



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 7

#### VIOLENT OFFENDER ORDERS

##### *Violent offender orders*

#### 98 Violent offender orders

- (1) A violent offender order is an order made in respect of a qualifying offender which—
  - (a) contains such prohibitions, restrictions or conditions authorised by section 102 as the court making the order considers necessary for the purpose of protecting the public from the risk of serious violent harm caused by the offender, and
  - (b) has effect for such period of not less than 2, nor more than 5, years as is specified in the order (unless renewed or discharged under section 103).
- (2) For the purposes of this Part any reference to protecting the public from the risk of serious violent harm caused by a person is a reference to protecting—
  - (a) the public in the United Kingdom, or
  - (b) any particular members of the public in the United Kingdom,from a current risk of serious physical or psychological harm caused by that person committing one or more specified offences.
- (3) In this Part “specified offence” means—
  - (a) manslaughter;
  - (b) an offence under section 4 of the Offences against the Person Act 1861 (c. 100) (soliciting murder);
  - (c) an offence under section 18 of that Act (wounding with intent to cause grievous bodily harm);

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- (d) an offence under section 20 of that Act (malicious wounding);
  - (e) attempting to commit murder or conspiracy to commit murder; or
  - (f) a relevant service offence.
- (4) The following are relevant service offences—
- (a) any offence under—
    - (i) section 70 of the Army Act 1955 (3 & 4 Eliz. 2 c. 18),
    - (ii) section 70 of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), or
    - (iii) section 42 of the Naval Discipline Act 1957 (c. 53),
 of which the corresponding civil offence (within the meaning of the section in question) is an offence within any of paragraphs (a) to (e) of subsection (3) above; and
  - (b) any offence under section 42 of the Armed Forces Act 2006 (c. 52) as respects which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence within any of those paragraphs.
- (5) Section 48 of the Armed Forces Act 2006 (c. 52) (attempts, conspiracy etc.) applies for the purposes of subsection (4)(b) as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to subsection (4)(b).
- [<sup>F1</sup>(6) The Secretary of State may by order—
- (a) amend subsection (3);
  - (b) make consequential amendments to subsection (4).]

**Annotations:**

**Amendments (Textual)**

**F1** S. 98(6) inserted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 119(1), 185(1)**; [S.I. 2014/949](#), art. 3, Sch. para. 9

**Commencement Information**

**I1** S. 98 in force at 3.8.2009 by [S.I. 2009/1842](#), **art. 2(a)**

## 99 Qualifying offenders

- (1) In this Part “qualifying offender” means a person aged 18 or over who is within subsection (2) or (4).
- (2) A person is within this subsection if (whether before or after the commencement of this Part)—
- (a) the person has been convicted of a specified offence and either—
    - (i) a custodial sentence of at least 12 months was imposed for the offence, or
    - (ii) a hospital order was made in respect of it (with or without a restriction order),
  - (b) the person has been found not guilty of a specified offence by reason of insanity and subsection (3) applies, or
  - (c) the person has been found to be under a disability and to have done the act charged in respect of a specified offence and subsection (3) applies.

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- (3) This subsection applies in the case of a person within (2)(b) or (2)(c) if the court made in respect of the offence—
- (a) a hospital order (with or without a restriction order), or
  - (b) a supervision order.
- (4) A person is within this subsection if, under the law in force in a country outside England and Wales (and whether before or after the commencement of this Part)—
- (a) the person has been convicted of a relevant offence and either—
    - (i) a sentence of imprisonment or other detention for at least 12 months was imposed for the offence, or
    - (ii) an order equivalent to that mentioned in subsection (3)(a) was made in respect of it,
  - (b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that the person was not guilty by reason of insanity, and has made in respect of the offence an order equivalent to one mentioned in subsection (3), or
  - (c) such a court has, in respect of a relevant offence, made a finding equivalent to a finding that the person was under a disability and did the act charged in respect of the offence, and has made in respect of the offence an order equivalent to one mentioned in subsection (3).
- (5) In subsection (4) “relevant offence” means an act which—
- (a) constituted an offence under the law in force in the country concerned, and
  - (b) would have constituted a specified offence<sup>F2</sup>, or the offence of murder,] if it had been done in England and Wales.
- (6) An act punishable under the law in force in a country outside England and Wales constitutes an offence under that law for the purposes of subsection (5) however it is described in that law.
- (7) Subject to subsection (8), on an application under section 100 the condition in subsection (5)(b) (where relevant) is to be taken as met in relation to the person to whom the application relates (“P”) unless, not later than rules of court may provide, P serves on the applicant a notice—
- (a) denying that, on the facts as alleged with respect to the act in question, the condition is met,
  - (b) giving the reasons for denying that it is met, and
  - (c) requiring the applicant to prove that it is met.
- (8) If the court thinks fit, it may permit P to require the applicant to prove that the condition is met even though no notice has been served under subsection (7).

#### Annotations:

#### Amendments (Textual)

**F2** Words in s. 99(5)(b) inserted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), [ss. 119\(3\)](#), [185\(1\)](#); S.I. 2014/949, art. 3, Sch. para. 9

#### Commencement Information

**I2** S. 99 in force at 3.8.2009 by [S.I. 2009/1842](#), [art. 2\(b\)](#)

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## 100 Applications for violent offender orders

- (1) A chief officer of police may by complaint to a magistrates' court apply for a violent offender order to be made in respect of a person—
  - (a) who resides in the chief officer's police area, or
  - (b) who the chief officer believes is in, or is intending to come to, that area,
 if it appears to the chief officer that the conditions in subsection (2) are met.
- (2) The conditions are—
  - (a) that the person is a qualifying offender, and
  - (b) that the person has, since the appropriate date, acted in such a way as to give reasonable cause to believe that it is necessary for a violent offender order to be made in respect of the person.
- (3) An application under this section may be made to any magistrates' court whose commission area includes—
  - (a) any part of the applicant's police area, or
  - (b) any place where it is alleged that the person acted in such a way as is mentioned in subsection (2)(b).
- (4) The Secretary of State may by order make provision—
  - (a) for applications under this section to be made by such persons or bodies as are specified or described in the order;
  - (b) specifying cases or circumstances in which applications may be so made;
  - (c) for provisions of this Part to apply, in relation to the making of applications (or cases where applications are made) by any such persons or bodies, with such modifications as are specified in relation to them in the order.
- (5) In this Part “the appropriate date” means the date (or, as the case may be, the first date) on which the person became a person within any of paragraphs (a) to (c) of section 99(2) or (4), whether that date fell before or after the commencement of this Part.

### Annotations:

#### Commencement Information

**I3** S. 100 in force at 3.8.2009 by S.I. 2009/1842, art. 2(c)

## 101 Making of violent offender orders

- (1) This section applies where an application is made to a magistrates' court under section 100 in respect of a person (“P”).
- (2) After hearing—
  - (a) the applicant, and
  - (b) P, if P wishes to be heard,
 the court may make a violent offender order in respect of P if it is satisfied that the conditions in subsection (3) are met.
- (3) The conditions are—
  - (a) that P is a qualifying offender, and

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- (b) that P has, since the appropriate date, acted in such a way as to make it necessary to make a violent offender order for the purpose of protecting the public from the risk of serious violent harm caused by P.
- (4) When deciding whether it is necessary to make such an order for that purpose, the court must have regard to whether P would, at any time when such an order would be in force, be subject under any other enactment to any measures that would operate to protect the public from the risk of such harm.
- (5) A violent offender order may not be made so as to come into force at any time when P—
  - (a) is subject to a custodial sentence imposed in respect of any offence,
  - (b) is on licence for part of the term of such a sentence, or
  - (c) is subject to a hospital order or a supervision order made in respect of any offence.
- (6) But such an order may be applied for, and made, at such a time.

**Annotations:**

**Commencement Information**

**I4** [S. 101](#) in force at 3.8.2009 by [S.I. 2009/1842](#), [art. 2\(d\)](#)

## **102 Provisions that orders may contain**

- (1) A violent offender order may contain prohibitions, restrictions or conditions preventing the offender—
  - (a) from going to any specified premises or any other specified place (whether at all, or at or between any specified time or times);
  - (b) from attending any specified event;
  - (c) from having any, or any specified description of, contact with any specified individual.
- (2) Any of the prohibitions, restrictions or conditions contained in a violent offender order may relate to conduct in Scotland or Northern Ireland (as well as to conduct in England or Wales).
- (3) The Secretary of State may by order amend subsection (1).
- (4) In this section “specified” means specified in the violent offender order concerned.

**Annotations:**

**Commencement Information**

**I5** [S. 102](#) in force at 3.8.2009 by [S.I. 2009/1842](#), [art. 2\(e\)](#)

## **103 Variation, renewal or discharge of violent offender orders**

- (1) A person within subsection (2) may by complaint apply to the appropriate magistrates' court—
  - (a) for an order varying or discharging a violent offender order;

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- (b) for an order (a “renewal order”) renewing a violent offender order for such period of not more than 5 years as is specified in the renewal order.
- (2) The persons are—
- (a) the offender,
  - (b) the chief officer of police who applied for the order,
  - (c) (if different) the chief officer of police for the area in which the offender resides, and
  - (d) (if different) a chief officer of police who believes that the offender is in, or is intending to come to, his police area.
- (3) The “appropriate magistrates' court” means the magistrates' court that made the order or (if different)—
- (a) a magistrates' court for the area in which the offender resides, or
  - (b) where the application under this section is made by a chief officer of police, any magistrates' court whose commission area includes any part of the chief officer's police area.
- (4) On an application under this section the appropriate magistrates' court may, after hearing—
- (a) the applicant, and
  - (b) any other persons mentioned in subsection (2) who wish to be heard,
- make such order varying, renewing or discharging the violent offender order as the court considers appropriate.
- But this is subject to subsections (5) to (7).
- (5) A violent offender order may only be—
- (a) renewed, or
  - (b) varied so as to impose additional prohibitions, restrictions or conditions on the offender,
- if the court considers that it is necessary to do so for the purpose of protecting the public from the risk of serious violent harm caused by the offender (and any renewed or varied order may contain only such prohibitions, restrictions or conditions as the court considers necessary for this purpose).
- (6) References in subsection (5) to prohibitions, restrictions or conditions are to prohibitions, restrictions or conditions authorised by section 102.
- (7) The court may not discharge the violent offender order before the end of the period of 2 years beginning with the date on which it comes into force under section 101 unless consent to its discharge is given by the offender and—
- (a) where the application under this section is made by a chief officer of police, by that chief officer, or
  - (b) where the application is made by the offender, by the chief officer of police for the area in which the offender resides.

**Annotations:**

**Commencement Information**

**I6** S. 103 in force at 3.8.2009 by S.I. 2009/1842, art. 2(f)

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## 104 Interim violent offender orders

- (1) This section applies where an application under section 100 (“the main application”) has not yet been determined.
- (2) An application for an order under this section (“an interim violent offender order”) may be made—
  - (a) by the complaint by which the main application is made, or
  - (b) if the main application has already been made to a court, by means of a further complaint made to that court by the person making the main application.
- (3) If it appears to the court—
  - (a) that the person to whom the main application relates (“P”) is a qualifying offender,
  - (b) that, if the court were determining that application, it would be likely to make a violent offender order in respect of P, and
  - (c) that it is desirable to act before that application is determined, with a view to securing the immediate protection of the public from the risk of serious violent harm caused by P,

the court may make an interim violent offender order in respect of P that contains such prohibitions, restrictions or conditions as it considers necessary for the purpose of protecting the public from the risk of such harm.
- (4) The reference in subsection (3) to prohibitions, restrictions or conditions is to prohibitions, restrictions or conditions authorised by section 102 in the case of a violent offender order.
- (5) But an interim violent offender order may not be made so as to come into force at any time when the person—
  - (a) is subject to a custodial sentence for any offence,
  - (b) is on licence for part of the term of such a sentence, or
  - (c) is subject to a hospital order or a supervision order made in respect of any offence.
- (6) An interim violent offender order—
  - (a) has effect only for such period as is specified in the order, and
  - (b) ceases to have effect (if it has not already done so) at the appropriate time.
- (7) “The appropriate time” means—
  - (a) if the court grants the main application, the time when a violent offender order made in pursuance of it comes into force;
  - (b) if the court decides not to grant the main application or it is withdrawn, the time when the court so decides or the application is withdrawn.
- (8) Section 103 applies in relation to the variation or discharge of an interim violent offender order as it applies in relation to the variation or discharge of a violent offender order, but with the omission of subsection (7).

### Annotations:

#### Commencement Information

I7 S. 104 in force at 3.8.2009 by S.I. 2009/1842, art. 2(g)

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## 105 Notice of applications

- (1) This section applies to—
  - (a) any application under section 100 for a violent offender order,
  - (b) any application under section 104 for an interim violent offender order, and
  - (c) any application under section 103 for the variation, discharge or renewal of a violent offender order, or for the variation or discharge of an interim violent offender order.
- (2) A magistrates' court may not begin hearing such an application unless it is satisfied that the relevant person has been given notice of—
  - (a) the application, and
  - (b) the time and place of the hearing,
 a reasonable time before the hearing.
- (3) In this section “the relevant person” means—
  - (a) the person to whom the application mentioned in subsection (1)(a) or (b) relates, or
  - (b) the person in respect of whom the order mentioned in subsection (1)(c) has been made,
 as the case may be.

### Annotations:

#### Commencement Information

**I8** [S. 105](#) in force at 3.8.2009 by [S.I. 2009/1842](#), [art. 2\(h\)](#)

## 106 Appeals

- (1) A person in respect of whom—
  - (a) a violent offender order, or
  - (b) an interim violent offender order,
 has been made may appeal to the Crown Court against the making of the order.
- (2) Such a person may also appeal to the Crown Court against—
  - (a) the making of an order under section 103, or
  - (b) any refusal to make such an order.
- (3) On an appeal under this section, the Crown Court—
  - (a) may make such orders as may be necessary to give effect to its determination of the appeal; and
  - (b) may also make such incidental or consequential orders as appear to it to be just.
- (4) For the purposes of section 103(3) an order made by the Crown Court on an appeal made by virtue of subsection (1) or (2) is to be treated as if made by the court from which the appeal was brought.



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**Annotations:**

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**Commencement Information**

**19** S. 106 in force at 3.8.2009 by S.I. 2009/1842, art. 2(i)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)