F40** S. 133(1): definition of "term of service detention" repealed (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383(2), [Sch. 16 para. 209\(2\)\(d\)](#), [Sch. 17](#); [S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)
- F41** S. 133(1A) inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 57\(3\)](#); [S.I. 2005/579, art. 3\(f\)\(g\)](#)
- F42** S. 133(1A)(ba) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 209\(3\)](#); [S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)
- F43** S. 133(3) inserted (E.W.N.I.) (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), [Sch. 26 para. 56\(3\)](#); [S.I. 2009/2606, art. 3\(i\)](#)

Modifications etc. (not altering text)

- C1** S. 133(1) modified (24.4.2009 for certain purposes and otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 52\(1\)](#)

134 Conditional discharges and probation orders

- (1) The following provisions do not apply for the purposes of this Part to a conviction for an offence in respect of which an order for conditional discharge^{F44} . . . is made—
- (a) section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (conviction with absolute or conditional discharge deemed not to be a conviction);
 - (b) Article 6(1) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (conviction with absolute or conditional discharge deemed not to be a conviction);
 - (c) section 247(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (conviction with^{F45} . . . absolute discharge deemed not to be a conviction);
 - [^{F46}(ca) section 187(1) of the Armed Forces Act 2006 (conviction with absolute or conditional discharge deemed not to be a conviction);]
 - (d) paragraph 5(1) of Schedule 5A to the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or Schedule 4A to the Naval Discipline Act 1957 (c. 53) (conviction with absolute or conditional discharge or community supervision order deemed not to be a conviction).
- (2) Subsection (1) applies only to convictions after the commencement of this Part.
- (3) The provisions listed in subsection (1)(d) do not apply for the purposes of this Part to a conviction for an offence in respect of which a community supervision order is or has (before or after the commencement of this Part) been made.

Textual Amendments

- F44** Words in s. 134(1) repealed (S.) (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, [Sch. para. 2\(7\)\(a\)](#) (with art. 3)
- F45** Words in s. 134(1)(c) repealed (S.) (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011 \(S.S.I. 2011/25\)](#), arts. 1, 2, [Sch. para. 2\(7\)\(b\)](#) (with art. 3)
- F46** S. 134(1)(ca) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), [Sch. 16 para. 210](#); [S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

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135 Interpretation: mentally disordered offenders

- (1) In this Part, a reference to a conviction includes a reference to a finding of a court in summary proceedings, where the court makes an order under an enactment within subsection (2), that the accused did the act charged; and similar references are to be interpreted accordingly.
- (2) The enactments are—
- (a) section 37(3) of the Mental Health Act 1983 (c. 20);
 - (b) section 58(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46);
 - (c) Article 44(4) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- [^{F47}(2A) In the application of this Part in relation to Scotland, a reference to a person being found not guilty of an offence by reason of insanity is to be read as a reference to a person being acquitted of an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995.]
- (3) In this Part, a reference to a person being or having been found to be under a disability and to have done the act charged against him in respect of an offence includes a reference to his being or having been found—
- (a) unfit to be tried for the offence;
 - (b) to be insane so that his trial for the offence cannot or could not proceed; or
 - (c) unfit to be tried and to have done the act charged against him in respect of the offence.
- (4) In section 133—
- (a) a reference to admission or detention under Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), and the reference to a direction under paragraph 2(1)(b) of that Schedule, include respectively—
 - (i) a reference to admission or detention under Schedule 1 to the Criminal Procedure (Insanity) Act 1964 (c. 84); and
 - (ii) a reference to a restriction order treated as made by paragraph 2(1) of that Schedule;
 - (b) a reference to admission or detention under any provision of Part 6 of the Criminal Procedure (Scotland) Act 1995, and the reference to an order under section 57(2)(b) or 59 of that Act, include respectively—
 - (i) a reference to admission or detention under section 174(3) or 376(2) of the Criminal Procedure (Scotland) Act 1975 (c. 21); and
 - (ii) a reference to a restriction order made under section 178(1) or 379(1) of that Act;
 - (c) ^{F48}

Textual Amendments

F47 S. 135(2A) inserted (S.) (25.6.2012 with application in accordance with art. 3 of the commencing S.S.I.) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 7 para. 73](#); [S.S.I. 2012/160](#), art. 3, sch.

F48 S. 135(4)(c) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58, 60, [Sch. 10 para. 58](#), [Sch. 11](#); [S.I. 2005/579](#), art. 3(f)-(h)(i)(xi)

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Modifications etc. (not altering text)

- C2** S. 135(1) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\), s. 327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 140\(1\)](#), 153(7); S.I. 2008/1586, [art. 2, Sch. 1 para. 43](#) (subject to Sch. 2))
- C3** S. 135(2)(a) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\), s. 327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 140\(1\)](#), 153(7); S.I. 2008/1586, [art. 2, Sch. 1 para. 43](#) (subject to Sch. 2))
- C4** S. 135(3) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\), s. 327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 140\(1\)](#), 153(7); S.I. 2008/1586, [art. 2, Sch. 1 para. 43](#) (subject to Sch. 2))
- C5** S. 135(3) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\), s. 327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 140\(1\)](#), 153(7); S.I. 2008/1586, [art. 2, Sch. 1 para. 43](#) (subject to Sch. 2))

136 Part 2: Northern Ireland

- (1) This Part applies to Northern Ireland with the following modifications.
- (2) References to a chief officer of police are to be read as references to the Chief Constable of the Police Service of Northern Ireland.
- (3) References to police areas are to be read as references to Northern Ireland.
- (4) References to a complaint are to be read as references to a complaint under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction.
- [^{F49}(4A) In section 132A the reference to section 127 of the Magistrates' Courts Act 1980 is to be read as a reference to Article 78 of the Magistrates' Courts (Northern Ireland) Order 1981.]
- (5) Subject to subsection (6), references to a magistrates' court are to be read as references to a court of summary jurisdiction.
- (6) References to a magistrates' court for the area in which the defendant resides are to be read as references to a court of summary jurisdiction for the petty sessions district which includes the area where the defendant resides.
- (7) References to a youth court for the area in which the defendant resides are to be read as references to a youth court for the petty sessions district which includes the area where the defendant resides.
- [^{F50}(7A) References to a justice of the peace are to be read as references to a lay magistrate.]
- [^{F51}(8) The reference in section 101 to the Crown Court is to be read as a reference to a county court.]
- (9) Any direction of the county court made under section 89(1) on an appeal under Article 143 of the Magistrates' Courts (Northern Ireland) Order 1981 (appeals in other cases) (other than one directing that an application be re-heard by a court of summary jurisdiction) is, for the purposes of section 90, to be treated as if it were made by the court from which the appeal was brought and not by the county court.
- (10) Any order of the county court made on an appeal under Article 143 of the Magistrates' Courts (Northern Ireland) Order 1981 (other than one directing that an application be

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re-heard by a court of summary jurisdiction) is, for the purposes of section 108, to be treated as if it were an order of the court from which the appeal was brought and not an order of the county court.

[^{F52}(11) References to the Secretary of State, except in sections 94 and 95, are to be read as references to the Department of Justice in Northern Ireland.]

Textual Amendments

- F49** S. 136(4A) inserted (E.W.N.I.) (1.4.2010) by Policing and Crime Act 2009 (c. 26), ss. **22(3)**, 116(1); S.I. 2010/507, art. **5(i)** (subject to art. 6)
- F50** S. 136(7A) inserted (E.W.N.I.) (31.5.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. **58(2)**, 66(2); S.I. 2007/858, art. **3(f)**
- F51** S. 136(8) substituted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 77** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F52** S. 136(11) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 77(2)** (with arts. 28-31)

[^{F53}136ZA] Application of orders throughout the United Kingdom

- (1) In this section “relevant order” means—
- (a) a sexual harm prevention order;
 - (b) an interim sexual harm prevention order;
 - (c) a sexual offences prevention order;
 - (d) an interim sexual offences prevention order;
 - (e) a foreign travel order;
 - (f) a sexual risk order;
 - (g) an interim sexual risk order;
 - (h) a risk of sexual harm order;
 - (i) an interim risk of sexual harm order;
 - (j) an order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (risk of sexual harm orders in Scotland);
 - (k) an order under section 5 of that Act (interim risk of sexual harm orders in Scotland).
- (2) For the purposes of sections 103I, 113, 122, 122H and 128, prohibitions imposed by a relevant order made in one part of the United Kingdom apply (unless expressly confined to particular localities) throughout that and every other part of the United Kingdom.

Textual Amendments

- F53** Ss. 136ZA-136ZD inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 5 para. 6** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)

136ZB Order ceases to have effect when new order made

- (1) Where a court in England and Wales makes an order listed in the first column of the following Table in relation to a person who is already subject to an order listed opposite

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it in the second column, the earlier order ceases to have effect (whichever part of the United Kingdom it was made in) unless the court orders otherwise.

<i>New order</i>	<i>Earlier order</i>
Sexual harm prevention order	— sexual offences prevention order; — foreign travel order.
Sexual risk order	— risk of sexual harm order; — foreign travel order.

- (2) Where a court in Northern Ireland or 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) unless the court orders otherwise.

<i>New order</i>	<i>Earlier order or prohibition</i>
Sexual offences prevention order	— sexual harm prevention order not containing a prohibition on foreign travel; — in the case of a sexual harm prevention order containing a prohibition on foreign travel, each of its other prohibitions.
Foreign travel order	— prohibition on foreign travel contained in a sexual harm prevention order.
Risk of sexual harm order	— sexual risk order not containing a prohibition on foreign travel; — in the case of a sexual risk order containing a prohibition on foreign travel, each of its other prohibitions.

- (3) In this section—
- “court”, in Scotland, includes sheriff;
 - “risk of sexual harm order” includes an order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005.

Textual Amendments

F53 Ss. 136ZA-136ZD inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 5 para. 6](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)

136ZC Variation of sexual harm prevention order by court in Northern Ireland

- (1) This section applies where a sexual harm prevention order has been made in respect of a person who now—
- is residing in Northern Ireland, or
 - is in or is intending to come to Northern Ireland.
- (2) An application may be made to the appropriate court in Northern Ireland—
- by the defendant, or

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- (b) by the Chief Constable,
for an order varying the sexual harm prevention order.
- (3) An application under subsection (2) may be made—
 - (a) where the appropriate court is the Crown Court, in accordance with rules of court;
 - (b) in any other case, by complaint.
- (4) Subject to subsections (5) and (6), on the application the court, after hearing the person making the application and the other person mentioned in subsection (2) (if that person wishes to be heard), may make any order varying the sexual harm prevention order that the court considers appropriate.
- (5) An order may be varied so as to impose additional prohibitions on the defendant only if it is necessary to do so for the purpose of—
 - (a) protecting the public in Northern Ireland, or any particular members of the public in Northern Ireland, from sexual harm from the defendant, or
 - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (6) An order as varied under this section may contain only such prohibitions as are necessary for the purpose of—
 - (a) protecting the public or any particular members of the public from sexual harm from the defendant, or
 - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (7) The defendant may appeal against the making of an order under this section, or the refusal to make such an order—
 - (a) where the application for such an order was made to the Crown Court, to the Court of Appeal in Northern Ireland;
 - (b) in any other case, to a county court in Northern Ireland.
- (8) On an appeal under subsection (7)(b), the county court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.
- (9) In this section—
 - “the appropriate court” means—
 - (a) where the sexual harm prevention order was made by—
 - (i) the Crown Court, otherwise than on appeal from a magistrates' court, or
 - (ii) the Court of Appeal,
 the Crown Court (in Northern Ireland);
 - (b) where—
 - (i) the sexual harm prevention order was made by a magistrates' court, or by the Crown Court on appeal from a magistrates' court, and
 - (ii) the defendant is aged 18 or over,

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any court of summary jurisdiction in Northern Ireland;

(c) where—

- (i) the defendant is aged under 18, and
- (ii) paragraph (a) does not apply,

any youth court in Northern Ireland;

“the Chief Constable” means the Chief Constable of the Police Service of Northern Ireland;

“sexual harm”, “child” and “vulnerable adult” each has the meaning given in section 103B(1).

Textual Amendments

F53 Ss. 136ZA-136ZD inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 5 para. 6](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)

136ZD Variation of sexual risk order by court in Northern Ireland

- (1) This section applies where a sexual risk order has been made in respect of a person who now—
 - (a) is residing in Northern Ireland, or
 - (b) is in or is intending to come to Northern Ireland.
- (2) An application may be made to the appropriate court in Northern Ireland—
 - (a) by the defendant, or
 - (b) by the Chief Constable,for an order varying the sexual risk order.
- (3) Subject to subsections (4) and (5), on the application the court, after hearing the person making the application and the other person mentioned in subsection (2) (if that person wishes to be heard), may make any order varying the sexual risk order that the court considers appropriate.
- (4) An order may be varied so as to impose additional prohibitions on the defendant only if it is necessary to do so for the purpose of—
 - (a) protecting the public in Northern Ireland, or any particular members of the public in Northern Ireland, from harm from the defendant, or
 - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.
- (5) An order as varied under this section may contain only such prohibitions as are necessary for the purpose of—
 - (a) protecting the public or any particular members of the public from harm from the defendant, or
 - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.
- (6) The defendant may appeal against the making of an order under this section, or the refusal to make such an order, to a county court in Northern Ireland.

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(7) On an appeal under subsection (6), the county court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.

(8) In this section—

“the appropriate court” means—

- (a) where the defendant is aged 18 or over, any court of summary jurisdiction in Northern Ireland;
- (b) where the defendant is aged under 18, any youth court in Northern Ireland;

“the Chief Constable” means the Chief Constable of the Police Service of Northern Ireland;

“harm”, “child” and “vulnerable adult” each has the meaning given in section 122B(1).]

Textual Amendments

F53 Ss. 136ZA-136ZD inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 5 para. 6](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)

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