



# Police Reform Act 2002

## 2002 CHAPTER 30

### PART 4

#### POLICE POWERS ETC.

### CHAPTER 2

#### PROVISIONS MODIFYING AND SUPPLEMENTING POLICE POWERS

#### *Sex offenders*

#### **67 Sex offenders: England and Wales**

- (1) Section 2 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders) shall be amended as follows.
- (2) In subsection (1) (application for a sex offender order)—
  - (a) for “in his police area” there shall be substituted “who he believes is in, or is intending to come to, his police area”;
  - (b) for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (3) In subsection (2) (which identifies the court to which an application must be made)—
  - (a) for “the magistrates' court” there shall be substituted “—
    - (a) any magistrates' court”;
    - (b) at the end there shall be inserted “; or
      - (b) any magistrates' court whose commission area includes any part of the applicant’s police area.”
- (4) In subsection (4) (the prohibitions which may be imposed), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.

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*Status: This is the original version (as it was originally enacted).*

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- (5) In subsection (6) (variation or discharge of the order)—
- (a) after “the applicant” there shall be inserted “, any other relevant chief officer of police”;
  - (b) for “the court which made a sex offender order for it” there shall be substituted “the appropriate court for the sex offender order”.
- (6) After that subsection there shall be inserted—
- “(6A) In subsection (6) above—
- “the appropriate court” means—
- (a) the court which made the sex offender order; or
  - (b) any magistrates' court whose commission area includes any part of the police area of the applicant or of any other relevant chief officer of police;
- “relevant chief officer of police” means a chief officer of police who believes that the defendant is in, or is intending to come to, his police area.”
- (7) In subsection (7) (discharge of orders), after “parties” there shall be inserted “and subject to subsection (7A) below”.
- (8) After that subsection there shall be inserted—
- “(7A) Where any magistrates' court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”
- (9) In subsection (8) (offence for breach of order), for “shall be” there shall be substituted “is guilty of an offence and”.
- (10) Subsections (4) to (6) apply in relation to applications and orders under section 2 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

## **68 Interim orders for sex offenders: England and Wales**

- (1) After section 2 of the Crime and Disorder Act 1998 there shall be inserted—

### **“2A Interim orders: sex offenders**

- (1) This section applies where an application for a sex offender order (“the main application”) to a magistrates' court has not been determined.
- (2) The applicant may apply by complaint to the court for an interim order, pending the determination of the main application.
- (3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.
- (4) An interim order—
  - (a) shall have effect for the period specified in the order;
  - (b) shall (if still in force) cease to have effect on the determination of the main application.

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

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- (5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if—
    - (a) the defendant were subject to the notification requirements of that Part; and
    - (b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.
  - (6) The applicant or the defendant may apply by complaint to the court which made the interim order for it to be varied or discharged by a further order.
  - (7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.
  - (8) A person guilty of an offence under subsection (7) above shall be liable—
    - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
    - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
  - (9) Where a person is convicted of an offence under subsection (7) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) in respect of the offence.”
- (2) In section 4(1) of that Act (appeals), for “or sex offender order” there shall be substituted “, a sex offender order or an order under section 2A above”.

## **69 Sex offender orders made in Scotland or Northern Ireland**

After section 2A of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 68 there shall be inserted—

### **“2B Sex offender orders made in Scotland or Northern Ireland**

- (1) If without reasonable excuse a person does anything in England and Wales which he is prohibited from doing there by—
  - (a) an order under section 20(4) below; or
  - (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),he is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) Where a person is convicted of an offence under subsection (1) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of the offence.”

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

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## **70 Sex offenders: Scotland**

- (1) The Crime and Disorder Act 1998 shall be amended as follows.
- (2) In section 20(1) (application for a sex offender order in Scotland) for “in the area of his police force” there shall be substituted “who he believes is in, or is intending to come to, the area of his police force”.
- (3) In section 20(2) (conditions to be fulfilled), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public”.
- (4) In section 20(3) (court to which application must be made)—
  - (a) after “application to” there shall be inserted “—  
(a)”;
  - (b) at the end there shall be inserted “; or  
(b) the sheriff whose sheriffdom includes any part of the area of the applicant’s police force.”.
- (5) In section 20(5) (prohibitions which may be imposed), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public.”.
- (6) In section 21(7) (time limit, variation and revocation of order)—
  - (a) in paragraph (b), after “revoked” there shall be inserted “(in the case of a sex offender order, by the appropriate court for that order)”;
  - (b) in paragraph (b)(i), after “the order” there shall be inserted “or, in the case of a sex offender order, any other relevant chief constable”.
- (7) After that subsection there shall be inserted—
 

“(7A) In subsection (7) above—  
 “the appropriate court” means—

  - (a) the sheriff who made the sex offender order; or
  - (b) the sheriff whose sheriffdom includes any part of the area of the applicant’s police force or of the police force of any other relevant chief constable;

“relevant chief constable” means a chief constable who believes that the accused is in, or is intending to come to, the area of his police force.”
- (8) After subsection (7A) (inserted by subsection (7)) there shall be inserted—
 

“(7B) Where a sheriff makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”
- (9) Subsections (5) to (7) apply in relation to applications and orders under section 20 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

## **71 Sex offender orders made in England and Wales or Northern Ireland**

After section 21 of the Crime and Disorder Act 1998 there shall be inserted—

## **“21A Sex offender orders made in England and Wales or Northern Ireland**

- (1) If without reasonable excuse a person does anything in Scotland which he is prohibited from doing there by—
  - (a) an order under section 2(3) or 2A above; or
  - (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),he is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.”

## **72 Sex offenders: Northern Ireland**

- (1) Article 6 of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) (sex offender orders) shall be amended as follows.
- (2) In paragraph (1) (application for a sex offender order)—
  - (a) for “in Northern Ireland” there shall be substituted “who he believes is in, or is intending to come to, Northern Ireland”;
  - (b) for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (3) In paragraph (2) (which identifies the court to which an application must be made), for the words following “1981 to” there shall be substituted “any court of summary jurisdiction”.
- (4) In paragraph (4) (the prohibitions which may be imposed), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (5) In paragraph (7) (discharge of orders), after “parties” there shall be inserted “and subject to paragraph (7A)”.
- (6) After that paragraph there shall be inserted—

“(7A) Where a court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”
- (7) Subsection (4) applies in relation to applications and orders under Article 6 of the Criminal Justice (Northern Ireland) Order 1998, whether made before or after the coming into force of this section.

## **73 Interim orders for sex offenders: Northern Ireland**

- (1) After Article 6 of the Criminal Justice (Northern Ireland) Order 1998 there shall be inserted—

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

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**“6A Interim orders: sex offenders**

- (1) This Article applies where an application for a sex offender order (“the main application”) to a court of summary jurisdiction has not been determined.
  - (2) The applicant may apply by way of complaint under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/ 1675 (N.I. 26)) to the court for an interim order, pending the determination of the main application.
  - (3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.
  - (4) An interim order—
    - (a) shall have effect for the period specified in the order;
    - (b) shall (if still in force) cease to have effect on the determination of the main application.
  - (5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if—
    - (a) the defendant were subject to the notification requirements of that Part; and
    - (b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.
  - (6) The applicant or the defendant may apply for the variation or discharge of the interim order by a further order.
  - (7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.
  - (8) A person guilty of an offence under paragraph (7) shall be liable—
    - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
    - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
  - (9) Where a person is convicted of an offence under paragraph (7), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160 (N.I. 24)) in respect of the offence.”
- (2) In Article 7(7) of that Order (sex offender orders: supplemental)—
- (a) after “a sex offender order” there shall be inserted “or an interim order under Article 6A”;
  - (b) after “Article 6(6)” there shall be inserted “or 6A(6)”.

**74 Sex offender orders made in England and Wales or Scotland**

After Article 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) (which is inserted by section 73 above) there shall be inserted—

**“6B Sex offender orders made in England and Wales or Scotland**

- (1) If without reasonable excuse a person does anything in Northern Ireland which he is prohibited from doing there by an order under section 2, 2A or 20 of the Crime and Disorder Act 1998 (c. 37) he is guilty of an offence.
- (2) A person who is guilty of an offence under paragraph (1) shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) Where a person is convicted of an offence under paragraph (1), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160 (N.I. 24)) in respect of the offence.”