



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 11

#### MISCELLANEOUS

##### *Sex offenders*

#### **140 Disclosure of information about convictions etc. of child sex offenders to members of the public**

(1) After section 327 of the Criminal Justice Act 2003 (c. 44) insert—

##### **“327A Disclosure of information about convictions etc. of child sex offenders to members of the public**

- (1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.
- (2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.
- (3) The case is where the responsible authority for the area has reasonable cause to believe that—
  - (a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by the offender.
- (4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.
- (5) Where the responsible authority makes a disclosure under this section—
  - (a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and
  - (b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.
- (6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.
- (7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.
- (8) The record must include the following information—
  - (a) the reasons for making a decision to disclose information under this section,
  - (b) the reasons for making a decision not to disclose information under this section, and
  - (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.
- (9) Nothing in this section requires or authorises the making of a disclosure which contravenes the Data Protection Act 1998.
- (10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

### **327B Section 327A: interpretation**

- (1) This section applies for the purposes of section 327A.
- (2) “Child” means a person under 18.
- (3) “Child sex offence” means an offence listed in Schedule 34A, whenever committed.
- (4) “Child sex offender” means any person who—
  - (a) has been convicted of such an offence,
  - (b) has been found not guilty of such an offence by reason of insanity,
  - (c) has been found to be under a disability and to have done the act charged against the person in respect of such an offence, or
  - (d) has been cautioned in respect of such an offence.

- (5) In relation to a responsible authority, references to information about the relevant previous convictions of a child sex offender are references to information about—
- (a) convictions, findings and cautions mentioned in subsection (4)(a) to (d) which relate to the offender, and
  - (b) anything under the law of any country or territory outside England and Wales which in the opinion of the responsible authority corresponds to any conviction, finding or caution within paragraph (a) (however described).
- (6) References to serious harm caused by a child sex offender are references to serious physical or psychological harm caused by the offender committing any offence listed in any paragraph of Schedule 34A other than paragraphs 1 to 6 (offences under provisions repealed by Sexual Offences Act 2003).
- (7) A responsible authority for any area manages a child sex offender if the offender is a person who poses risks in that area which fall to be managed by the authority under the arrangements established by it under section 325.
- (8) For the purposes of this section the provisions of section 4 of, and paragraph 3 of Schedule 2 to, the Rehabilitation of Offenders Act 1974 (protection for spent convictions and cautions) are to be disregarded.
- (9) In this section “cautioned”, in relation to any person and any offence, means—
- (a) cautioned after the person has admitted the offence, or
  - (b) reprimanded or warned within the meaning given by section 65 of the Crime and Disorder Act 1998.
- (10) Section 135(1), (2)(a) and (c) and (3) of the Sexual Offences Act 2003 (mentally disordered offenders) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act.”
- (2) After Schedule 34 to that Act insert the Schedule 34A set out in Schedule 24 to this Act.

#### **141 Sexual offences prevention orders: relevant sexual offences**

- (1) In section 106 of the Sexual Offences Act 2003 (c. 42) (supplemental provisions about sexual offences prevention orders), at the end insert—
- “(13) Subsection (14) applies for the purposes of section 104 and this section in their application in relation to England and Wales or Northern Ireland.
- (14) In construing any reference to an offence listed in Schedule 3, any condition subject to which an offence is so listed that relates—
- (a) to the way in which the defendant is dealt with in respect of an offence so listed or a relevant finding (as defined by section 132(9)), or
  - (b) to the age of any person,
- is to be disregarded.”
- (2) This section extends to England and Wales and Northern Ireland only.

**142 Notification requirements: prescribed information**

- (1) In section 83 of the Sexual Offences Act 2003 (c. 42) (notification requirements: initial notification)—
- (a) at the end of subsection (5) insert—
    - “(h) any prescribed information.”; and
  - (b) after that subsection insert—
    - “(5A) In subsection (5)(h) “prescribed” means prescribed by regulations made by the Secretary of State.”
- (2) Section 84 of that Act (notification requirements: changes) is amended as follows.
- (3) In subsection (1)—
- (a) after “1997,” in paragraph (c) insert—
    - “(ca) any prescribed change of circumstances.”; and
  - (b) after “the address of those premises” insert “, the prescribed details”.
- (4) In subsection (2) after “home address” insert “or the prescribed change of circumstances”.
- (5) After subsection (5) insert—
- “(5A) In this section—
- (a) “prescribed change of circumstances” means any change—
    - (i) occurring in relation to any matter in respect of which information is required to be notified by virtue of section 83(5)(h), and
    - (ii) of a description prescribed by regulations made by the Secretary of State;
  - (b) “the prescribed details”, in relation to a prescribed change of circumstances, means such details of the change as may be so prescribed.”
- (6) Section 85 of that Act (notification requirements: periodic notification) is amended as follows.
- (7) In subsection (1), for “the period of one year” substitute “the applicable period”.
- (8) In subsection (3), for “the period referred to in subsection (1)” substitute “the applicable period”.
- (9) After subsection (4) insert—
- “(5) In this section, “the applicable period” means—
- (a) in any case where subsection (6) applies to the relevant offender, such period as may be prescribed by regulations made by the Secretary of State, and
  - (b) in any other case, the period of one year.
- (6) This subsection applies to the relevant offender if the last home address notified by him under section 83(1) or 84(1) or subsection (1) was the address or location of such a place as is mentioned in section 83(7)(b).”

- (10) In section 138(2) of that Act (orders and regulations subject to the affirmative resolution procedure), for “86 or 130” substitute “any of sections 83 to 86 or section 130”.
- (11) This section extends to England and Wales and Northern Ireland only.