



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 2

#### NOTIFICATION AND ORDERS

*[<sup>F1</sup>Foreign travel orders [<sup>F2</sup>(Scotland and Northern Ireland)]]*

#### Textual Amendments

- F1** Ss. 104-122 repealed (E.W.) (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 5 para. 3](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F2** Words in s. 114 cross-heading inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 64](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

#### **[<sup>F3</sup>114 Foreign travel orders: applications and grounds**

- (1) A chief officer of police may by complaint to a magistrates' court apply for an order under this section (a "foreign travel order") in respect of a person ("the defendant") who resides in his police area or who the chief officer believes is in or is intending to come to his police area if it appears to the chief officer that—
  - (a) the defendant is a qualifying offender, and
  - (b) the defendant 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.
- (2) An application under subsection (1) may be made to any magistrates' court whose commission area includes any part of the applicant's police area.
- (3) On the application, the court may make a foreign travel order if it is satisfied that—
  - (a) the defendant is a qualifying offender, and
  - (b) the defendant's behaviour since the appropriate date makes it necessary to make such an order, for the purpose of protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom.]

*Status: Point in time view as at 31/03/2023.*

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#### Textual Amendments

- F3** S. 114 repealed (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#) (asp 22), [ss. 39\(1\)\(b\), 45\(2\)\(3\)](#) (with [ss. 40\(2\)-\(4\), 44](#)); [S.S.I. 2023/51](#), [reg. 2](#) (with [reg. 3](#))

#### [<sup>F4</sup>115 Section 114: interpretation

- (1) Subsections (2) to (5) apply for the purposes of section 114.
- (2) “Protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom” means protecting persons [<sup>F5</sup>under 18] generally or any particular person [<sup>F5</sup>under 18] from serious physical or psychological harm caused by the defendant doing, outside the United Kingdom, anything which would constitute an offence listed in Schedule 3 if done in any part of the United Kingdom.
- (3) Acts and behaviour include those occurring before the commencement of this Part.
- (4) “Qualifying offender” has the meaning given by section 116.
- (5) “Appropriate date”, in relation to a qualifying offender, means the date or (as the case may be) the first date on which he was convicted, found or cautioned as mentioned in subsection (1) or (3) of section 116.
- (6) [<sup>F6</sup>.....]

#### Textual Amendments

- F4** S. 115 repealed (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#) (asp 22), [ss. 39\(1\)\(b\), 45\(2\)\(3\)](#) (with [ss. 40\(2\)-\(4\), 44](#)); [S.S.I. 2023/51](#), [reg. 2](#) (with [reg. 3](#))
- F5** Words in s. 115(2) substituted (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009](#), {[ss. 23\(1\)\(a\)](#)}, [116\(1\)](#) (with [23\(2\)](#)); [S.I. 2010/507](#), [art. 5\(j\)](#) (subject to [art. 6](#)) and "18" substituted (S.) (13.12.2010) for "16" by virtue of [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), [ss. 101\(2\), 206\(1\)](#); [S.S.I. 2010/413](#), [art. 2](#), [Sch.](#)
- F6** S. 115(6) repealed (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009](#), [ss. 112\(2\), 116\(1\)](#), {[Sch. 8 Pt. 2](#)}; [S.I. 2010/507](#), [art. 5\(x\)](#) (subject to [art. 6](#))

#### 116 Section 114: qualifying offenders **N.I.**

- (1) A person is a qualifying offender for the purposes of section 114 if, whether before or after the commencement of this Part, he—
  - (a) has been convicted of an offence within subsection (2),
  - (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) in England and Wales or Northern Ireland, has been cautioned in respect of such an offence.
- (2) The offences are—
  - (a) an offence within any of paragraphs 13 to 15, 44 to 46, 77, 78 and 82 of Schedule 3;

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- (b) an offence within paragraph 31 [<sup>F7</sup>or 92S] of that Schedule, if the intended offence was an offence against a person [<sup>F8</sup>under 18];
  - (c) an offence within paragraph 93 [<sup>F9</sup>or 93A] of that Schedule, if—
    - (i) the corresponding civil offence is an offence within any of paragraphs 13 to 15 of that Schedule;
    - (ii) the corresponding civil offence is an offence within paragraph 31 of that Schedule, and the intended offence was an offence against a person [<sup>F8</sup>under 18]; or
    - (iii) the corresponding civil offence is an offence within any of paragraphs 1 to 12, 16 to 30 and 32 to 35 of that Schedule, and the victim of the offence was [<sup>F8</sup>under 18] at the time of the offence.
  - (d) an offence within any other paragraph of that Schedule, if the victim of the offence was [<sup>F8</sup>under 18] at the time of the offence.
- [<sup>F10</sup>(2A) In subsection (2)(c) references to the corresponding civil offence are to be read, in relation to an offence within paragraph 93A of Schedule 3, as references to the corresponding offence under the law of England and Wales.]
- (3) A person is also a qualifying offender for the purposes of section 114 if, under the law in force in a country outside the United Kingdom and whether before or after the commencement of this Part—
    - (a) he has been convicted of a relevant offence (whether or not he 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 he 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 he is under a disability and did the act charged against him in respect of the offence, or
    - (d) he 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
    - (b) would have constituted an offence within subsection (2) if it had been done in any part of the United Kingdom.
  - (5) An act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law for the purposes of subsection (4), however it is described in that law.
  - (6) Subject to subsection (7), on an application under section 114 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 his opinion met,
    - (b) showing his 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).

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#### Extent Information

- E1** This version of this provision extends to Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

- F7** Words in s. 116(2)(b) inserted (N.I.) (5.7.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(2), [Sch. 7 para. 12\(1\)](#)
- F8** Words in s. 116(2)(b)(c)(ii)(iii)(d) substituted (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 23\(1\)\(b\)\(2\)](#), 116(1); S.I. 2010/507, [art. 5\(j\)](#) (subject to [art. 6](#))
- F9** Words in s. 116(2)(c) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378\(1\)](#), 383(2), [Sch. 16 para. 207\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F10** S. 116(2A) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378\(1\)](#), 383(2), [Sch. 16 para. 207\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

### <sup>F35</sup> 116 Section 114: qualifying offenders **S**

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#### Textual Amendments

- F35** S. 116 repealed (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), [ss. 39\(1\)\(b\)](#), 45(2)(3) (with [ss. 40\(2\)-\(4\)](#), 44); S.S.I. 2023/51, [reg. 2](#) (with [reg. 3](#))

### [<sup>F11</sup> 117 Foreign travel orders: effect

- (1) A foreign travel order has effect for a fixed period of not more than [<sup>F12</sup>5 years], specified in the order.
- (2) The order prohibits the defendant from doing whichever of the following is specified in the order—
  - (a) travelling to any country outside the United Kingdom named or described in the order,
  - (b) travelling to any country outside the United Kingdom other than a country named or described in the order, or
  - (c) travelling to any country outside the United Kingdom.
- (3) The only prohibitions that may be included in the order are those necessary for the purpose of protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom.
- (4) If at any time while an order (as renewed from time to time) has effect a defendant is not a relevant offender, the order causes him to be subject to the requirements imposed by regulations made under section 86(1) (and for these purposes the defendant is to be treated as if he were a relevant offender).
- (5) Where a court makes a foreign travel order in relation to a person already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

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(6) Section 115(2) applies for the purposes of this section and section 118.]

#### Textual Amendments

- F11** S. 117 repealed (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#) (asp 22), **ss. 39(1)(b)**, 45(2)(3) (with **ss. 40(2)-(4)**, 44); S.S.I. 2023/51, **reg. 2** (with **reg. 3**)
- F12** Words in s. 117(1) substituted (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009](#) (c. 26), **ss. 24(1)**, 116(1) (with s. 24(2)); S.I. 2010/507, **art. 5(k)** (subject to **art. 6**) and said words substituted (S.) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 101(4)**, 206(1); S.S.I. 2010/413, **art. 2**, **Sch.**

#### [<sup>F13</sup>117A]<sup>F14</sup>Surrender of passports: Northern Ireland]

- (1) This section applies in relation to a foreign travel order which contains a prohibition within section 117(2)(c).
- (2) The order must require the defendant to surrender all of the defendant's passports, at a police station [<sup>F15</sup>in Northern Ireland] specified in the order—
  - (a) on or before the date when the prohibition takes effect, or
  - (b) within a period specified in the order.
- (3) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a foreign travel order containing a prohibition within section 117(2)(c) [<sup>F16</sup>(unless the person is subject to an equivalent prohibition under another order)].
- (4) Subsection (3) 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.
- (5) 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.]

#### Textual Amendments

- F13** S. 117A inserted (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009](#) (c. 26), **ss. 25(2)**, 116(1) (with s. 25(4)); S.I. 2010/507, **art. 5(l)** (subject to **art. 6**)
- F14** S. 117A heading substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 65(2)** (with **ss. 21**, 33, 42, 58, 75, 93); S.I. 2015/373, **art. 2(g)(i)**
- F15** Words in s. 117A(2) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 65(3)** (with **ss. 21**, 33, 42, 58, 75, 93); S.I. 2015/373, **art. 2(g)(i)**
- F16** Words in s. 117A(3) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 65(4)** (with **ss. 21**, 33, 42, 58, 75, 93); S.I. 2015/373, **art. 2(g)(i)**

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## <sup>F17</sup> 117B Surrender of passports: Scotland

### Textual Amendments

**F17** S. 117B repealed (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), ss. 39(1)(c), 45(2)(3) (with ss. 40(2)-(4), 44); S.S.I. 2023/51, [reg. 2](#) (with reg. 3)

## <sup>F18</sup> 118 Foreign travel orders: 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 foreign travel order.
- (2) The persons are—
  - (a) the defendant;
  - (b) the chief officer of police on whose application the foreign travel order was made;
  - (c) the chief officer of police for the area in which the defendant resides;
  - (d) a chief officer of police who believes that the defendant is in, or is intending to come to, his police area.
- (3) Subject to subsection (4), 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 foreign travel 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 protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom (and any renewed or varied order may contain only such prohibitions as are necessary for this purpose).
- (5) In this section “the appropriate court” means—
  - (a) the court which made the foreign travel order;
  - (b) a magistrates' court for the area in which the defendant resides; or
  - (c) where the application is made by a chief officer of police, any magistrates' court whose commission area includes any part of his police area.]

### Textual Amendments

**F18** S. 118 repealed (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), ss. 39(1)(d), 45(2)(3) (with ss. 40(2)-(4), 44); S.S.I. 2023/51, [reg. 2](#) (with reg. 3)

## 119 <sup>F19</sup> Appeals in relation to foreign travel orders: Northern Ireland]

- (1) A defendant may appeal to <sup>F20</sup>a county court]—
  - (a) against the making of a foreign travel order;
  - (b) against the making of an order under section 118, or the refusal to make such an order.

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(2) On any such appeal, [<sup>F21</sup>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.

[<sup>F22</sup>(3) Any order made by a county court on an appeal under subsection (1)(a) (other than an order directing that an application be re-heard by a court of summary jurisdiction) is for the purposes of section 118(5) to be treated as if it were an order of the court from which the appeal was brought (and not an order of the county court).]

#### Textual Amendments

- F19** S. 119 heading substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 67\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F20** Words in s. 119(1) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 67\(3\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F21** Words in s. 119(2) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 67\(4\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F22** S. 119(3) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 67\(5\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

### <sup>F23</sup>120 Appeals in relation to foreign travel orders: Scotland

#### Textual Amendments

- F23** S. 120 repealed (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), ss. [39\(1\)\(e\)](#), [45\(2\)\(3\)](#) (with ss. [40\(2\)-\(4\)](#), [44](#)); S.S.I. 2023/51, [reg. 2](#) (with reg. 3)

### <sup>F24</sup>121 Sections 114 to 118: Scotland

#### Textual Amendments

- F24** S. 121 repealed (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), ss. [39\(1\)\(e\)](#), [45\(2\)\(3\)](#) (with ss. [40\(2\)-\(4\)](#), [44](#)); S.S.I. 2023/51, [reg. 2](#) (with reg. 3)

### <sup>F26</sup>122 Offence: breach of foreign travel order [<sup>F25</sup>etc]

- (1) A person commits an offence if, without reasonable [<sup>F27</sup>excuse—
- (a) he] does anything which he is prohibited from doing by a foreign travel order [<sup>F28</sup>, <sup>F29</sup> ...
  - (b) he contravenes a prohibition on foreign travel imposed by a sexual harm prevention order][<sup>F30</sup>, or
  - (c) he contravenes a prohibition on foreign travel imposed by a sexual harm prevention order made under section 11 or 12 of the [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#).]

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- [<sup>F31</sup>(1A) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement under section 117A(2).]
- [<sup>F32</sup>(1B) A person commits an offence if, without reasonable excuse, the person fails to comply with—
- (a) a requirement under section 117A(2) (surrender of passports: <sup>F33</sup>... Northern Ireland), or
  - (b) a requirement under section 117B(2) (surrender of passports: Scotland).
- (1C) A person may be prosecuted, tried and punished for any offence under subsection (1B) —
- (a) in any sheriff court district in which the person is apprehended or is in custody, or
  - (b) in such sheriff court district as the Lord Advocate may determine, as if the offence had been committed in that district (and the offence is, for all purposes incidental to or consequential on the trial or punishment, to be deemed to have been committed in that district).]

(2) 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 not exceeding the statutory maximum or both;
    - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

(3) Where a person is convicted of an offence under this section, it is not open to the court by or before which he is convicted to make, in respect of the offence, an order for conditional discharge (or, in Scotland, a [<sup>F34</sup>community payback order]).]

#### Textual Amendments

- F25** Word in s. 122 heading inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 68\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F26** S. 122 repealed (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#) (asp 22), [ss. 39\(1\)\(e\), 45\(2\)\(3\)](#) (with ss. 40(2)-(4), 44); S.S.I. 2023/51, [reg. 2](#) (with reg. 3)
- F27** Words in s. 122(1) substituted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 68\(3\)\(a\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F28** S. 122(1)(b) and preceding word inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 68\(3\)\(b\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F29** Word in s. 122(1)(a) omitted (31.3.2023 for N.I.) by virtue of [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 180\(4\)\(a\), 208\(1\)](#); S.I. 2023/387, [reg. 3\(c\)](#)
- F30** S. 122(1)(c) and word inserted (31.3.2023 for N.I.) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 180\(4\)\(b\), 208\(1\)](#); S.I. 2023/387, [reg. 3\(c\)](#)
- F31** S. 122(1A) inserted (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009](#) (c. 26), [ss. 25\(3\), 116\(1\)](#); S.I. 2010/507, [art. 5\(I\)](#) (subject to art. 6)
- F32** S. 122(1B)(1C) inserted (S.) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), [ss. 101\(6\), 206\(1\)](#); S.S.I. 2010/413, art. 2, [Sch.](#)
- F33** Words in s. 122(1B)(a) omitted (8.3.2015) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 11 para. 68\(4\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F34** Words in s. 122(3) substituted (S.) (1.2.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential and Supplementary Provisions\) Order 2011](#) (S.S.I. 2011/25), arts. 1, 2, [Sch. para. 2\(5\)](#) (with art. 3)



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**Modifications etc. (not altering text)**

- C5** S. 122(1B)(b) extended (E.W.N.I.) (16.9.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2011 \(S.I. 2011/2298\)](#), art. 1, **Sch. para. 3(1)** (with art. 4(4))

**Status:**

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**Changes to legislation:**

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