
STATUTORY INSTRUMENTS

2004 No. 1053

**MAGISTRATES' COURTS,
ENGLAND AND WALES**

PROCEDURE

**The Magistrates' Courts (Risk of
Sexual Harm Orders) Rules 2004**

<i>Made</i>	- - - -	<i>5th April 2004</i>
<i>Laid before Parliament</i>		<i>6th April 2004</i>
<i>Coming into force</i>	- -	<i>1st May 2004</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the rule committee appointed under the said section 144, hereby makes the following Rules:

Citation, commencement and interpretation

1. These Rules may be cited as the Magistrates' Courts (Risk of Sexual Harm Orders) Rules 2004 and shall come into force on 1st May 2004.

2. In these Rules—

- (a) a reference to a numbered section is a reference to the section so numbered in the Sexual Offences Act 2003(2); and
- (b) a reference to a Schedule is a reference to a Schedule to these Rules.

Risk of sexual harm orders and interim risk of sexual harm orders

3.—(1) An application for

- (a) a risk of sexual harm order made under section 123(1), or
- (b) an interim risk of sexual harm order made under section 126(2)

may be in the form set out in Schedule 1.

(1) 1980 c. 43.
(2) 2003 c. 42.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) A summons directed to the defendant requiring him to appear before a magistrates' court to answer an application referred to in paragraph (1) may be in the form set out in Schedule 2.

(3) A risk of sexual harm order shall be in the form set out in Schedule 3.

(4) An interim risk of sexual harm order shall be in the form set out in Schedule 4.

(5) As soon as reasonably practicable after a risk of sexual harm order or an interim risk of sexual harm order has been made, the Justices' Chief Executive shall serve a copy of that order on the defendant. Any copy of an order required to be sent under these Rules to the defendant shall be either given to him in person or sent by post to his last known address and, if so given or sent, shall be deemed to have been received by him, unless the defendant proves that it was not received by him.

Date 5th April 2004

Falconer of Thoroton, C.

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SCHEDULE 1

Rule 3(1)

FORM Application for [Risk of Sexual Harm Order] [and] [Interim Risk of Sexual Harm Order] (Sexual Offences Act 2003 s[s][123] [and] [126].

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

.....Magistrates' Court
[Code]

Date:

Defendant:

Address:

.....
It is alleged that the defendant has on at least two occasions done an act within section 123(3) of the Sexual Offences Act 2003 (the "2003 Act"), as a result of which there is reasonable cause to believe that an order under section 123 of the 2003 Act is necessary to protect children generally or any child from harm from the defendant.

Short description of acts, including date(s):

.....
.....
.....
.....

[Additional information relating to an application for an interim risk of sexual harm order:

.....]

Accordingly application is made for

[a risk of sexual harm order]

[an interim risk of sexual harm order]

[a risk of sexual harm order and an interim risk of sexual harm order] containing the following prohibition(s):—

.....
.....
.....

The complaint of

Address:

.....
who [upon oath] states that the facts given in this form are true to the best of his knowledge and belief.

Taken [and sworn] before me

Justice of the Peace

[Justices' Clerk]

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SCHEDULE 2

Rule 3(2)

FORM Summons on Application for [Risk of Sexual Harm Order] [and] [Interim Risk of Sexual Harm Order] (Sexual Offences Act 2003 s[s] [123] [and] [126].

.....Magistrates' Court
[Code]

Date:

To the defendant:

Address:

.....

You are hereby summonsed to appear on[date]

at[time] before the Magistrates' Court at
to answer to an application for [a risk of sexual harm order] [and] [an interim risk of sexual harm order],
which application is attached to this summons.

Justice of the Peace

[Justices' Clerk]

NOTE:

Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing, it may issue a warrant for your arrest or proceed in your absence.

If a risk of sexual harm order or an interim risk of sexual harm order is made against you, you will be subject to the prohibitions set out in the order. If, without reasonable excuse, you do anything you are prohibited from doing by such an order you shall be liable on conviction to imprisonment for a term not exceeding five years and you will become subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (commonly known as the "sex offenders register").

SCHEDULE 3

Rule 3(3)

FORM Risk of Sexual Harm Order (Sexual Offences Act 2003 s 123)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

.....Magistrates' Court
[Code]

Date:

Defendant:

Address:
.....

On the complaint of

Complainant:

Address:
.....

It is adjudged that the defendant has on at least two occasions done an act within section 123(3) of the Sexual Offences Act 2003 (the "2003 Act") and that it is necessary to make a risk of sexual harm order under section 123 of the 2003 for the purpose of protecting children generally or any child from harm from him.

Description of relevant acts and any further comments:

.....
.....
.....

And it is ordered that the defendant is prohibited from:

.....
.....
.....

until.....[date, not less than 2 years from date of order]
or until further order.

Justice of the Peace

[Justices' Clerk]

NOTE:

If, without reasonable excuse, you do anything you are prohibited from doing by a risk of sexual harm order, you shall be liable on conviction to imprisonment for a term not exceeding five years and you will become subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (commonly known as "the sex offenders register").

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SCHEDULE 4

Rule 3(4)

FORM Interim Risk of Sexual Harm Order (Sexual Offences Act 2003 s 126)

.....Magistrates' Court
[Code]

Date:

Defendant:

Address:

.....

On the complaint of

Complainant:

Address:

.....

An application for a risk of sexual harm order, under section 123 of the Sexual Offences Act 2003 has been made and that application has not yet been determined.

The court considers it just to make an interim risk of sexual harm order.

Reasons:

.....

.....

It is ordered that the defendant is prohibited from:

.....

.....

This interim risk of sexual harm order will last until

..... [date]

and will cease to have effect, if it has not already done so, on determination of the main application.

Justice of the Peace

[Justices' Clerk]

NOTE:

If, without reasonable excuse, you do anything you are prohibited from doing by an interim risk of sexual harm order, you shall be liable on conviction to imprisonment for a term not exceeding five years and you will become subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (commonly known as the "sex offenders register").

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules provide forms which may be used for applications for risk of sexual harm orders and interim risk of sexual harm orders under sections 123 and 126 of the Sexual Offences Act 2003. They also provide forms for the summons to be served on the defendant in relation to such applications and the form which should be used for the orders themselves. Rule 3(5) provides for service of the orders.