

2013 CHAPTER 7

Sex offenders

Review of indefinite offender notification requirements

- 1.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.
- (2) In section 82 (the notification period) at the end insert—
 - “(7) Schedule 3A (which provides for the review and discharge of indefinite notification requirements) has effect.”.
- (3) After Schedule 3 insert the Schedule set out in Schedule 1 to this Act.

Notification requirements: absence from notified residence

- 2.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.
- (2) After section 85 insert—

“85A Notification requirements: absence from notified residence

(1) This section applies to a relevant offender at any time if the last home address notified by him under section 83(1), 84(1) or 85(1) was an address in Northern Ireland such as is mentioned in section 83(7)(a) (sole or main residence).

(2) If the relevant offender intends to be absent from that home address for a period of more than 3 days (“the relevant period”), the relevant offender must, not less than 12 hours before leaving that home address, notify to the police the information set out in subsection (3).

- (3) The information is—
 - (a) the date on which the relevant offender will leave that home address;

- (b) such details as the relevant offender holds about—
 - (i) his travel arrangements during the relevant period;
 - (ii) his accommodation arrangements during that period;
 - (iii) his date of return to that home address.

(4) In this section—

“travel arrangements” include, in particular, details of the means of transport to be used and the dates of travel,

“accommodation arrangements” include, in particular, the address of any accommodation at which the relevant offender will spend the night during the relevant period and the nature of that accommodation.

(5) Where—

- (a) a relevant offender has given a notification under subsection (2), and
- (b) at any time before that mentioned in that subsection, the information notified becomes inaccurate or incomplete,

the relevant offender must give a further notification under subsection (2).

(6) Where a relevant offender—

- (a) has notified a date of return to his home address, but
- (b) returns to his home address on a date other than that notified,

the relevant offender must notify the date of his actual return to the police within 3 days of his actual return.

(7) Nothing in this section requires an offender to notify any information which falls to be notified in accordance with a requirement imposed by regulations under section 86.

(8) In calculating the relevant period for the purposes of this section there is to be disregarded—

- (a) any period or periods which the relevant offender intends to spend at, or travelling directly to or from, an address of the kind mentioned in section 83(5)(g) notified to the police under section 83 or 85;
- (b) any period or periods which the relevant offender intends to spend at, or travelling directly to or from, any premises, if his stay at those premises would give rise to a requirement to notify the address of those premises under section 84(1)(c).

(9) This section applies in relation to any relevant period which begins on or after the day after the coming into operation of section 2 of the Criminal Justice Act (Northern Ireland) 2013.”

(3) In section 87(1) and (4) (method of notification) for “or 85(1)” substitute “, 85(1) or 85A(2) or (6)”.

(4) In section 91 (offences)—

- (a) in subsection (1)(a) after “85(1)” insert “, 85A(2) or (6)”;
- (b) in subsection (1)(b) for “or 85(1)” substitute “, 85(1) or 85A(2) or (6)”;
- (c) in subsection (3) for “or 85(1)” substitute “, 85(1) or 85A(2) or (6)”.

Ending notification requirements for acts which are no longer offences

- 3.**—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.
- (2) In section 93 (abolished homosexual offences)—
- (a) for the heading substitute “**Acts which are no longer offences**”;
 - (b) for “abolished homosexual offences” substitute “acts which are no longer offences”.
- (3) In Schedule 4 (procedure for ending notification requirements for abolished homosexual offences) for the heading and paragraph 1 substitute—

*“PROCEDURE FOR ENDING NOTIFICATION REQUIREMENTS
FOR ACTS WHICH ARE NO LONGER OFFENCES*

Scope of Schedule

- 1.** This Schedule applies where a relevant offender is subject to the notification requirements of this Part as a result of a conviction, finding or caution in respect of an offence under—
- (a) section 61 of the Offences against the Person Act 1861 or Article 19 of the Criminal Justice (Northern Ireland) Order 2003 (buggery);
 - (b) section 5 of the Criminal Law Amendment Act 1885 (carnal knowledge of girl under 17); or
 - (c) section 11 of that Act (gross indecency between men).”.
- (4) In Schedule 4 in paragraph 2 for sub-paragraph (1) substitute—
- “(1) The relevant offender may apply to the Department of Justice for a decision as to whether it appears that, at the time of the offence, the other party to the act of buggery, carnal knowledge or gross indecency consented to the act and—
- (a) that other party was aged 16 or over, or
 - (b) where an offender is subject to the notification requirements of this Part as a result of a conviction, the offender was convicted or sentenced on the basis that the offender honestly believed that other party was aged 16 or over.”.
- (5) In Schedule 4 in paragraph 6 in sub-paragraph (2) after “buggery” (twice) insert “, carnal knowledge” and after that sub-paragraph insert—

“(3) Sub-paragraphs (1) and (2) apply, with appropriate modifications, to an offence under Part 2 of the Serious Crime Act 2007 as they apply to the offence of incitement.”.

Offences committed in a country outside the United Kingdom

4.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.

(2) After section 96 insert—

“Offences committed in a country outside the United Kingdom

96A Offences committed in a country outside the United Kingdom

(1) This section applies to a person (“P”) if the following 3 conditions are met with respect to P.

(2) The first condition is that under the law in force in a country outside the United Kingdom—

- (a) P has been convicted of a relevant offence (whether or not P 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 P 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 P is under a disability and did the act charged against P in respect of the offence, or
- (d) P has been cautioned in respect of a relevant offence.

(3) The second condition is that—

- (a) the first condition is met because of a conviction, finding or caution which occurred on or after 1st September 1997,
- (b) the first condition is met because of a conviction or finding which occurred before that date, but P was dealt with in respect of the offence or finding on or after that date, or has yet to be dealt with in respect of it, or
- (c) the first condition is met because of a conviction or finding which occurred before that date, but on that date P was, in respect of the offence or finding, subject under the law in force in the country concerned to detention, supervision or any other disposal equivalent to any of those mentioned in section 81(3) (read with sections 81(6) and 131).

(4) The third condition is that the period set out in section 82 (as modified by subsections (6) and (7) below) in respect of the relevant offence has not expired.

(5) Where this section applies to P, P is subject to the notification requirements of this Part for the notification period set out in section 82; but the application of this Part to P in respect of the conviction, finding or caution is subject—

- (a) in all cases, to the modifications set out below; and
- (b) in a case where the first condition mentioned in subsection (2) is met by reason of a conviction, finding or caution in a country which is not a member of the Council of Europe, to the further provisions in section 96AA.

(6) The “relevant date” means—

- (a) in the case where P is within subsection (2)(a), the date of the conviction;
- (b) in the case where P is within subsection (2)(b) or (c), the date of the finding;
- (c) in the case where P is within subsection (2)(d), the date of the caution.

(7) In section 82—

- (a) references, except in the Table, to a person (or relevant offender) within any provision of section 80 are to be read as references to P;
- (b) the reference in the Table to section 80(1)(d) is to be read as a reference to subsection (2)(d);
- (c) references to an order of any description are to be read as references to any corresponding disposal made in relation to P in respect of an offence or finding by reference to which this section applies to P;
- (d) the reference to offences listed in Schedule 3 is to be read as a reference to relevant offences.

(8) In sections 83 and 85 references to the commencement of this Part are to be read as references to the commencement of section 4 of the Criminal Justice Act (Northern Ireland) 2013.

(9) Section 83 has effect as if after subsection (1) there were inserted—

“(1A) In the case of a person who is not ordinarily resident in Northern Ireland, in calculating the period of 3 days mentioned in subsection (1) there is to be disregarded a period of 7 days (or two or more periods in any period of 12 months taken together which amount to 7 days) after that person’s entry into Northern Ireland.”.

(10) Section 83(4) has effect as if—

- (a) for the words “Where a notification order is made” there were substituted “Where a relevant offender is subject to the notification requirements of this Part by virtue of section 96A”; and
 - (b) in paragraph (a) for the words “the order was made” there were substituted “he became a person to whom section 96A applies”.
- (11) In this section “relevant offence” means an act which—
- (a) constituted an offence under the law in force in the country concerned, and
 - (b) would have constituted an offence listed in Schedule 3 (other than at paragraph 60) if it had been done in any part of the United Kingdom;
- and for the purposes of this subsection 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.

96AA Convictions, etc. in a country which is not a member of the Council of Europe

- (1) The further provisions referred to in section 96A(5)(b) are as follows.
- (2) Where P is charged with an offence under section 91(1)(a), it is a defence for P to prove that the relevant conviction, finding or caution falls within subsection (4).
- (3) P shall cease to be subject to the notification requirements of this Part by virtue of section 96A if the High Court, on an application made by P in accordance with rules of court, so orders; but the High Court shall not make such an order unless it is satisfied that the relevant conviction, finding or caution falls within subsection (4).
- (4) A conviction, finding or caution falls within this subsection if the relevant court is satisfied—
 - (a) that any investigations or proceedings leading to it were conducted in a way which contravened any of the Convention rights which P would have had if those investigations or proceedings had taken place in the United Kingdom; and
 - (b) that contravention was such that, in the opinion of the court, the conviction, finding or caution cannot safely be relied on for the purposes of meeting the condition in section 96A(2).
- (5) In this section—
 - “the relevant conviction, finding or caution” means the conviction, finding or caution by reason of which P is subject, by virtue of section 96A, to the notification requirements of this Part;
 - “the relevant court” means—

- (a) in a case to which subsection (2) applies, the court before which P is charged;
 - (b) in a case to which subsection (3) applies, the High Court.”.
- (3) Omit sections 97 to 101 (notification orders).
- (4) Subsection (3) (and the related repeals in Part 1 of Schedule 4) do not affect the validity or effect of any order made under section 97 or 100 of the Sexual Offences Act 2003 before the coming into operation of this section or the application of Part 2 of that Act to any person in respect of whom such an order was so made.
- (5) In section 133(1) (general interpretation) in the definition of “relevant date” for “98” substitute “96A(6)”.

Sexual offences prevention orders

- 5.—(1) Part 2 of the Sexual Offences Act 2003 is amended as follows.
- (2) Section 107 (effect of sexual offences prevention orders)—
- (a) in subsection (1)(a) after “order” insert “or requires the defendant to do anything described in the order (or both)”; and
 - (b) in subsection (2) after “prohibitions” insert “or requirements”.
- (3) In section 108(5) (renewal or variation of order) after “prohibitions” (wherever occurring) insert “or requirements”.
- (4) In section 109 (interim orders)—
- (a) in subsection (3) at the end insert “or requiring the defendant to do anything described in the order (or both)”; and
 - (b) in subsection (5) for “Section 107(3)” substitute “Section 107(2)”.
- (5) In section 113 (offences) after subsection (1) insert—
- “(1A) A person commits an offence if, without reasonable excuse, he fails to do anything which he is required to do by a sexual offences prevention order or an interim sexual offences prevention order.”.