



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 2

#### NOTIFICATION AND ORDERS

##### *Notification requirements*

#### **80 Persons becoming subject to notification requirements**

- (1) A person is subject to the notification requirements of this Part for the period set out in section 82 (“the notification period”) if—
- (a) he is convicted of an offence listed in Schedule 3;
  - (b) he is found not guilty of such an offence by reason of insanity;
  - (c) he is found to be under a disability and to have done the act charged against him in respect of such an offence; or
  - (d) in England and Wales or Northern Ireland, he is cautioned in respect of such an offence.
- (2) A person for the time being subject to the notification requirements of this Part is referred to in this Part as a “relevant offender”.

#### **81 Persons formerly subject to Part 1 of the Sex Offenders Act 1997**

- (1) A person is, from the commencement of this Part until the end of the notification period, subject to the notification requirements of this Part if, before the commencement of this Part—
- (a) he was convicted of an offence listed in Schedule 3;
  - (b) he was found not guilty of such an offence by reason of insanity;
  - (c) he was found to be under a disability and to have done the act charged against him in respect of such an offence; or
  - (d) in England and Wales or Northern Ireland, he was cautioned in respect of such an offence.

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- (2) Subsection (1) does not apply if the notification period ended before the commencement of this Part.
- (3) Subsection (1)(a) does not apply to a conviction before 1st September 1997 unless, at the beginning of that day, the person—
- (a) had not been dealt with in respect of the offence;
  - (b) was serving a sentence of imprisonment or a term of service detention, or was subject to a community order, in respect of the offence;
  - (c) was subject to supervision, having been released from prison after serving the whole or part of a sentence of imprisonment in respect of the offence; or
  - (d) was detained in a hospital or was subject to a guardianship order, following the conviction.
- (4) Paragraphs (b) and (c) of subsection (1) do not apply to a finding made before 1st September 1997 unless, at the beginning of that day, the person—
- (a) had not been dealt with in respect of the finding; or
  - (b) was detained in a hospital, following the finding.
- (5) Subsection (1)(d) does not apply to a caution given before 1st September 1997.
- (6) A person who would have been within subsection (3)(b) or (d) or (4)(b) but for the fact that at the beginning of 1st September 1997 he was unlawfully at large or absent without leave, on temporary release or leave of absence, or on bail pending an appeal, is to be treated as being within that provision.
- (7) Where, immediately before the commencement of this Part, an order under a provision within subsection (8) was in force in respect of a person, the person is subject to the notification requirements of this Part from that commencement until the order is discharged or otherwise ceases to have effect.
- (8) The provisions are—
- (a) section 5A of the Sex Offenders Act 1997 (c. 51) (restraining orders);
  - (b) section 2 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders made in England and Wales);
  - (c) section 2A of the Crime and Disorder Act 1998 (interim orders made in England and Wales);
  - (d) section 20 of the Crime and Disorder Act 1998 (sex offender orders and interim orders made in Scotland);
  - (e) Article 6 of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/2839 (N.I. 20)) (sex offender orders made in Northern Ireland);
  - (f) Article 6A of the Criminal Justice (Northern Ireland) Order 1998 (interim orders made in Northern Ireland).

## 82 The notification period

- (1) The notification period for a person within section 80(1) or 81(1) is the period in the second column of the following Table opposite the description that applies to him.

TABLE

| <i>Description of relevant offender</i> | <i>Notification period</i> |
|---|----------------------------|
|---|----------------------------|

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|  |   |
|--|---|
| A person who, in respect of the offence, is or has been sentenced to imprisonment for life <sup>F1</sup> , to imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or to imprisonment for a term of 30 months or more | An indefinite period beginning with the relevant date                     |
| A person who, in respect of the offence, has been made the subject of an order under section 210F(1) of the Criminal Procedure (Scotland) Act 1995 (order for lifelong restriction)  | An indefinite period beginning with that date                             |
| A person who, in respect of the offence or finding, is or has been admitted to a hospital subject to a restriction order   | An indefinite period beginning with that date                             |
| A person who, in respect of the offence, is or has been sentenced to imprisonment for a term of more than 6 months but less than 30 months   | 10 years beginning with that date   |
| A person who, in respect of the offence, is or has been sentenced to imprisonment for a term of 6 months or less   | 7 years beginning with that date  |
| A person who, in respect of the offence or finding, is or has been admitted to a hospital without being subject to a restriction order   | 7 years beginning with that date  |
| A person within section 80(1)(d)   | 2 years beginning with that date  |
| A person in whose case an order for conditional discharge or, in Scotland, a probation order, is made in respect of the offence  | The period of conditional discharge or, in Scotland, the probation period |
| A person of any other description  | 5 years beginning with the relevant date                                  |

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- (2) Where a person is under 18 on the relevant date, subsection (1) has effect as if for any reference to a period of 10 years, 7 years, 5 years or 2 years there were substituted a reference to one-half of that period.
- (3) Subsection (4) applies where a relevant offender within section 80(1)(a) or 81(1)(a) is or has been sentenced, in respect of two or more offences listed in Schedule 3—
- (a) to consecutive terms of imprisonment; or
  - (b) to terms of imprisonment which are partly concurrent.
- (4) Where this subsection applies, subsection (1) has effect as if the relevant offender were or had been sentenced, in respect of each of the offences, to a term of imprisonment which —
- (a) in the case of consecutive terms, is equal to the aggregate of those terms;
  - (b) in the case of partly concurrent terms (X and Y, which overlap for a period Z), is equal to X plus Y minus Z.

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- (5) Where a relevant offender the subject of a finding within section 80(1)(c) or 81(1)(c) is subsequently tried for the offence, the notification period relating to the finding ends at the conclusion of the trial.
- (6) In this Part, “relevant date” means—
- (a) in the case of a person within section 80(1)(a) or 81(1)(a), the date of the conviction;
  - (b) in the case of a person within section 80(1)(b) or (c) or 81(1)(b) or (c), the date of the finding;
  - (c) in the case of a person within section 80(1)(d) or 81(1)(d), the date of the caution;
  - (d) in the case of a person within section 81(7), the date which, for the purposes of Part 1 of the Sex Offenders Act 1997 (c. 51), was the relevant date in relation to that person.

#### Textual Amendments

- F1** Words in table in s. 82(1) substituted (S.) (8.12.2005) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\), ss. 17, 24\(1\)](#); and those same words substituted (E.W.N.I.) (12.2.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), ss. 57, 66\(2\)](#); S.I. 2007/74, [art. 2](#)

### 83 Notification requirements: initial notification

- (1) A relevant offender must, within the period of 3 days beginning with the relevant date (or, if later, the commencement of this Part), notify to the police the information set out in subsection (5).
- (2) Subsection (1) does not apply to a relevant offender in respect of a conviction, finding or caution within section 80(1) if—
  - (a) immediately before the conviction, finding or caution, he was subject to the notification requirements of this Part as a result of another conviction, finding or caution or an order of a court (“the earlier event”),
  - (b) at that time, he had made a notification under subsection (1) in respect of the earlier event, and
  - (c) throughout the period referred to in subsection (1), he remains subject to the notification requirements as a result of the earlier event.
- (3) Subsection (1) does not apply to a relevant offender in respect of a conviction, finding or caution within section 81(1) or an order within section 81(7) if the offender complied with section 2(1) of the Sex Offenders Act 1997 in respect of the conviction, finding, caution or order.
- (4) Where a notification order is made in respect of a conviction, finding or caution, subsection (1) does not apply to the relevant offender in respect of the conviction, finding or caution if—
  - (a) immediately before the order was made, he was subject to the notification requirements of this Part as a result of another conviction, finding or caution or an order of a court (“the earlier event”),
  - (b) at that time, he had made a notification under subsection (1) in respect of the earlier event, and

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- (c) throughout the period referred to in subsection (1), he remains subject to the notification requirements as a result of the earlier event.
- (5) The information is—
  - (a) the relevant offender’s date of birth;
  - (b) his national insurance number;
  - (c) his name on the relevant date and, where he used one or more other names on that date, each of those names;
  - (d) his home address on the relevant date;
  - (e) his name on the date on which notification is given and, where he uses one or more other names on that date, each of those names;
  - (f) his home address on the date on which notification is given;
  - (g) the address of any other premises in the United Kingdom at which, at the time the notification is given, he regularly resides or stays.
- (6) When determining the period for the purpose of subsection (1), there is to be disregarded any time when the relevant offender is—
  - (a) remanded in or committed to custody by an order of a court;
  - (b) serving a sentence of imprisonment or a term of service detention;
  - (c) detained in a hospital; or
  - (d) outside the United Kingdom.
- (7) In this Part, “home address” means, in relation to any person—
  - (a) the address of his sole or main residence in the United Kingdom, or
  - (b) where he has no such residence, the address or location of a place in the United Kingdom where he can regularly be found and, if there is more than one such place, such one of those places as the person may select.

## **84 Notification requirements: changes**

- (1) A relevant offender must, within the period of 3 days beginning with—
  - (a) his using a name which has not been notified to the police under section 83(1), this subsection, or section 2 of the Sex Offenders Act 1997 (c. 51),
  - (b) any change of his home address,
  - (c) his having resided or stayed, for a qualifying period, at any premises in the United Kingdom the address of which has not been notified to the police under section 83(1), this subsection, or section 2 of the Sex Offenders Act 1997, or
  - (d) his release from custody pursuant to an order of a court or from imprisonment, service detention or detention in a hospital,notify to the police that name, the new home address, the address of those premises or (as the case may be) the fact that he has been released, and (in addition) the information set out in section 83(5).
- (2) A notification under subsection (1) may be given before the name is used, the change of home address occurs or the qualifying period ends, but in that case the relevant offender must also specify the date when the event is expected to occur.
- (3) If a notification is given in accordance with subsection (2) and the event to which it relates occurs more than 2 days before the date specified, the notification does not affect the duty imposed by subsection (1).

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- (4) If a notification is given in accordance with subsection (2) and the event to which it relates has not occurred by the end of the period of 3 days beginning with the date specified—
- (a) the notification does not affect the duty imposed by subsection (1), and
  - (b) the relevant offender must, within the period of 6 days beginning with the date specified, notify to the police the fact that the event did not occur within the period of 3 days beginning with the date specified.
- (5) Section 83(6) applies to the determination of the period of 3 days mentioned in subsection (1) and the period of 6 days mentioned in subsection (4)(b), as it applies to the determination of the period mentioned in section 83(1).
- (6) In this section, “qualifying period” means—
- (a) a period of 7 days, or
  - (b) two or more periods, in any period of 12 months, which taken together amount to 7 days.

## **85 Notification requirements: periodic notification**

- (1) A relevant offender must, within the period of one year after each event within subsection (2), notify to the police the information set out in section 83(5), unless within that period he has given a notification under section 84(1).
- (2) The events are—
- (a) the commencement of this Part (but only in the case of a person who is a relevant offender from that commencement);
  - (b) any notification given by the relevant offender under section 83(1) or 84(1); and
  - (c) any notification given by him under subsection (1).
- (3) Where the period referred to in subsection (1) would (apart from this subsection) end whilst subsection (4) applies to the relevant offender, that period is to be treated as continuing until the end of the period of 3 days beginning when subsection (4) first ceases to apply to him.
- (4) This subsection applies to the relevant offender if he is—
- (a) remanded in or committed to custody by an order of a court,
  - (b) serving a sentence of imprisonment or a term of service detention,
  - (c) detained in a hospital, or
  - (d) outside the United Kingdom.

## **86 Notification requirements: travel outside the United Kingdom**

- (1) The Secretary of State may by regulations make provision requiring relevant offenders who leave the United Kingdom, or any description of such offenders—
- (a) to give in accordance with the regulations, before they leave, a notification under subsection (2);
  - (b) if they subsequently return to the United Kingdom, to give in accordance with the regulations a notification under subsection (3).
- (2) A notification under this subsection must disclose—

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- (a) the date on which the offender will leave the United Kingdom;
  - (b) the country (or, if there is more than one, the first country) to which he will travel and his point of arrival (determined in accordance with the regulations) in that country;
  - (c) any other information prescribed by the regulations which the offender holds about his departure from or return to the United Kingdom or his movements while outside the United Kingdom.
- (3) A notification under this subsection must disclose any information prescribed by the regulations about the offender's return to the United Kingdom.
- (4) Regulations under subsection (1) may make different provision for different categories of person.

## **87 Method of notification and related matters**

- (1) A person gives a notification under section 83(1), 84(1) or 85(1) by—
  - (a) attending at such police station in his local police area as the Secretary of State may by regulations prescribe or, if there is more than one, at any of them, and
  - (b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (2) A person giving a notification under section 84(1)—
  - (a) in relation to a prospective change of home address, or
  - (b) in relation to premises referred to in subsection (1)(c) of that section,may give the notification at a police station that would fall within subsection (1) above if the change in home address had already occurred or (as the case may be) if the address of those premises were his home address.
- (3) Any notification under this section must be acknowledged; and an acknowledgment under this subsection must be in writing, and in such form as the Secretary of State may direct.
- (4) Where a notification is given under section 83(1), 84(1) or 85(1), the relevant offender must, if requested to do so by the police officer or person referred to in subsection (1) (b), allow the officer or person to—
  - (a) take his fingerprints,
  - (b) photograph any part of him, or
  - (c) do both these things.
- (5) The power in subsection (4) is exercisable for the purpose of verifying the identity of the relevant offender.
- (6) Regulations under subsection (1) may make different provision for different categories of person.

## **88 Section 87: interpretation**

- (1) Subsections (2) to (4) apply for the purposes of section 87.
- (2) “Photograph” includes any process by means of which an image may be produced.
- (3) “Local police area” means, in relation to a person—

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- (a) the police area in which his home address is situated;
  - (b) in the absence of a home address, the police area in which the home address last notified is situated;
  - (c) in the absence of a home address and of any such notification, the police area in which the court which last dealt with the person in a way mentioned in subsection (4) is situated.
- (4) The ways are—
- (a) dealing with a person in respect of an offence listed in Schedule 3 or a finding in relation to such an offence;
  - (b) dealing with a person in respect of an offence under section 128 or a finding in relation to such an offence;
  - (c) making, in respect of a person, a notification order, interim notification order, sexual offences prevention order or interim sexual offences prevention order;
  - (d) making, in respect of a person, an order under section 2, 2A or 20 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders and interim orders made in England and Wales or Scotland) or Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/2839 (N.I. 20)) (sex offender orders and interim orders made in Northern Ireland);
- and in paragraphs (a) and (b), “finding” in relation to an offence means a finding of not guilty of the offence by reason of insanity or a finding that the person was under a disability and did the act or omission charged against him in respect of the offence.
- (5) Subsection (3) applies as if Northern Ireland were a police area.

VALID FROM 25/10/2010

#### **[<sup>F2</sup>88A Review of indefinite notification requirements: applicable persons**

- (1) Sections 88B to 88H apply to—
- (a) a person who, on or after the date on which this section comes into force, becomes subject to the notification requirements of this Part for an indefinite period by virtue of section 80(1) or a notification order made under section 97(5); and
  - (b) a person who immediately before that date was subject to the notification requirements of this Part for an indefinite period by virtue of—
    - (i) section 80(1);
    - (ii) section 81(1); or
    - (iii) a notification order made under section 97(5).
- (2) A person who falls within subsection (1)(a) or (b) is referred to in sections 88B to 88G as a “relevant sex offender”.]

#### **Textual Amendments**

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))



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## **[<sup>F2</sup>88B Review of indefinite notification requirements: date of discharge and further date of discharge**

- (1) For the purposes of this Part, the date of discharge is—
  - (a) where the relevant sex offender was aged 18 or over on the relevant date, the date falling 15 years after that date;
  - (b) where the relevant sex offender was aged under 18 on the relevant date, the date falling 8 years after that date.
- (2) In determining the date of discharge under subsection (1), there is to be disregarded any time when the relevant sex offender was—
  - (a) remanded in or committed to custody by order of a court;
  - (b) serving a sentence of imprisonment or a term of service detention;
  - (c) detained in hospital; or
  - (d) outside the United Kingdom,before the relevant sex offender first notified information to the police under section 2(1) of the Sex Offenders Act 1997 or section 83(1) of this Part.
- (3) Where a notification continuation order made under this Part has effect in respect of the relevant sex offender, for the purposes of this Part the further date of discharge is the date of expiry of the fixed period specified in that order.
- (4) In this section and section 88D “relevant date”—
  - (a) in relation to a relevant sex offender who is subject to the notification requirements of this Part for an indefinite period by virtue of section 80(1) or 81(1), has the meaning applicable to that offender specified in section 82(6) (a) to (c);
  - (b) in relation to a relevant sex offender who is subject to the notification requirements of this Part for an indefinite period by virtue of a notification order made under section 97(5), has the meaning applicable to that offender specified in section 98(2).]

### **Textual Amendments**

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

VALID FROM 25/10/2010

## **[<sup>F2</sup>88C Review of the indefinite notification requirements: procedure and grounds**

- (1) The relevant chief constable must no later than the date of discharge—
  - (a) make a notification continuation order in respect of the relevant sex offender;or

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- (b) notify the relevant sex offender that the offender ceases to be subject to the notification requirements of this Part on the date of discharge.
- (2) A notification continuation order is an order making the relevant sex offender subject to the notification requirements of this Part for a fixed period of not more than 15 years from the date which would, but for the order, have been the date of discharge.
- (3) The relevant chief constable may make a notification continuation order only if satisfied, on the balance of probabilities, that the relevant sex offender poses a risk of sexual harm to the public, or any particular members of the public, in the United Kingdom.
- (4) In deciding whether to make a notification continuation order, the relevant chief constable must take into account—
- (a) the seriousness of the offence (or offences)—
    - (i) of which the relevant sex offender was convicted;
    - (ii) of which the relevant sex offender was found not guilty by reason of insanity;
    - (iii) in respect of which the relevant sex offender was found to be under a disability and to have done the act charged; or
    - (iv) in respect of which the relevant sex offender was cautioned in England and Wales or Northern Ireland,
 

which made the relevant sex offender subject to the notification requirements of this Part for an indefinite period;
  - (b) the period of time which has elapsed since the relevant sex offender committed the offence (or offences);
  - (c) where the relevant sex offender falls within section 88A(1)(b)(ii), whether the relevant sex offender committed any offence under section 3 of the Sex Offenders Act 1997;
  - (d) whether the relevant sex offender has committed any offence under section 91 of this Act;
  - (e) the age of the relevant sex offender at the time of the decision;
  - (f) the age of the relevant sex offender at the time the offence (or offences) referred to in paragraph (a) was (or were) committed;
  - (g) the age of any person who was a victim of any such offence (where applicable) and the difference in age between the victim and the relevant sex offender at the time the offence was committed;
  - (h) any convictions or findings made by a court in respect of the relevant sex offender for any other offence listed in Schedule 3;
  - (i) any caution which the relevant sex offender has received for an offence in England and Wales or Northern Ireland which is listed in Schedule 3;
  - (j) whether any criminal proceedings for any offences listed in Schedule 3 have been instituted against the relevant sex offender but have not concluded;
  - (k) any assessment of the risk posed by the relevant sex offender which has been made by the responsible authorities under the joint arrangements for managing and assessing risk established under section 10 of the Management of Offenders etc. (Scotland) Act 2005;
  - (l) any other submission or evidence of the risk of sexual harm posed by the relevant sex offender to the public, or any particular members of the public, in the United Kingdom;

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- (m) any submission or evidence presented by or on behalf of the relevant sex offender which demonstrates that the relevant sex offender does not pose a risk of sexual harm to the public, or any particular members of the public, in the United Kingdom; and
  - (n) any other matter which the relevant chief constable considers to be appropriate.
- (5) A notification continuation order must state—
- (a) the reasons why the order was made; and
  - (b) the reasons for the determination of the fixed period in the order.
- (6) A notification continuation order must be notified to the relevant sex offender by—
- (a) the relevant chief constable sending a copy of the order to the relevant sex offender by registered post or by the recorded delivery service (an acknowledgement or certificate of delivery of a copy so sent, issued by the Post Office, being sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate); or
  - (b) a constable serving a copy of the order on the relevant sex offender.
- (7) In this section—
- “sexual harm” means physical or psychological harm caused by the relevant sex offender doing anything which would constitute an offence listed in Schedule 3 if done in any part of the United Kingdom; and
- “responsible authorities” has the meaning given by section 10(7) of the Management of Offenders etc. (Scotland) Act 2005.
- (8) In this section and sections 88D to 88G, “relevant chief constable” means the chief constable of the police force for the police area in which the relevant sex offender resides.]

#### Textual Amendments

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

VALID FROM 25/10/2010

#### [<sup>F2</sup>88D **Review of indefinite notification requirement: transitional arrangements**

- (1) This section applies to a relevant sex offender falling within section 88A(1)(b)(ii) if the person—
- (a) was aged under 18 on the relevant date; and
  - (b) after disregarding any time referred to in subsection (2), has been subject to the notification requirements of Part 1 of the Sex Offenders Act 1997 and this Part for a total period of at least 8 years on the date on which this section comes into force.
- (2) That time is any time during which the relevant sex offender was—

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- (a) remanded in or committed to custody by order of the court;
- (b) serving a sentence of imprisonment or a term of service detention;
- (c) detained in hospital; or
- (d) outside the United Kingdom,

before the relevant sex offender first notified information to the police under section 2(1) of the Sex Offenders Act 1997.

- (3) The relevant chief constable must no later than the applicable date—
  - (a) make a notification continuation order in respect of the relevant sex offender; or
  - (b) notify the relevant sex offender that the offender ceases to be subject to the notification requirements of this Part on the applicable date.
- (4) Section 88C(2) to (8) applies in relation to this section, but a reference to the date of discharge is to be read as a reference to the applicable date.
- (5) In this section, the “applicable date” is the date falling 3 months after the date on which this section comes into force.]

#### Textual Amendments

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

VALID FROM 25/10/2010

#### **[<sup>F2</sup>88E Review of indefinite notification requirements: further review**

- (1) Where a notification continuation order has been made, the relevant chief constable must no later than the further date of discharge—
  - (a) make another notification continuation order in respect of the relevant sex offender; or
  - (b) notify the relevant sex offender that the offender ceases to be subject to the notification requirements of this Part on the further date of discharge.
- (2) Section 88C(2) to (8) applies in relation to this section, but a reference to the date of discharge is to be read as a reference to the further date of discharge.]

#### Textual Amendments

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

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## **[F<sup>2</sup>88F Review of the indefinite notification requirements: application to a sheriff**

- (1) Where a relevant chief constable fails to comply with section 88C(1), 88D(3) or 88E(1), the relevant sex offender may make an application to a sheriff for an order that the offender is no longer subject to the notification requirements of this Part.
- (2) An application under subsection (1) is to be made by summary application to the sheriff in whose sheriffdom the relevant sex offender resides.
- (3) On an application under subsection (1), the sheriff may—
  - (a) make the order sought in the application; or
  - (b) make a notification continuation order in respect of the relevant sex offender.
- (4) Section 88C(2) to (5) and (7) applies in relation to the making of a notification continuation order under this section, but—
  - (a) a reference to the relevant chief constable is to be read as a reference to the sheriff;
  - (b) if an application under subsection (1) is made in relation to the failure of the relevant chief constable to comply with section 88D(3), the reference to the date of discharge in section 88C(2) is to be read as a reference to the applicable date; and
  - (c) if an application under subsection (1) is made in relation to the failure of the relevant chief constable to comply with section 88E(1), the reference to the date of discharge in section 88C(2) is to be read as a reference to the further date of discharge.
- (5) The relevant chief constable and the relevant sex offender may appear or be represented at any hearing in respect of the application.
- (6) Where an application under subsection (1) is determined, the sheriff clerk must send a copy of the interlocutor, and where made a copy of the notification continuation order, to the relevant sex offender and the relevant chief constable.
- (7) The copy of the interlocutor, and where made the copy of the notification continuation order, is sent in accordance with subsection (6) if—
  - (a) sent by registered post or by the recorded delivery service (an acknowledgement or certificate of delivery of a copy so sent, issued by the Post Office, being sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate); or
  - (b) personally served on the relevant sex offender and the relevant chief constable.
- (8) The relevant sex offender remains subject to the notification requirements of this Part until the matter is finally determined as mentioned in section 88G(10).

### **Textual Amendments**

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with

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modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

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## **88G Review of indefinite notification requirements: appeals**

- (1) The decision of the relevant chief constable—
  - (a) to make a notification continuation order; and
  - (b) setting the fixed period of the notification continuation order,
 may be appealed by the relevant sex offender within 21 days after the date specified in subsection (3).
- (2) An appeal under subsection (1) is to be made by summary application to the sheriff in whose sheriffdom the relevant sex offender resides.
- (3) The date is—
  - (a) where the appeal is brought against the decision of the relevant chief constable made under section 88C(1), the date of discharge;
  - (b) where the appeal is brought against the decision of the relevant chief constable made under section 88D(1), the applicable date; or
  - (c) where the appeal is brought against the decision of the relevant chief constable made under section 88E(1), the further date of discharge.
- (4) The decision of a sheriff—
  - (a) on an application made under section 88F(1);
  - (b) on appeal made under subsection (1); and
  - (c) in relation to the fixed period of the notification continuation order,
 may be appealed by the relevant sex offender or the relevant chief constable to the sheriff principal within 21 days of the date of that decision.
- (5) On an appeal under this section, the sheriff or the sheriff principal may—
  - (a) uphold or quash the decision of the relevant chief constable or, as the case may be, the sheriff;
  - (b) make a notification continuation order; or
  - (c) vary the fixed period in that order.
- (6) Section 88C(3) to (5) apply in relation to the making of a notification continuation order under this section but a reference to the relevant chief constable is to be read as a reference to the sheriff or, as the case may be, sheriff principal.
- (7) Where an appeal under this section is finally determined, the sheriff clerk must send a copy of the interlocutor, and where made a copy of the notification continuation order, to the relevant sex offender and the relevant chief constable.
- (8) The copy of the interlocutor, and where made the copy of the notification continuation order, shall be sent in accordance with subsection (7) if—
  - (a) sent by registered post or by the recorded delivery service (an acknowledgement or certificate of delivery of a copy so sent, issued by the

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- Post Office, being sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate); or
- (b) personally served on the relevant sex offender and relevant chief constable.
- (9) The relevant sex offender remains subject to the existing notification requirements of this Part until the matter is finally determined as mentioned in subsection (10).
- (10) The matter is finally determined—
- (a) where it is decided that a relevant sex offender should cease to be subject to the notification requirements of this Part, or the decision to make a notification continuation order is quashed, on the expiry of the period of 21 days referred to in subsection (4) without an appeal being taken;
- (b) where a notification continuation order is made, or a decision to make such an order is upheld on appeal, on the expiry of the period of 21 days referred to in subsection (1) or (4) without an appeal being taken; or
- (c) where an appeal is taken—
- (i) on the disposal of the appeal; or
- (ii) on its being abandoned.

#### Textual Amendments

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

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#### **88H Review of indefinite notification requirements: power to amend periods**

The Secretary of State may by order amend—

- (a) the periods specified in sections 88B(1)(a) and (b); and
- (b) the fixed period specified in section 88C(2).

#### Textual Amendments

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

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## **88I Discharge from indefinite notification requirements: England, Wales and Northern Ireland**

- (1) A relevant offender who is, under the relevant legislation, discharged from the notification requirements of this Part by a court, person or body in England and Wales or Northern Ireland is, by virtue of the discharge, also discharged from the notification requirements of this Part as it applies to Scotland.
- (2) In subsection (1) “relevant legislation” means legislation which makes provision equivalent to that made by sections 88A to 88H and this section for a relevant offender who is subject to the notification requirements of this Part as it applies to England and Wales or, as the case may be, Northern Ireland for an indefinite period to be discharged from those notification requirements.]

### **Textual Amendments**

- F2** Ss. 88A-88I inserted (S.) (25.10.2010 at 17.00 hours) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), 3 (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))

## **89 Young offenders: parental directions**

- (1) Where a person within the first column of the following Table (“the young offender”) is under 18 (or, in Scotland, 16) when he is before the court referred to in the second column of the Table opposite the description that applies to him, that court may direct that subsection (2) applies in respect of an individual (“the parent”) having parental responsibility for (or, in Scotland, parental responsibilities in relation to) the young offender.

TABLE

| <i>Description of person</i>  | <i>Court which may make the direction</i>                                    |
|---|--|
| A relevant offender within section 80(1) (a) to (c) or 81(1)(a) to (c)  | The court which deals with the offender in respect of the offence or finding |
| A relevant offender within section 129(1)(a) to (c)   | The court which deals with the offender in respect of the offence or finding |
| A person who is the subject of a notification order, interim notification order, sexual offences prevention order or interim sexual offences prevention order | The court which makes the order  |
| A relevant offender who is the defendant to an application under subsection (4) (or, in Scotland, the subject of an application under subsection (5))         | The court which hears the application  |



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- (2) Where this subsection applies—
  - (a) the obligations that would (apart from this subsection) be imposed by or under sections 83 to 86 on the young offender are to be treated instead as obligations on the parent, and
  - (b) the parent must ensure that the young offender attends at the police station with him, when a notification is being given.
- (3) A direction under subsection (1) takes immediate effect and applies—
  - (a) until the young offender attains the age of 18 (or, where a court in Scotland gives the direction, 16); or
  - (b) for such shorter period as the court may, at the time the direction is given, direct.
- (4) A chief officer of police may, by complaint to any magistrates' court whose commission area includes any part of his police area, apply for a direction under subsection (1) in respect of a relevant offender (“the defendant”)—
  - (a) who resides in his police area, or who the chief officer believes is in or is intending to come to his police area, and
  - (b) who the chief officer believes is under 18.
- (5) In Scotland, a chief constable may, by summary application to any sheriff within whose sheriffdom lies any part of the area of his police force, apply for a direction under subsection (1) in respect of a relevant offender (“the subject”)—
  - (a) who resides in that area, or who the chief constable believes is in or is intending to come to that area, and
  - (b) who the chief constable believes is under 16.

## **90 Parental directions: variations, renewals and discharges**

- (1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a direction under section 89(1).
- (2) The persons are—
  - (a) the young offender;
  - (b) the parent;
  - (c) the chief officer of police for the area in which the young offender resides;
  - (d) a chief officer of police who believes that the young offender is in, or is intending to come to, his police area;
  - (e) in Scotland, where the appropriate court is a civil court—
    - (i) the chief constable of the police force within the area of which the young offender resides;
    - (ii) a chief constable who believes that the young offender is in, or is intending to come to, the area of his police force,and in any other case, the prosecutor;
  - (f) where the direction was made on an application under section 89(4), the chief officer of police who made the application;
  - (g) where the direction was made on an application under section 89(5), the chief constable who made the application.
- (3) An application under subsection (1) may be made—

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- (a) where the appropriate court is the Crown Court (or in Scotland a criminal court), in accordance with rules of court;
  - (b) in any other case, by complaint (or, in Scotland, by summary application).
- (4) On the application the court, after hearing the person making the application and (if they wish to be heard) the other persons mentioned in subsection (2), may make any order, varying, renewing or discharging the direction, that the court considers appropriate.
- (5) In this section, the “appropriate court” means—
- (a) where the Court of Appeal made the order, the Crown Court;
  - (b) in any other case, the court that made the direction under section 89(1).

## 91 Offences relating to notification **E+W+N.I.**

- (1) A person commits an offence if he—
- (a) fails, without reasonable excuse, to comply with section 83(1), 84(1), 84(4)(b), 85(1), 87(4) or 89(2)(b) or any requirement imposed by regulations made under section 86(1); or
  - (b) notifies to the police, in purported compliance with section 83(1), 84(1) or 85(1) or any requirement imposed by regulations made under section 86(1), any information which he knows to be false.
- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.
- (3) A person commits an offence under paragraph (a) of subsection (1) on the day on which he first fails, without reasonable excuse, to comply with section 83(1), 84(1) or 85(1) or a requirement imposed by regulations made under section 86(1), and continues to commit it throughout any period during which the failure continues; but a person must not be prosecuted under subsection (1) more than once in respect of the same failure.
- (4) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found.

### Extent Information

**E1** This version of this provision extends to England, Wales and Northern Ireland only; a separate version has been created for Scotland only

## 91 Offences relating to notification **S**

- (1) A person commits an offence if he—
- (a) fails, without reasonable excuse, to comply with section 83(1), 84(1), 84(4)(b), 85(1), 87(4) or 89(2)(b) or any requirement imposed by regulations made under section 86(1); or

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- (b) notifies to the police, in purported compliance with section 83(1), 84(1) or 85(1) or any requirement imposed by regulations made under section 86(1), any information which he knows to be false.
- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.
- (3) A person commits an offence under paragraph (a) of subsection (1) on the day on which he first fails, without reasonable excuse, to comply with section 83(1), 84(1) or 85(1) or a requirement imposed by regulations made under section 86(1), and continues to commit it throughout any period during which the failure continues; but a person must not be prosecuted under subsection (1) more than once in respect of the same failure.
- [<sup>F3</sup>(4) Proceedings for an offence under this section may be commenced in any court—
- (a) having jurisdiction in any place where the accused—
    - (i) resides;
    - (ii) is last known to have resided; or
    - (iii) is found;
  - (b) which has convicted the accused of an offence if the accused is subject to the notification requirements of this Part by virtue of that conviction; or
  - (c) which has made an order under section 104(1)(b) in respect of the accused if the accused is subject to those requirements by virtue of that order.]

#### Extent Information

**E2** This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

#### Textual Amendments

**F3** S. 91(4) substituted (S.) (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), ss. 18, 24(2); S.S.I. 2006/48, [art. 3\(1\)](#), Sch. Pt. 1 (subject to [art. 3\(3\)](#))

## 92 Certificates for purposes of Part 2

- (1) Subsection (2) applies where on any date a person is—
- (a) convicted of an offence listed in Schedule 3;
  - (b) found not guilty of such an offence by reason of insanity; or
  - (c) found to be under a disability and to have done the act charged against him in respect of such an offence.
- (2) If the court by or before which the person is so convicted or found—
- (a) states in open court—
    - (i) that on that date he has been convicted, found not guilty by reason of insanity or found to be under a disability and to have done the act charged against him, and
    - (ii) that the offence in question is an offence listed in Schedule 3, and

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- (b) certifies those facts, whether at the time or subsequently, the certificate is, for the purposes of this Part, evidence (or, in Scotland, sufficient evidence) of those facts.
- (3) Subsection (4) applies where on any date a person is, in England and Wales or Northern Ireland, cautioned in respect of an offence listed in Schedule 3.
- (4) If the constable—
  - (a) informs the person that he has been cautioned on that date and that the offence in question is an offence listed in Schedule 3, and
  - (b) certifies those facts, whether at the time or subsequently, in such form as the Secretary of State may by order prescribe, the certificate is, for the purposes of this Part, evidence (or, in Scotland, sufficient evidence) of those facts.

### **93 Abolished homosexual offences**

Schedule 4 (procedure for ending notification requirements for abolished homosexual offences) has effect.

**Status:**

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**Changes to legislation:**

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