

Changes to legislation: There are currently no known outstanding effects for the Anti-social Behaviour, Crime and Policing Act 2014, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 113

AMENDMENTS OF PARTS 2 AND 3 OF THE SEXUAL OFFENCES ACT 2003

Introduction

- 1 Part 2 of the Sexual Offences Act 2003 (notification and orders) is amended as set out in paragraphs 2 to 6.

Annotations:

Commencement Information

- II** Sch. 5 para. 1 in force at 8.3.2015 by
[S.I. 2015/373](#)
,
[art. 2\(e\)](#)

Sexual harm prevention orders

- 2 After section 103 there is inserted—

“Sexual harm prevention orders (England and Wales)

103A Sexual harm prevention orders: applications and grounds

- (1) A court may make an order under this section (a “sexual harm prevention order”) in respect of a person (“the defendant”) where subsection (2) or (3) applies to the defendant.
- (2) This subsection applies to the defendant where—
- (a) the court deals with the defendant in respect of—
 - (i) an offence listed in Schedule 3 or 5, or
 - (ii) a finding that the defendant is not guilty of an offence listed in Schedule 3 or 5 by reason of insanity, or
 - (iii) a finding that the defendant is under a disability and has done the act charged against the defendant in respect of an offence listed in Schedule 3 or 5,
 - and
 - (b) the court is satisfied that it is necessary to make a sexual harm prevention order, for the purpose of—
 - (i) protecting the public or any particular members of the public from sexual harm from the defendant, or

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- (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (3) This subsection applies to the defendant where—
 - (a) an application under subsection (4) has been made in respect of the defendant and it is proved on the application that the defendant is a qualifying offender, and
 - (b) the court is satisfied that the defendant's behaviour since the appropriate date makes it necessary to make a sexual harm prevention order, for the purpose of—
 - (i) protecting the public or any particular members of the public from sexual harm from the defendant, or
 - (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (4) A chief officer of police or the Director General of the National Crime Agency (“the Director General”) may by complaint to a magistrates' court apply for a sexual harm prevention order in respect of a person if it appears to the chief officer or the Director General that—
 - (a) the person is a qualifying offender, and
 - (b) the person has since the appropriate date acted in such a way as to give reasonable cause to believe that it is necessary for such an order to be made.
- (5) A chief officer of police may make an application under subsection (4) only in respect of a person—
 - (a) who resides in the chief officer's police area, or
 - (b) who the chief officer believes is in that area or is intending to come to it.
- (6) An application under subsection (4) may be made to any magistrates' court acting for a local justice area that includes—
 - (a) any part of a relevant police area, or
 - (b) any place where it is alleged that the person acted in a way mentioned in subsection (4)(b).
- (7) The Director General must as soon as practicable notify the chief officer of police for a relevant police area of any application that the Director has made under subsection (4).
- (8) Where the defendant is a child, a reference in this section to a magistrates' court is to be taken as referring to a youth court (subject to any rules of court made under section 103K(1)).
- (9) In this section “relevant police area” means—
 - (a) where the applicant is a chief officer of police, the officer's police area;
 - (b) where the applicant is the Director General—
 - (i) the police area where the person in question resides, or
 - (ii) a police area which the Director General believes the person is in or is intending to come to.

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103B Section 103A: supplemental

(1) In section 103A—

“appropriate date”, in relation to a qualifying offender, means the date or (as the case may be) the first date on which the offender was convicted, found or cautioned as mentioned in subsection (2) or (3) below;

“child” means a person under 18;

“the public” means the public in the United Kingdom;

“sexual harm” from a person means physical or psychological harm caused—

(a) by the person committing one or more offences listed in Schedule 3, or

(b) (in the context of harm outside the United Kingdom) by the person doing, outside the United Kingdom, anything which would constitute an offence listed in Schedule 3 if done in any part of the United Kingdom;

“qualifying offender” means a person within subsection (2) or (3) below;

“vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from physical or psychological harm is significantly impaired through physical or mental disability or illness, through old age or otherwise.

(2) A person is within this subsection if, whether before or after the commencement of this Part, the person—

(a) has been convicted of an offence listed in Schedule 3 (other than at paragraph 60) or in Schedule 5,

(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 him in respect of such an offence, or

(d) has been cautioned in respect of such an offence.

(3) A person is within this subsection if, under the law in force in a country outside the United Kingdom and whether before or after the commencement of this Part—

(a) the person has been convicted of a relevant offence (whether or not the person has been punished for 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 is not guilty by reason of insanity,

(c) such a court has made in respect of a relevant offence a finding equivalent to a finding that the person is under a disability and did the act charged against the person in respect of the offence, or

(d) the person has been cautioned in respect of a relevant offence.

(4) In subsection (3), “relevant offence” means an act which—

(a) constituted an offence under the law in force in the country concerned, and

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- (b) would have constituted an offence listed in Schedule 3 (other than at paragraph 60) or in Schedule 5 if it had been done in any part of the United Kingdom.

For this purpose an act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law, however it is described in that law.

- (5) For the purposes of section 103A, acts, behaviour, convictions and findings include those occurring before the commencement of this Part.
- (6) Subject to subsection (7), on an application under section 103A(4) the condition in subsection (4)(b) above (where relevant) is to be taken as met unless, not later than rules of court may provide, the defendant serves on the applicant a notice—
 - (a) stating that, on the facts as alleged with respect to the act concerned, the condition is not in the defendant's opinion met,
 - (b) showing the grounds for that opinion, and
 - (c) requiring the applicant to prove that the condition is met.
- (7) The court, if it thinks fit, may permit the defendant to require the applicant to prove that the condition is met without service of a notice under subsection (6).
- (8) Subsection (9) applies for the purposes of section 103A and this section.
- (9) 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.

103C SHPOs: effect

- (1) A sexual harm prevention order prohibits the defendant from doing anything described in the order.
- (2) Subject to section 103D(1), a prohibition contained in a sexual harm prevention order has effect—
 - (a) for a fixed period, specified in the order, of at least 5 years, or
 - (b) until further order.
- (3) A sexual harm prevention order—
 - (a) may specify that some of its prohibitions have effect until further order and some for a fixed period;
 - (b) may specify different periods for different prohibitions.
- (4) The only prohibitions that may be included in a sexual harm prevention order are those necessary for the purpose of—
 - (a) protecting the public or any particular members of the public from sexual harm from the defendant, or

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- (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (5) In subsection (4) “the public”, “sexual harm”, “child” and “vulnerable adult” each has the meaning given in section 103B(1).
- (6) Where a court makes a sexual harm prevention order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

103D SHPOs: prohibitions on foreign travel

- (1) A prohibition on foreign travel contained in a sexual harm prevention order must be for a fixed period of not more than 5 years.
- (2) A “prohibition on foreign travel” means—
 - (a) a prohibition on travelling to any country outside the United Kingdom named or described in the order,
 - (b) a prohibition on travelling to any country outside the United Kingdom other than a country named or described in the order, or
 - (c) a prohibition on travelling to any country outside the United Kingdom.
- (3) Subsection (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under section 103E.
- (4) A sexual harm prevention order that contains a prohibition within subsection (2)(c) must require the defendant to surrender all of the defendant's passports at a police station specified in the order—
 - (a) on or before the date when the prohibition takes effect, or
 - (b) within a period specified in the order.
- (5) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a sexual harm prevention order containing a prohibition within subsection (2)(c) (unless the person is subject to an equivalent prohibition under another order).
- (6) Subsection (5) does not apply in relation to—
 - (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
 - (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.
- (7) In this section “passport” means—
 - (a) a United Kingdom passport within the meaning of the Immigration Act 1971;
 - (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;

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- (c) a document that can be used (in some or all circumstances) instead of a passport.

103E SHPOs: variations, renewals and discharges

- (1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a sexual harm prevention order.
- (2) The persons are—
 - (a) the defendant;
 - (b) the chief officer of police for the area in which the defendant resides;
 - (c) a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
 - (d) where the order was made on an application by a chief officer of police under section 103A(4), that officer.
- (3) An application under subsection (1) 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 (7), 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 sexual harm prevention order, that the court considers appropriate.
- (5) An order may be renewed, or 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 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.

Any renewed or varied order may contain only such prohibitions as are necessary for this purpose.
- (6) In subsection (5) “the public”, “sexual harm”, “child” and “vulnerable adult” each has the meaning given in section 103B(1).
- (7) The court must not discharge an order before the end of 5 years beginning with the day on which the order was made, without the consent of the defendant and—
 - (a) where the application is made by a chief officer of police, that chief officer, or
 - (b) in any other case, the chief officer of police for the area in which the defendant resides.
- (8) Subsection (7) does not apply to an order containing a prohibition on foreign travel and no other prohibitions.
- (9) In this section “the appropriate court” means—

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- (a) where the Crown Court or the Court of Appeal made the sexual harm prevention order, the Crown Court;
- (b) where an adult magistrates' court made the order, that court, an adult magistrates' court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates' court acting for a local justice area that includes any part of the chief officer's police area;
- (c) where a youth court made the order and the defendant is under the age of 18, that court, a youth court for the area in which the defendant resides or, where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer's police area;
- (d) where a youth court made the order and the defendant is aged 18 or over, an adult magistrates' court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates' court acting for a local justice area that includes any part of the chief officer's police area.

In this subsection “adult magistrates' court” means a magistrates' court that is not a youth court.

103F Interim SHPOs

- (1) This section applies where an application under section 103A(4) (“the main application”) has not been determined.
- (2) An application for an order under this section (“an interim sexual harm prevention order”)—
 - (a) may be made by the complaint by which the main application is made, or
 - (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.
- (3) The court may, if it considers it just to do so, make an interim sexual harm prevention order, prohibiting the defendant from doing anything described in the order.
- (4) Such an order—
 - (a) has effect only for a fixed period, specified in the order;
 - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
- (5) The applicant or the defendant may by complaint apply to the court that made the interim sexual harm prevention order for the order to be varied, renewed or discharged.

103G SHPOs and interim SHPOs: notification requirements

- (1) Where—
 - (a) a sexual harm prevention order is made in respect of a defendant who was a relevant offender immediately before the making of the order, and

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- (b) the defendant would (apart from this subsection) cease to be subject to the notification requirements of this Part while the order (as renewed from time to time) has effect,
the defendant remains subject to the notification requirements.
- (2) Where a sexual harm prevention order is made in respect of a defendant who was not a relevant offender immediately before the making of the order—
 - (a) the order causes the defendant to become subject to the notification requirements of this Part from the making of the order until the order (as renewed from time to time) ceases to have effect, and
 - (b) this Part applies to the defendant, subject to the modification set out in subsection (3).
- (3) The “relevant date” is the date of service of the order.
- (4) Subsections (1) to (3) apply to an interim sexual harm prevention order as if references to a sexual harm prevention order were references to an interim sexual harm prevention order, and with the omission of “(as renewed from time to time)” in both places.
- (5) Where—
 - (a) a sexual harm prevention order is in effect in relation to a relevant sex offender (within the meaning of section 88A), and
 - (b) by virtue of section 88F or 88G the relevant sex offender ceases to be subject to the notification requirements of this Part,
the sexual harm prevention order ceases to have effect.
- (6) On an application for a sexual harm prevention order made by a chief officer of police, the court must make a notification order in respect of the defendant (either in addition to or instead of a sexual harm prevention order) if—
 - (a) the applicant invites the court to do so, and
 - (b) it is proved that the conditions in section 97(2) to (4) are met.
- (7) On an application for an interim sexual harm prevention order made by a chief officer of police, the court may, if it considers it just to do so, make an interim notification order (either in addition to or instead of an interim sexual harm prevention order).

103H SHPOs and interim SHPOs: appeals

- (1) A defendant may appeal against the making of a sexual harm prevention order—
 - (a) where the order was made by virtue of section 103A(2)(a)(i), as if the order were a sentence passed on the defendant for the offence;
 - (b) where the order was made by virtue of section 103A(2)(a)(ii) or (iii), as if the defendant had been convicted of the offence and the order were a sentence passed on the defendant for that offence;
 - (c) where the order was made on an application under section 103A(4), to the Crown Court.
- (2) A defendant may appeal to the Crown Court against the making of an interim sexual harm prevention order.

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- (3) A defendant may appeal against the making of an order under section 103E, 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;
 - (b) in any other case, to the Crown Court.
- (4) On an appeal under subsection (1)(c), (2) or (3)(b), the Crown 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.
- (5) Any order made by the Crown Court on an appeal under subsection (1)(c) or (2) (other than an order directing that an application be re-heard by a magistrates' court) is for the purposes of section 103E(9) or 103F(5) (respectively) to be treated as if it were an order of the court from which the appeal was brought (and not an order of the Crown Court).

103I Offence: breach of SHPO or interim SHPO etc

- (1) A person who, without reasonable excuse, does anything that the person is prohibited from doing by—
 - (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, or
 - (e) a foreign travel order,commits an offence.
- (2) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed under section 103D(4).
- (3) 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 or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.
- (4) Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.

103J SHPOs and interim SHPOs: guidance

- (1) The Secretary of State must issue guidance to chief officers of police and to the Director General of the National Crime Agency in relation to the exercise by them of their powers with regard to sexual harm prevention orders and interim sexual harm prevention orders.
- (2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1).

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- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate.

103K SHPOs and interim SHPOs: supplementary

- (1) Rules of court—
- (a) may provide for a youth court to give permission for an application under section 103A(4) against a person aged 18 or over to be made to the youth court if—
 - (i) an application to the youth court has been made, or is to be made, under that section against a person aged under 18, and
 - (ii) the youth court thinks that it would be in the interests of justice for the applications to be heard together;
 - (b) may, in relation to a person attaining the age of 18 after proceedings against that person by virtue of section 103A, 103E, 103F or 103G(6) or (7) have begun—
 - (i) prescribe circumstances in which the proceedings may or must remain in the youth court;
 - (ii) make provision for the transfer of the proceedings from the youth court to a magistrates' court that is not a youth court (including provision applying section 103F with modifications).
- (2) A person's age is treated for the purposes of sections 103A to 103J and this section as being that which it appears to the court to be after considering any available evidence.”

Annotations:

Commencement Information

- I2** Sch. 5 para. 2 in force at 8.3.2015 by
[S.I. 2015/373](#)
 ,
[art. 2\(e\)](#)

Sexual offences prevention orders and foreign travel orders

- 3 (1) Sections 104 to 122 (sexual offences prevention orders and foreign travel orders) are repealed.
- (2) This paragraph extends only to England and Wales.

Annotations:

Commencement Information

- I3** Sch. 5 para. 3 in force at 8.3.2015 by
[S.I. 2015/373](#)
 ,
[art. 2\(e\)](#)

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Sexual risk orders

4 Before section 123 there is inserted—

“Sexual risk orders (England and Wales)”

122A Sexual risk orders: applications, grounds and effect

- (1) A chief officer of police or the Director General of the National Crime Agency (“the Director General”) may by complaint to a magistrates' court apply for an order under this section (a “sexual risk order”) in respect of a person (“the defendant”) if it appears to the chief officer or the Director General that the following condition is met.
- (2) The condition is that the defendant has, whether before or after the commencement of this Part, done an act of a sexual nature as a result of which there is reasonable cause to believe that it is necessary for a sexual risk order to be made.
- (3) A chief officer of police may make an application under subsection (1) only in respect of a person—
 - (a) who resides in the chief officer's police area, or
 - (b) who the chief officer believes is in that area or is intending to come to it.
- (4) An application under subsection (1) may be made to any magistrates' court acting for a local justice area that includes—
 - (a) any part of a relevant police area, or
 - (b) any place where it is alleged that the person acted in a way mentioned in subsection (2).
- (5) The Director General must as soon as practicable notify the chief officer of police for a relevant police area of any application that the Director has made under subsection (1).
- (6) On an application under subsection (1), the court may make a sexual risk order if it is satisfied that the defendant has, whether before or after the commencement of this Part, done an act of a sexual nature as a result of which it is necessary to make such an order 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.
- (7) Such an order—
 - (a) prohibits the defendant from doing anything described in the order;
 - (b) has effect for a fixed period (not less than 2 years) specified in the order or until further order.
- (8) A sexual risk order may specify different periods for different prohibitions.
- (9) The only prohibitions that may be imposed are those necessary for the purpose of—

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- (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.
- (10) Where a court makes a sexual risk order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

122B Section 122A: interpretation

- (1) In section 122A—
- “child” means a person under 18;
 - “harm” from the defendant means physical or psychological harm caused by the defendant doing an act of a sexual nature;
 - “the public” means the public in the United Kingdom;
 - “vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from physical or psychological harm is significantly impaired through physical or mental disability or illness, through old age or otherwise.
- (2) Where the defendant is a child, a reference in that section to a magistrates' court is to be taken as referring to a youth court (subject to any rules of court made under section 122K(1)).
- (3) In that section “relevant police area” means—
- (a) where the applicant is a chief officer of police, the officer's police area;
 - (b) where the applicant is the Director General of the National Crime Agency—
 - (i) the police area where the person in question resides, or
 - (ii) a police area which the Director General believes the person is in or is intending to come to.

122C Sexual risk orders: prohibitions on foreign travel

- (1) A prohibition on foreign travel contained in a sexual risk order must not be for a period of more than 5 years.
- (2) A “prohibition on foreign travel” means—
- (a) a prohibition on travelling to any country outside the United Kingdom named or described in the order,
 - (b) a prohibition on travelling to any country outside the United Kingdom other than a country named or described in the order, or
 - (c) a prohibition on travelling to any country outside the United Kingdom.
- (3) Subsection (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under section 122D.

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- (4) A sexual risk order that contains a prohibition within subsection (2)(c) must require the defendant to surrender all of the defendant's passports at a police station specified in the order—
 - (a) on or before the date when the prohibition takes effect, or
 - (b) within a period specified in the order.
- (5) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a sexual risk order containing such a prohibition (unless the person is subject to an equivalent prohibition under another order).
- (6) Subsection (5) does not apply in relation to—
 - (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
 - (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.
- (7) In this section “passport” means—
 - (a) a United Kingdom passport within the meaning of the Immigration Act 1971;
 - (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;
 - (c) a document that can be used (in some or all circumstances) instead of a passport.

122D Sexual risk order: variations, renewals and discharges

- (1) A person within subsection (2) may by complaint to the appropriate court apply for an order varying, renewing or discharging a sexual risk order.
- (2) The persons are—
 - (a) the defendant;
 - (b) the chief officer of police for the area in which the defendant resides;
 - (c) a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
 - (d) where the order was made on an application by a chief officer of police, that officer.
- (3) Subject to subsections (4) and (5), 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 sexual risk order, that the court considers appropriate.
- (4) An order may be renewed, or 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 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.

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Any renewed or varied order may contain only such prohibitions as are necessary for this purpose.

- (5) The court must not discharge an order before the end of 2 years beginning with the day on which the order was made, without the consent of the defendant and—
- (a) where the application is made by a chief officer of police, that chief officer, or
 - (b) in any other case, the chief officer of police for the area in which the defendant resides.
- (6) Section 122B(1) applies for the purposes of this section.
- (7) In this section “the appropriate court” means—
- (a) where an adult magistrates' court made the sexual risk order, that court, any adult magistrates' court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates' court acting for a local justice area that includes any part of the chief officer's police area;
 - (b) where a youth court made the order and the defendant is under the age of 18, that court, a youth court for the area in which the defendant resides or, where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer's police area;
 - (c) where a youth court made the order and the defendant is aged 18 or over, an adult magistrates' court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates' court acting for a local justice area that includes any part of the chief officer's police area.

In this subsection “adult magistrates' court” means a magistrates' court that is not a youth court.

122E Interim sexual risk orders

- (1) This section applies where an application for a sexual risk order (“the main application”) has not been determined.
- (2) An application for an order under this section (“an interim sexual risk order”)—
 - (a) may be made by the complaint by which the main application is made, or
 - (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.
- (3) The court may, if it considers it just to do so, make an interim sexual risk order, prohibiting the defendant from doing anything described in the order.
- (4) Such an order—
 - (a) has effect only for a fixed period, specified in the order;
 - (b) ceases to have effect, if it has not already done so, on the determination of the main application.

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- (5) The applicant or the defendant may by complaint apply to the court that made the interim sexual risk order for the order to be varied, renewed or discharged.

122F Sexual risk orders and interim sexual risk orders: notification requirements

- (1) A person in respect of whom a court makes—
- (a) a sexual risk order (other than one that replaces an interim sexual risk order), or
 - (b) an interim sexual risk order,
- must, within the period of 3 days beginning with the date of service of the order, notify to the police the information set out in subsection (2) (unless the person is subject to the notification requirements of this Part on that date).
- (2) The information is—
- (a) the person's name and, where the person uses one or more other names, each of those names;
 - (b) the person's home address.
- (3) A person who—
- (a) is subject to a sexual risk order or an interim sexual risk order (but is not subject to the notification requirements of this Part), and
 - (b) uses a name which has not been notified under this section (or under any other provision of this Part), or changes home address,
- must, within the period of 3 days beginning with the date on which that happens, notify to the police that name or (as the case may be) the new home address.
- (4) Sections 87 (method of notification and related matters) and 91 (offences relating to notification) apply for the purposes of this section—
- (a) with references to section 83(1) being read as references to subsection (1) above,
 - (b) with references to section 84(1) being read as references to subsection (3) above, and
 - (c) with the omission of section 87(2)(b).

122G Sexual risk orders and interim sexual risk orders: appeals

- (1) A defendant may appeal to the Crown Court—
- (a) against the making of a sexual risk order;
 - (b) against the making of an interim sexual risk order; or
 - (c) against the making of an order under section 122D, or the refusal to make such an order.
- (2) On any such appeal, the Crown 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.
- (3) Any order made by the Crown Court on an appeal under subsection (1)
- (a) or (b) (other than an order directing that an application be re-heard

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by a magistrates' court) is for the purposes of section 122D(7) or 122E(5) (respectively) to be treated as if it were an order of the court from which the appeal was brought (and not an order of the Crown Court).

122H Offence: breach of sexual risk order or interim sexual risk order etc

- (1) A person who, without reasonable excuse, does anything that the person is prohibited from doing by—
 - (a) a sexual risk order,
 - (b) an interim sexual risk order,
 - (c) a risk of sexual harm order,
 - (d) an interim risk of sexual harm order,
 - (e) 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), or
 - (f) an order under section 5 of that Act (interim risk of sexual harm orders in Scotland),
 commits an offence.
- (2) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed under section 122C(4).
- (3) 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 or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.
- (4) Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.

122I Effect of conviction etc of an offence under section 122H etc

- (1) This section applies to a person (“the defendant”) who—
 - (a) is convicted of an offence mentioned in subsection (2);
 - (b) is found not guilty of such an offence by reason of insanity;
 - (c) is found to be under a disability and to have done the act charged against him in respect of such an offence; or
 - (d) is cautioned in respect of such an offence.
- (2) Those offences are—
 - (a) an offence under section 122H or 128 of this Act;
 - (b) an offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (contravention of risk of sexual harm order or interim risk of sexual harm order in Scotland).
- (3) Where—
 - (a) a defendant was a relevant offender immediately before this section applied to the defendant, and

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- (b) the defendant would (apart from this subsection) cease to be subject to the notification requirements of this Part while the relevant order (as renewed from time to time) has effect,
the defendant remains subject to the notification requirements.
- (4) Where the defendant was not a relevant offender immediately before this section applied to the defendant—
 - (a) this section causes the defendant to become subject to the notification requirements of this Part from the time the section first applies to the defendant until the relevant order (as renewed from time to time) ceases to have effect, and
 - (b) this Part applies to the defendant, subject to the modification set out in subsection (5).
- (5) The “relevant date” is the date on which this section first applies to the defendant.
- (6) In this section “relevant order” means—
 - (a) where the conviction, finding or caution within subsection (1) is in respect of a breach of a sexual risk order or a risk of sexual harm order, that order;
 - (b) where the conviction, finding or caution within subsection (1) is in respect of a breach of an interim sexual risk order or an interim risk of sexual harm order, any sexual risk order or risk of sexual harm order made on the hearing of the application to which the interim order relates or, if no such order is made, the interim order.
- (7) In subsection (6) “risk of sexual harm order” and “interim risk of sexual harm order” include orders under sections 2 and 5 (respectively) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005.

122J Sexual risk orders and interim sexual risk orders: guidance

- (1) The Secretary of State must issue guidance to chief officers of police and to the Director General of the National Crime Agency in relation to the exercise by them of their powers with regard to sexual risk orders and interim sexual risk orders.
- (2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1).
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate.

122K Sexual risk orders and interim sexual risk orders: supplementary

- (1) Rules of court—
 - (a) may provide for a youth court to give permission for an application under section 122A against a person aged 18 or over to be made to the youth court if—
 - (i) an application to the youth court has been made, or is to be made, under that section against a person aged under 18, and

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- (ii) the youth court thinks that it would be in the interests of justice for the applications to be heard together;
 - (b) may, in relation to a person attaining the age of 18 after proceedings against that person by virtue of section 122A, 122D or 122E have begun—
 - (i) prescribe circumstances in which the proceedings may or must remain in the youth court;
 - (ii) make provision for the transfer of the proceedings from the youth court to a magistrates' court that is not a youth court (including provision applying section 122E with modifications).
- (2) A person's age is treated for the purposes of sections 122A to 122J and this section as being that which it appears to the court to be after considering any available evidence.”

Annotations:

Commencement Information

- I4** Sch. 5 para. 4 in force at 8.3.2015 by
[S.I. 2015/373](#)
 ,
[art. 2\(e\)](#)

Risk of sexual harm orders

- 5 (1) Sections 123 to 129 (risk of sexual harm orders) are repealed.
 (2) This paragraph extends only to England and Wales.

Annotations:

Commencement Information

- I5** Sch. 5 para. 5 in force at 8.3.2015 by
[S.I. 2015/373](#)
 ,
[art. 2\(e\)](#)

Application etc of orders

- 6 After section 136 there is inserted—

“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;

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- (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.

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 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.

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

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—
- (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 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.

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- (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,
- 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).

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

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- (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.
- (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).”

Annotations:

Commencement Information

- I6** Sch. 5 para. 6 in force at 8.3.2015 by
[S.I. 2015/373](#)
 ,
[art. 2\(e\)](#)

Service courts

- 7 (1) Section 137 of the Sexual Offences Act 2003 (service courts) is amended as follows.
- (2) In subsection (2), for “104(1)” there is substituted “ 103A(1) ”.
- (3) For subsection (3) there is substituted—
- “ (3) Where the court making a sexual harm prevention order is a service court—
- (a) sections 103A(3) to (9), 103F and 103J do not apply;
 - (b) sections 103A(1) and (2), 103B to 103E and 103G to 103I apply—
 - (i) subject to paragraphs (c) and (d), and
 - (ii) as if they extended to the whole of the United Kingdom;

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- (c) in relation to an application under section 103E in respect of a defendant who at the time of the application is a person subject to service law or a civilian subject to service discipline—
 - (i) the application may be made only by the defendant or a Provost Martial, and must be made to the Court Martial;
 - (ii) consent under section 103E(7) must be the consent of the defendant and a Provost Martial;
 - (iii) an appeal against the making of an order under section 103E, or the refusal to make such an order, must be made to the Court Martial Appeal Court;
 - (d) in relation to an application under section 103E in respect of a defendant who at the time of the application is neither a person subject to service law nor a civilian subject to service discipline—
 - (i) the application must be made to the Crown Court in England and Wales;
 - (ii) an appeal against the making of an order under section 103E, or the refusal to make such an order, must be made to the Court of Appeal in England and Wales.”
- (4) In subsection (4)—
- (a) for “section “service court” means” there is substituted “section—
“civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006 (see section 370 of that Act);
“service court” means”;
 - (b) at the end there is inserted—
““subject to service law” has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act).”
- (5) After subsection (5) there is inserted—
- “(6) Paragraphs (c)(i) and (d)(i) of subsection (3) have effect, in relation to a sexual harm prevention order made by the Court Martial Appeal Court, as if the reference to a service court in that subsection included a reference to that court.”

Annotations:

Commencement Information

I7 Sch. 5 para. 7 in force at 8.3.2015 by
[S.I. 2015/373](#)
,
[art. 2\(e\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Anti-social Behaviour, Crime and Policing Act 2014, SCHEDULE 5.