



Sexual Offences Act 2003

2003 CHAPTER 42

PART 2

NOTIFICATION AND ORDERS

General

131 Young offenders: application

This Part applies to—

- (a) a period of detention which a person is liable to serve under a detention and training order [^{F1}(including an order under section 211 of the Armed Forces Act 2006)], or a secure training order,
- (b) a period for which a person is ordered to be detained in residential accommodation under section 44(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46),
- (c) a period of training in a training school, or of custody in a remand centre, which a person is liable to undergo or serve by virtue of an order under section 74(1)(a) or (e) of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.)),
- (d) a period for which a person is ordered to be detained in a juvenile justice centre under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)),
- (e) a period for which a person is ordered to be kept in secure accommodation under Article 44A of the Order referred to in paragraph (d),
- (f) a sentence of detention in a young offender institution, a young offenders institution or a young offenders centre,
- (g) a sentence under a custodial order within the meaning of section 71AA of, or paragraph 10(1) of Schedule 5A to, the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 43AA of, or paragraph 10(1) of Schedule 4A to, the Naval Discipline Act 1957 (c. 53),

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- (h) a sentence of detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), [F²section 250 [F³, 252A] or 259 of the Sentencing Code,][F⁴section 209 or 218 of the Armed Forces Act 2006,] section [F⁵205ZC(5) or] 208 of the Criminal Procedure (Scotland) Act 1995 or Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998,
- (i) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) [F⁶or section 272 or 275 of the Sentencing Code (including one passed as a result of section 210A, 217, 218A or 219 of the Armed Forces Act 2006)],
- (j) a sentence of detention, or custody for life, under section 71A of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 43A of the Naval Discipline Act 1957 (c. 53),
- [F⁷(k) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 [F⁸(including one passed as a result of section 221 of the Armed Forces Act 2006)],
- (l) an extended sentence under section [F⁹226B or] 228 of [F¹⁰the Criminal Justice Act 2003 [F¹¹or section 254 of the Sentencing Code] (including one passed as a result of section [F¹²221A or] 222 of the Armed Forces Act 2006)],]
- [F¹³(m) a sentence of detention under Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008,]
- [F¹⁴(n) a sentence of detention under Article 15A(5) of the Criminal Justice (Northern Ireland) Order 2008]

as it applies to an equivalent sentence of imprisonment; and references in this Part to prison or imprisonment are to be interpreted accordingly.

Textual Amendments

- F1** Words in s. 131(a) 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. 208(2)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F2** Words in s. 131(h) inserted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 210(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F3** Word in s. 131(h) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021** (c. 11), s. 50(1)(i), **Sch. 13 para. 20**
- F4** Words in s. 131(h) 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. 208(3)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F5** Words in s. 131(h) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021** (c. 11), s. 50(1)(i), **Sch. 13 para. 57**
- F6** Words in s. 131(i) inserted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 210(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F7** S. 131(k)(l) inserted (4.4.2005) by **Criminal Justice Act 2003** (c. 44), ss. 304, 336, **Sch. 32 para. 143**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(39) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))
- F8** Words in s. 131(k) 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. 208(4)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F9** Words in s. 131(l) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 21 para. 19**; S.I. 2012/2906, art. 2(s)

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- F10** Words in s. 131(l) substituted (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. 208(5)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F11** Words in s. 131(l) inserted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 210(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F12** Words in s. 131(1) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 22 para. 20**; S.I. 2012/2906, art. 2(t)
- F13** S. 131(m) added (N.I.) (15.5.2008) by **The Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), art. 1, Sch. 5 para. 10(2)**; S.R. 2008/217, **art. 2, Sch. para. 18(e)** (subject to art. 3)
- F14** S. 131(n) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 70**

132 Offences with thresholds

- (1) This section applies to an offence which in Schedule 3 is listed subject to a condition relating to the way in which the defendant is dealt with in respect of the offence or (where a relevant finding has been made in respect of him) in respect of the finding (a “sentencing condition”).
- (2) Where an offence is listed if either a sentencing condition or a condition of another description is met, this section applies only to the offence as listed subject to the sentencing condition.
- (3) For the purposes of this Part (including in particular section 82(6))—
 - (a) a person is to be regarded as convicted of an offence to which this section applies, or
 - (b) (as the case may be) a relevant finding in relation to such an offence is to be regarded as made,at the time when the sentencing condition is met.
- (4) In the following subsections, references to a foreign offence are references to an act which—
 - (a) constituted an offence under the law in force in a country outside the United Kingdom (“the relevant foreign law”), and
 - (b) would have constituted an offence to which this section applies (but not an offence, listed in Schedule 3, to which this section does not apply) if it had been done in any part of the United Kingdom.
- (5) In relation to a foreign offence, references to the corresponding UK offence are references to the offence (or any offence) to which subsection (4)(b) applies in the case of that foreign offence.
- (6) For the purposes of this Part, a person is to be regarded as convicted under the relevant foreign law of a foreign offence at the time when he is, in respect of the offence, dealt with under that law in a way equivalent to that mentioned in Schedule 3 as it applies to the corresponding UK offence.
- (7) Where in the case of any person a court exercising jurisdiction under the relevant foreign law makes in respect of a foreign offence a finding equivalent to a relevant finding, the court’s finding is, for the purposes of this Part, to be regarded as made at the time when the person is, in respect of the finding, dealt with under that law in a way equivalent to that mentioned in Schedule 3 as it applies to the corresponding UK offence.

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- (8) Where (by virtue of an order under section 130 or otherwise) an offence is listed in Schedule 5 subject to a sentencing condition, this section applies to that offence as if references to Schedule 3 were references to Schedule 5.
- (9) In this section, “relevant finding”, in relation to an offence, means—
- (a) a finding that a person is not guilty of the offence by reason of insanity, or
 - (b) a finding that a person is under a disability and did the act charged against him in respect of the offence.

[^{F15}132A] Disapplication of time limit for complaints

Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under any provision of this Part.]

Textual Amendments

F15 S. 132A inserted (E.W.N.I.) (1.4.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 22\(2\), 116\(1\)](#) (with [s. 22\(4\)](#)); [S.I. 2010/507](#), [art. 5\(i\)](#) (subject to [art. 6](#))

133 Part 2: general interpretation

(1) In this Part—

“admitted to a hospital” means admitted to a hospital under—

- (a) section 37 of the Mental Health Act 1983 (c. 20), section 57(2)(a) or [^{F16}57A(2)] of the Criminal Procedure (Scotland) Act 1995 (c. 46) or Article 44 or 50A(2) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));
- (b) Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25); or
- (c) [^{F17}section 46 of the Mental Health Act 1983, [^{F18}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]

^{F19}[^{F20}“applicable date” has the meaning given by section 88D(5)]

“cautioned” means—

- (a) cautioned [^{F21}(or, in Northern Ireland, cautioned by a police officer)] after the person concerned has admitted the offence, ^{F22}...
- (b) ^{F22}...

and “caution” is to be interpreted accordingly;

“community order” means—

- (a) a community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) [^{F23}(as that Act had effect before the passing of the Criminal Justice Act 2003)];
- (b) [^{F24}a community payback order made under the Criminal Procedure (Scotland) Act 1995 (c.46);]
- (c) a community order within the meaning of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)), a probation order under section 1 of the Probation Act (Northern Ireland) 1950 (c. 7 (N.I.)) or a

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- community service order under Article 7 of the Treatment of Offenders (Northern Ireland) Order 1976 (S.I. 1976/226 (N.I. 40)); or
- (d) a community supervision order;
- “community supervision order” means an order under paragraph 4 of Schedule 5A to the Army Act 1955 or the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957;
- “country” includes territory;
- ^{F25}[^{F26}“date of discharge” has the meaning given by section 88B(1)]
- “detained in a hospital” means detained in a hospital under—
- (a) Part 3 of the Mental Health Act 1983, [^{F27}section 136 of the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13)], Part 6 of the Criminal Procedure (Scotland) Act 1995 or Part III of the Mental Health (Northern Ireland) Order 1986;
- (b) Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991; or
- (c) [^{F28}section 46 of the Mental Health Act 1983, [^{F29}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]
- ^{F30}[^{F31}“further date of discharge” has the meaning given by section 88B(3)]
- “guardianship order” means a guardianship order under section 37 of the Mental Health Act 1983 (c. 20), section 58 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or Article 44 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));
- “home address” has the meaning given by section 83(7);
- “interim notification order” has the meaning given by section 100(2);
- “interim risk of sexual harm order” has the meaning given by section 126(2);
- [^{F32}“interim sexual harm prevention order” has the meaning given by section 103F(2);]
- “interim sexual offences prevention order” has the meaning given by section 109(2);
- [^{F32}“interim sexual risk order” has the meaning given by section 122E(2);]
- [^{F33}“kept in service custody” means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (but see also subsection (3));]
- “local police area” has the meaning given by section 88(3);
- “local probation board” has the same meaning as in the Criminal Justice and Court Services Act 2000 (c. 43);
- ^{F34}[^{F35}“notification continuation order” has the meaning given by section 88C(2)]
- “notification order” has the meaning given by section 97(1);
- “notification period” has the meaning given by section 80(1);
- [^{F36}“order for conditional discharge” means an order under any of the following provisions discharging the offender conditionally—
- (a) [^{F37}section 80 of the Sentencing Code;]
- (b) Article 4 of the Criminal Justice (Northern Ireland) Order 1996;
- (c) section 185 of the Armed Forces Act 2006;
- (d) paragraph 3 of Schedule 5A to the Army Act 1955 or Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957;]

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“parental responsibility” has the same meaning as in the Children Act 1989 (c. 41) or the Children (Northern Ireland) Order 1995 (S.I. 1995/ 755 (N.I. 2)), and “parental responsibilities” has the same meaning as in Part 1 of the Children (Scotland) Act 1995 (c. 36);

“the period of conditional discharge” has the meaning given by each of the following—

- (a) [^{F38}section 80(1) of the Sentencing Code;]
- (b) Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996;
- (c) [^{F39}section 185(2) of the Armed Forces Act 2006;]

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[^{F32}“prohibition on foreign travel” has the meaning given by section 103D(2) or 122C(2);]

“relevant date” has the meaning given by section 82(6) (save in the circumstances mentioned in sections ^{F41}[^{F42}88B,]^{F43}[^{F43}, 96ZC], ^{F43}[^{F44}98], ^{F44}96A(6)]^{F43}, 100], 107, 109 and 129);

“relevant offender” has the meaning given by section 80(2);

“restriction order” means—

- (a) an order under section 41 of the Mental Health Act 1983, section 57(2) (b) or 59 of the Criminal Procedure (Scotland) Act 1995 or Article 47(1) of the Mental Health (Northern Ireland) Order 1986;
- (b) a direction under paragraph 2(1)(b) of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25) or Article 50A(3)(b) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)); or
- (c) [^{F45}a direction under section 46 of the Mental Health Act 1983, [^{F46}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]

“risk of sexual harm order” has the meaning given by section 123(1);

[^{F47}“service detention” has the meaning given by section 374 of the Armed Forces Act 2006;]

[^{F32}“sexual harm prevention order” has the meaning given by section 103A(1);]

“sexual offences prevention order” has the meaning given by section 106(1);

[^{F32}“sexual risk order” has the meaning given by section 122A(1);]

[^{F48}“specified”, in relation to an offender supervision requirement, means specified in the requirement.]

“supervision” means supervision in pursuance of an order made for the purpose or, in the case of a person released from prison on licence, in pursuance of a condition contained in his licence;

^{F49}

[^{F50}(1A) A reference to a provision specified in paragraph (a) of the definition of “admitted to a hospital”, “detained in a hospital” or “restriction order” includes a reference to the provision as it applies by virtue of—

- (a) section 5 of the Criminal Procedure (Insanity) Act 1964,
- (b) section 6 or 14 of the Criminal Appeal Act 1968,

[Schedule 4 to the Armed Forces Act 2006 (including as applied by ^{F51}(ba) section 16(2) of the Court Martial Appeals Act 1968),]

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- (c) section 116A of the Army Act 1955 or the Air Force Act 1955 or section 63A of the Naval Discipline Act 1957, or
 - (d) section 16 or 23 of the Courts-Martial (Appeals) Act 1968.]
- (2) Where under section 141 different days are appointed for the commencement of different provisions of this Part, a reference in any such provision to the commencement of this Part is to be read (subject to section 98(4)) as a reference to the commencement of that provision.
- [^{F52}(3) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006, “kept in service custody” means being kept in military, air-force or naval custody by virtue of an order made under section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be).]

Textual Amendments

- F16** S. 133(1): words in definition of "admitted to a hospital" substituted (S.) (27.9.2005) and otherwise (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 2, [Sch. 1 para. 33\(2\)\(a\)](#) and [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 15, [Sch. 1 para. 7\(a\)](#)
- F17** In s. 133(1) in definition of "admitted to a hospital" para. (c) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 57\(2\)\(a\)](#); S.I. 2005/579, [art. 3\(f\)\(g\)](#)
- F18** S. 133(1): words in definition of "admitted to a hospital" repealed (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 3, [Sch. 2](#)
- F19** S. 133(1): definition of "applicable date" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), [4\(2\)\(a\)](#) (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see [art. 5](#))
- F20** S. 133(1): definition of "applicable date" inserted (S.) (25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), [4\(1\)\(a\)](#) (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F21** S. 133(1): words in definition of "cautioned" substituted for "by a police officer" (E.W.N.I.) (14.7.2008) by virtue of [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), [Sch. 26 para. 56\(2\)\(a\)](#); S.I. 2008/1586, [art. 2](#), [Sch. 1 para. 48\(r\)](#) (subject to [Sch. 2](#))
- F22** S. 133(1): words in definition of “cautioned” omitted (8.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 25](#) (with s. 135(4)); S.I. 2013/453, [art. 4\(f\)](#)
- F23** S. 133(1): words in definition of "community order" inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 304, 336, [Sch. 32 para. 144](#); S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(39\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#) (as amended by S.I. 2005/2122, [art. 2](#)))
- F24** Words in definition of "community order" in s. 133(1) 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\(6\)\(a\)](#) (with [art. 3](#))
- F25** S. 133(1): definition of "date of discharge" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), [4\(2\)\(a\)](#) (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see [art. 5](#))

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- F26** S. 133(1): definition of "date of discharge" inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), **4(1)(a)** (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F27** S. 133(1): words in definition of "detained in a hospital" substituted (S.) (27.9.2005) and otherwise (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 2, **Sch. 1 para. 33(2)(b)** and [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 15, **Sch. 1 para. 7(b)**
- F28** In s. 133(1) in definition of "detained in a hospital" para. (c) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, **Sch. 10 para. 57(2)(b)**; S.I. 2005/579, **art. 3(f)(g)**
- F29** S. 133(1): words in definition of "detained in a hospital" repealed (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 3, **Sch. 2**
- F30** S. 133(1): definition of "further date of discharge" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), **4(2)(a)** (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see art. 5)
- F31** S. 133(1): definition of "further date of discharge" inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), **4(1)(a)** (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F32** Definitions in s. 133(1) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 76(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F33** S. 133(1): definition of "kept in service custody" inserted (E.W.N.I.) (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), **Sch. 26 para. 56(2)(b)**; S.I. 2009/2606, **art. 3(i)**
- F34** S. 133(1): definition of "notification continuation order" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), **4(2)(a)** (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see art. 5)
- F35** S. 133(1): definition of "notification continuation order" inserted (S.) (at 17.00 hours on 25.10.2010) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), arts. 1(1), **4(1)(a)** (which Order is revoked and re-enacted with modifications (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#))
- F36** S. 133(1): definition of "order for conditional charge" substituted (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. 209(2)(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F37** Words in s. 133(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 211(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F38** Words in s. 133(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 211(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F39** S. 133(1): words in definition of "the period of conditional discharge" substituted (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. 209(2)(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F40** S. 133(1): definitions of "probation order" and "probation period" repealed (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(6)(b)** (with art. 3)
- F41** S. 133(1): words in definition of "relevant date" inserted (S.) (28.1.2011) by [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2011 \(S.S.I. 2011/45\)](#), arts. 1(1), **4(2)(b)** (which Order revokes and re-enacts with modifications the [The Sexual Offences Act 2003 \(Remedial\) \(Scotland\) Order 2010 \(S.S.I. 2010/370\)](#), see art. 5)

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F42** S. 133(1): words in definition of "relevant date" inserted (S.) (at 17.00 hours on 25.10.2010) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), arts. 1(1), **4(1)(b)** (which Order is revoked and re-enacted with modifications (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45))
- F43** Word in s. 133(1) substituted (E.W.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 169(6)**, 208(1) (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- F44** S. 133(1): word in definition of "relevant date" substituted (N.I.) (24.6.2014) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), **ss. 4(5)**, 15(2)(c); S.R. 2014/179, art. 2(b)
- F45** In s. 133(1) in definition of "restriction order" para. (c) substituted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, **Sch. 10 para. 57(2)(c)**; S.I. 2005/579, **art. 3(f)(g)**
- F46** S. 133(1): words in definition of "restriction order" repealed (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 3, **Sch. 2**
- F47** S. 133(1): definition of "service detention" 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. 209(2)(c)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F48** S. 133(1): definition of "specified" inserted (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(6)(c)** (with art. 3)
- F49** S. 133(1): definition of "term of service detention" repealed (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378, 383(2), **Sch. 16 para. 209(2)(d)**, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F50** S. 133(1A) inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, **Sch. 10 para. 57(3)**; S.I. 2005/579, **art. 3(f)(g)**
- F51** S. 133(1A)(ba) 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. 209(3)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F52** S. 133(3) inserted (E.W.N.I.) (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), **Sch. 26 para. 56(3)**; S.I. 2009/2606, **art. 3(i)**

Modifications etc. (not altering text)

- C1** S. 133(1) modified (24.4.2009 for certain purposes and otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, **Sch. 1 para. 52(1)**

134 Conditional discharges and probation orders

- (1) The following provisions do not apply for the purposes of this Part to a conviction for an offence in respect of which an order for conditional discharge^{F53} . . . is made—
- (a) [^{F54}section 82(2) of the Sentencing Code] (conviction with absolute or conditional discharge deemed not to be a conviction);
- (b) Article 6(1) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (conviction with absolute or conditional discharge deemed not to be a conviction);
- (c) section 247(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (conviction with^{F55} . . . absolute discharge deemed not to be a conviction);
- [^{F56}(ca) section 187(1) of the Armed Forces Act 2006 (conviction with absolute or conditional discharge deemed not to be a conviction);]
- (d) paragraph 5(1) of Schedule 5A to the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or Schedule 4A to the Naval Discipline Act 1957 (c. 53) (conviction with absolute or conditional discharge or community supervision order deemed not to be a conviction).

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

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- (2) Subsection (1) applies only to convictions after the commencement of this Part.
- (3) The provisions listed in subsection (1)(d) do not apply for the purposes of this Part to a conviction for an offence in respect of which a community supervision order is or has (before or after the commencement of this Part) been made.

Textual Amendments

- F53** Words in s. 134(1) repealed (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(7)(a)** (with art. 3)
- F54** Words in s. 134(1)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 212** (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F55** Words in s. 134(1)(c) repealed (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(7)(b)** (with art. 3)
- F56** S. 134(1)(ca) 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. 210**; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), **art. 4**

135 Interpretation: mentally disordered offenders

- (1) In this Part, a reference to a conviction includes a reference to a finding of a court in summary proceedings, where the court makes an order under an enactment within subsection (2), that the accused did the act charged; and similar references are to be interpreted accordingly.
- (2) The enactments are—
 - (a) section 37(3) of the Mental Health Act 1983 (c. 20);
 - (b) section 58(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46);
 - (c) Article 44(4) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- [^{F57}(2A) In the application of this Part in relation to Scotland, a reference to a person being found not guilty of an offence by reason of insanity is to be read as a reference to a person being acquitted of an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995.]
- (3) In this Part, a reference to a person being or having been found to be under a disability and to have done the act charged against him in respect of an offence includes a reference to his being or having been found—
 - (a) unfit to be tried for the offence;
 - (b) to be insane so that his trial for the offence cannot or could not proceed; or
 - (c) unfit to be tried and to have done the act charged against him in respect of the offence.
- (4) In section 133—
 - (a) a reference to admission or detention under Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), and the reference to a direction under paragraph 2(1)(b) of that Schedule, include respectively—

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- (i) a reference to admission or detention under Schedule 1 to the Criminal Procedure (Insanity) Act 1964 (c. 84); and
- (ii) a reference to a restriction order treated as made by paragraph 2(1) of that Schedule;
- (b) a reference to admission or detention under any provision of Part 6 of the Criminal Procedure (Scotland) Act 1995, and the reference to an order under section 57(2)(b) or 59 of that Act, include respectively—
 - (i) a reference to admission or detention under section 174(3) or 376(2) of the Criminal Procedure (Scotland) Act 1975 (c. 21); and
 - (ii) a reference to a restriction order made under section 178(1) or 379(1) of that Act;
- (c) ^{F58}

Textual Amendments

- F57** S. 135(2A) inserted (S.) (25.6.2012 with application in accordance with art. 3 of the commencing S.S.I.) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 7 para. 73](#); [S.S.I. 2012/160](#), art. 3, sch.
- F58** S. 135(4)(c) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58, 60, [Sch. 10 para. 58](#), [Sch. 11](#); [S.I. 2005/579](#), art. 3(f)-(h)(i)(xi)

Modifications etc. (not altering text)

- C2** S. 135(1) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), s. [327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 140\(1\)](#), 153(7); [S.I. 2008/1586](#), [art. 2](#), [Sch. 1 para. 43](#) (subject to [Sch. 2](#)))
- C3** S. 135(2)(a) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), s. [327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 140\(1\)](#), 153(7); [S.I. 2008/1586](#), [art. 2](#), [Sch. 1 para. 43](#) (subject to [Sch. 2](#)))
- C4** S. 135(3) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), s. [327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 140\(1\)](#), 153(7); [S.I. 2008/1586](#), [art. 2](#), [Sch. 1 para. 43](#) (subject to [Sch. 2](#)))
- C5** S. 135(3) applied by [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), s. [327B\(10\)](#) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 140\(1\)](#), 153(7); [S.I. 2008/1586](#), [art. 2](#), [Sch. 1 para. 43](#) (subject to [Sch. 2](#)))

136 Part 2: Northern Ireland

- (1) This Part applies to Northern Ireland with the following modifications.
- (2) References to a chief officer of police are to be read as references to the Chief Constable of the Police Service of Northern Ireland.
- (3) References to police areas are to be read as references to Northern Ireland.
- (4) References to a complaint are to be read as references to a complaint under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction.

[^{F59}(4A) In section 132A the reference to section 127 of the Magistrates' Courts Act 1980 is to be read as a reference to Article 78 of the Magistrates' Courts (Northern Ireland) Order 1981.]

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- (5) [^{F60}Subject to subsection (6)], references to a magistrates' court [^{F61} or to a magistrates court for a particular area] are to be read as references to a court of summary jurisdiction.
- [^{F62}(6) References to a magistrates' court for the area in which the defendant resides are to be read as references to a court of summary jurisdiction for the petty sessions district which includes the area where the defendant resides.]
- [^{F62}(7) References to a youth court for the area in which the defendant resides are to be read as references to a youth court for the petty sessions district which includes the area where the defendant resides.]
- [^{F63}(7A) References to a justice of the peace are to be read as references to a lay magistrate.]
- [^{F64}(8) The reference in section 101 to the Crown Court is to be read as a reference to a county court.]
- (9) Any direction of the county court made under section 89(1) on an appeal under Article 143 of the Magistrates' Courts (Northern Ireland) Order 1981 (appeals in other cases) (other than one directing that an application be re-heard by a court of summary jurisdiction) is, for the purposes of section 90, to be treated as if it were made by the court from which the appeal was brought and not by the county court.
- (10) Any order of the county court made on an appeal under Article 143 of the Magistrates' Courts (Northern Ireland) Order 1981 (other than one directing that an application be re-heard by a court of summary jurisdiction) is, for the purposes of section 108, 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.
- [^{F65}(11) References to the Secretary of State, except in sections 94 and 95, are to be read as references to the Department of Justice in Northern Ireland.]

Textual Amendments

- F59** S. 136(4A) inserted (E.W.N.I.) (1.4.2010) by Policing and Crime Act 2009 (c. 26), ss. **22(3)**, 116(1); S.I. 2010/507, art. **5(i)** (subject to art. 6)
- F60** Words in s. 136(5) repealed (N.I.) (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 123(3)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F61** Words in s. 136(5) inserted (N.I.) (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 123(3)(a)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)
- F62** S. 136(6)(7) repealed (N.I.) (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 123(3)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F63** S. 136(7A) inserted (E.W.N.I.) (31.5.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. **58(2)**, 66(2); S.I. 2007/858, art. **3(f)**
- F64** S. 136(8) substituted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 77** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F65** S. 136(11) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 77(2)** (with arts. 28-31)

[^{F66}136ZA] Application of orders throughout the United Kingdom

- (1) In this section “relevant order” means—

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- (a) a sexual harm prevention order [^{F67} or an order under Chapter 2 of Part 11 of the Sentencing Code (sexual harm prevention orders on conviction)];
 - (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;
 - (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;
 - [^{F68}(ia) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22);
 - (ib) an interim sexual harm prevention order made under section 21 of that Act;
 - (ic) a sexual risk order made under section 27 of that Act;
 - (id) an interim sexual risk order made under section 31 of that Act.]
 - ^{F69}(j)
 - ^{F70}(k)
- (2) For the purposes of sections 103I, 113, 122, 122H and 128, prohibitions [^{F71}or requirements] 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.

Textual Amendments

- F66** Ss. 136ZA-136ZD inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 5 para. 6** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F67** Words in s. 136ZA(1)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 213** (with Sch. 27); S.I. 2020/1236, reg. 2
- F68** S. 136ZA(1)(ia)-(id) inserted (31.3.2023) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 180(7)(a)**, 208(1); S.I. 2023/387, reg. 3(c)
- F69** S. 136ZA(1)(j) omitted (31.3.2023) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 180(7)(b)**, 208(1); S.I. 2023/387, reg. 3(c) (with reg. 4(1))
- F70** S. 136ZA(1)(k) omitted (31.3.2023) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 180(7)(b)**, 208(1); S.I. 2023/387, reg. 3(c) (with reg. 4(1))
- F71** Words in s. 136ZA(2) inserted (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 177(4)**, 208(1); S.I. 2022/1227, reg. 3(j)

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.

New order

Sexual harm prevention order

Earlier order

— sexual offences prevention order;
— foreign travel order.

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Sexual risk order	<p>[^{F72}sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).]</p> <p>— risk of sexual harm order; — foreign travel order.</p> <p>[^{F73}sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.]</p>
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- (2) Where a court in Northern Ireland ^{F74}... 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 [^{F75}or Scotland]) unless the court orders otherwise.

<i>New order</i>	<i>Earlier order or prohibition</i>
Sexual offences prevention order	<p>— 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.</p> <p>[^{F76}sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 not containing a prohibition on foreign travel; in the case of a sexual harm prevention order made under section 11 or 12 of that Act containing a prohibition on foreign travel, each of its other prohibitions.]</p>
Foreign travel order	<p>— prohibition on foreign travel contained in a sexual harm prevention order.</p> <p>[^{F77}prohibition on foreign travel contained in a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.]</p>
Risk of sexual harm order	<p>— 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.</p> <p>[^{F78}sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 not containing a prohibition on foreign travel; in the case of a sexual risk order made under section 27 of that Act containing a</p>

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prohibition on foreign travel, each of its other prohibitions.]

[Where a court in Scotland makes an order listed in the first column of the following ^{F79}(2ZA) 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 or Northern Ireland) unless the court orders otherwise.

<i>New order</i>	<i>Earlier order or prohibition</i>
Sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016	— sexual harm prevention order; — sexual offences prevention order; — foreign travel order.
Sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016	— sexual risk order; — risk of sexual harm order; — foreign travel order.]

[References in subsection (2) [^{F81}or subsection (2ZA)] to a sexual harm prevention ^{F80}(2A) order include references to an order under Chapter 2 of Part 11 of the Sentencing Code (sexual harm prevention orders on conviction).]

(3) In this section—

- (a) “court”, in Scotland, includes sheriff;
- ^{F82}(b)

Textual Amendments

- F66** Ss. 136ZA-136ZD inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 5 para. 6** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F72** Words in s. 136ZB(1) Table inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(3)(a)**, 208(1); S.I. 2023/387, reg. 3(e)
- F73** Words in s. 136ZB(1) Table inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(3)(b)**, 208(1); S.I. 2023/387, reg. 3(e)
- F74** Words in s. 136ZB(2) omitted (31.3.2023) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(4)(a)(i)**, 208(1); S.I. 2023/387, reg. 3(e) (with reg. 4(2))
- F75** Words in s. 136ZB(2) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(4)(a)(ii)**, 208(1); S.I. 2023/387, reg. 3(e)
- F76** Words in s. 136ZB(2) Table inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(4)(b)(i)**, 208(1); S.I. 2023/387, reg. 3(e)
- F77** Words in s. 136ZB(2) Table inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(4)(b)(ii)**, 208(1); S.I. 2023/387, reg. 3(e)
- F78** Words in s. 136ZB(2) Table inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(4)(b)(iii)**, 208(1); S.I. 2023/387, reg. 3(e)
- F79** S. 136ZB(2ZA) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(5)**, 208(1); S.I. 2023/387, reg. 3(e)
- F80** S. 136ZB(2A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 214** (with Sch. 27); S.I. 2020/1236, reg. 2
- F81** Words in s. 136ZB(2A) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 182(6)**, 208(1); S.I. 2023/387, reg. 3(e)

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F82 S. 136ZB(3)(b) omitted (31.3.2023) by virtue of [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 182\(7\)](#), 208(1); S.I. 2023/387, [reg. 3\(e\)](#) (with [reg. 4\(1\)](#))

136ZC Variation [^{F83}, renewal or discharge] 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 [^{F84}, renewing or discharging] 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 [^{F85}subsections (4A) to (6B)], 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 [^{F86}, renewing or discharging] the sexual harm prevention order that the court considers appropriate.

[In determining the application the court must have regard to—

^{F87}(4A)
 - (a) the time for which the defendant is likely to remain in Northern Ireland, and
 - (b) whether—
 - (i) in the case of a sexual harm prevention order made by a court in England and Wales, the defendant is likely to return to, or to visit, England and Wales, or
 - (ii) in the case of a sexual harm prevention order made by a court in Scotland, the defendant is likely to return to, or to visit, Scotland.]
- (5) An order may be [^{F88}renewed, or] varied so as to impose additional prohibitions [^{F89}or requirements] on the defendant [^{F90}, 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 [^{F91}renewed or] varied under this section may contain only such prohibitions [^{F92}and requirements] 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.

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [The court must not discharge a sexual harm prevention order made by a court in
- ^{F93}(6A) England and Wales before the end of 5 years beginning with the day on which the order was made without the consent of the defendant and the Chief Constable.
- (6B) The court must not discharge a sexual harm prevention order made by a court in Scotland, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer 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.
- (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) [^{F94}where the sexual harm prevention order was made—
 - (i) in England and Wales, by the Crown Court, otherwise than on appeal from a magistrates’ court, or by the Court of Appeal, or
 - (ii) in Scotland, by the High Court of Justiciary otherwise than on appeal,the Crown Court (in Northern Ireland);
 - (b) where the defendant is aged 18 or over and the sexual harm prevention order was made—
 - (i) in England and Wales, by a magistrates’ court or by the Crown Court on appeal from a magistrates’ court, or
 - (ii) in Scotland, by the High Court of Justiciary on appeal, by the Court of Session, by the Sheriff Appeal Court or by a sheriff,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;
 - [^{F95}“the defendant”, in relation to a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), means the person against whom the order has effect;]

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“sexual harm”, “child” and “vulnerable adult” each has the meaning given in section 103B(1).

[^{F95}“sexual harm prevention order” includes a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.]

Textual Amendments

- F66** Ss. 136ZA-136ZD inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 5 para. 6** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F83** Words in s. 136ZC heading inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(2)**; S.I. 2023/387, reg. 3(g)(i)
- F84** Words in s. 136ZC(2) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(3)**; S.I. 2023/387, reg. 3(g)(i)
- F85** Words in s. 136ZC(4) substituted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(4)(a)**; S.I. 2023/387, reg. 3(g)(i)
- F86** Words in s. 136ZC(4) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(4)(b)**; S.I. 2023/387, reg. 3(g)(i)
- F87** S. 136ZC(4A) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(5)**; S.I. 2023/387, reg. 3(g)(i)
- F88** Words in s. 136ZC(5) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(6)(a)**; S.I. 2023/387, reg. 3(g)(i)
- F89** Words in s. 136ZC(5) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 177(5)(a)**, 208(1); S.I. 2022/1227, reg. 3(j)
- F90** Word in s. 136ZC(5) substituted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(6)(b)**; S.I. 2023/387, reg. 3(g)(i)
- F91** Words in s. 136ZC(6) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(7)**; S.I. 2023/387, reg. 3(g)(i)
- F92** Words in s. 136ZC(6) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 177(5)(b)**, 208(1); S.I. 2022/1227, reg. 3(j)
- F93** S. 136ZC(6A)(6B) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(8)**; S.I. 2023/387, reg. 3(g)(i)
- F94** Words in s. 136ZC(9) substituted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(9)(a)**; S.I. 2023/387, reg. 3(g)(i)
- F95** Words in s. 136ZC(9) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 1(9)(b)**; S.I. 2023/387, reg. 3(g)(i)

136ZD Variation [^{F96}, renewal or discharge] 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 [^{F97}, renewing or discharging] the sexual risk order.

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subject to ^{F98}subsections (3A) to (5B)], 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 ^{F99}, renewing or discharging] the sexual risk order that the court considers appropriate.
- [In determining the application the court must have regard to—
- ^{F100}(3A) (a) the time for which the defendant is likely to remain in Northern Ireland, and
(b) whether—
- (i) in the case of a sexual risk order made by a court in England and Wales, the defendant is likely to return to, or to visit, England and Wales, or
 - (ii) in the case of a sexual risk order made by a court in Scotland, the defendant is likely to return to, or to visit, Scotland.]
- (4) An order may be ^{F101}renewed, or] varied so as to impose additional prohibitions ^{F102}or requirements] on the defendant ^{F103}, 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
 - (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 ^{F104}renewed or] varied under this section may contain only such prohibitions ^{F105}and requirements] 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.
- [The court must not discharge a sexual risk order made by a court in England and Wales
- ^{F106}(5A) before the end of 2 years beginning with the day on which the order was made without the consent of the defendant and the Chief Constable.
- (5B) The court must not discharge a sexual risk order made by a court in Scotland, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer 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;

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(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;

[^{F107}“the defendant”, in relation to a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), means the person against whom the order has effect;]

“harm”, “child” and “vulnerable adult” each has the meaning given in section 122B(1);

[^{F107}“sexual risk order” includes a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.]]

Textual Amendments

- F66** Ss. 136ZA-136ZD inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 5 para. 6** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F96** Words in s. 136ZD heading inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(2)**; S.I. 2023/387, reg. 3(g)(i)
- F97** Words in s. 136ZD(2) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(3)**; S.I. 2023/387, reg. 3(g)(i)
- F98** Words in s. 136ZD(3) substituted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(4)(a)**; S.I. 2023/387, reg. 3(g)(i)
- F99** Words in s. 136ZD(3) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(4)(b)**; S.I. 2023/387, reg. 3(g)(i)
- F100** S. 136ZD(3A) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(5)**; S.I. 2023/387, reg. 3(g)(i)
- F101** Words in s. 136ZD(4) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(6)(a)**; S.I. 2023/387, reg. 3(g)(i)
- F102** Words in s. 136ZD(4) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 177(6)(a)**, 208(1); S.I. 2022/1227, reg. 3(j)
- F103** Word in s. 136ZD(4) substituted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(6)(b)**; S.I. 2023/387, reg. 3(g)(i)
- F104** Words in s. 136ZD(5) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(7)**; S.I. 2023/387, reg. 3(g)(i)
- F105** Words in s. 136ZD(5) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 177(6)(b)**, 208(1); S.I. 2022/1227, reg. 3(j)
- F106** S. 136ZD(5A)(5B) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(8)**; S.I. 2023/387, reg. 3(g)(i)
- F107** Words in s. 136ZD(8) inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 18 para. 2(9)**; S.I. 2023/387, reg. 3(g)(i)

[^{F108} 136ZE] Variation, renewal or discharge of sexual harm prevention order etc by court in Scotland

- (1) This section applies where a relevant order has been made in respect of a person who now—
- (a) is residing in Scotland, or
 - (b) is in or is intending to come to Scotland.
- (2) In this section “relevant order” means—
- (a) a sexual harm prevention order,

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) a sexual offences prevention order, or
 - (c) a foreign travel order.
- (3) An application may be made to the appropriate sheriff in Scotland—
 - (a) by the defendant, or
 - (b) by the chief constable,for an order varying, renewing or discharging the relevant order.
- (4) Subject to subsections (5) to (12), on the application the court, after hearing the person making the application and the other person mentioned in subsection (3) (if that person wishes to be heard), may make any order varying, renewing or discharging the relevant order that the appropriate sheriff considers appropriate.
- (5) In determining the application the court must have regard to—
 - (a) the time for which the defendant is likely to remain in Scotland, and
 - (b) whether—
 - (i) in the case of a sexual harm prevention order, the defendant is likely to return to, or to visit, England and Wales, or
 - (ii) in the case of a sexual offences prevention order or foreign travel order, the defendant is likely to return to, or to visit, Northern Ireland.
- (6) A sexual harm prevention order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of—
 - (a) protecting the public in Scotland, or any particular members of the public in Scotland, 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) A sexual harm prevention order as renewed or varied under this section may contain only such prohibitions and requirements 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.
- (8) A sexual offences prevention order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of protecting the public in Scotland, or any particular members of the public in Scotland, from serious sexual harm from the defendant.
- (9) A sexual offences prevention order as renewed or varied under this section may contain only such prohibitions and requirements as are necessary for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- (10) A foreign travel order may be renewed, or varied under this section 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.

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (11) A foreign travel order as renewed or varied under this section may contain only such prohibitions as are necessary for the purpose mentioned in subsection (10).
- (12) The court must not discharge a sexual harm prevention order or a sexual offences prevention order before the end of 5 years beginning with the day on which the order was made without the consent of the defendant and the chief constable.
- (13) The defendant may appeal against the making of an order under this section, or the refusal to make such an order, as if it were a decision constituting final judgment in civil proceedings within the meaning of the Courts Reform (Scotland) Act 2014 (asp 18).
- (14) In this section—
- “the appropriate sheriff” means—
- (a) in any case, a sheriff in whose sheriffdom the defendant resides, or
 - (b) in a case where the application is made by the chief constable—
 - (i) a sheriff in whose sheriffdom the defendant is believed by the chief constable to be, or
 - (ii) a sheriff to whose sheriffdom the defendant is believed by the chief constable to be intending to come;
- “the chief constable” means the chief constable of the Police Service of Scotland;
- “child” means a person under 18;
- “serious sexual harm”, in relation to the renewal or variation of a sexual offences prevention order, means serious physical or psychological harm caused by the defendant committing one or more of the offences listed in Schedule 3;
- “serious sexual harm”, in relation to the renewal or variation of a foreign travel order, means 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;
- “sexual harm” and “vulnerable adult”, in relation to the renewal or variation of a sexual harm prevention order, have the meanings given by section 103B(1).]

Textual Amendments

F108 Ss. 136ZE, 136ZF inserted (31.3.2023) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), Sch. 18 para. 4; S.I. 2023/387, reg. 3(g)(ii)

[^{F108} 136ZE] Variation, renewal or discharge of sexual risk order etc by court in Scotland

- (1) This section applies where a relevant order has been made in respect of a person who now—
- (a) is residing in Scotland, or
 - (b) is in or is intending to come to Scotland.
- (2) In this section “relevant order” means—
- (a) a sexual risk order, or

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

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- (b) a risk of sexual harm order.
- (3) An application may be made to the appropriate sheriff in Scotland—
 - (a) by the defendant, or
 - (b) by the chief constable,for an order varying, renewing or discharging the relevant order.
- (4) Subject to subsections (5) to (10), on the application the court, after hearing the person making the application and the other person mentioned in subsection (3) (if that person wishes to be heard), may make any order varying, renewing or discharging the relevant order that the appropriate sheriff considers appropriate.
- (5) In determining the application the court must have regard to—
 - (a) the time for which the defendant is likely to remain in Scotland, and
 - (b) whether—
 - (i) in the case of a sexual risk order, the defendant is likely to return to, or to visit, England and Wales, or
 - (ii) in the case of a risk of sexual harm order, the defendant is likely to return to, or to visit, Northern Ireland.
- (6) A sexual risk order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of—
 - (a) protecting the public in Scotland, or any particular members of the public in Scotland, 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) A sexual risk order as renewed or varied under this section may contain only such prohibitions and requirements 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.
- (8) A risk of sexual harm order may be renewed, or varied under this section 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 physical or psychological harm from the defendant doing acts within section 123(3).
- (9) A risk of sexual harm order as renewed or varied under this section may contain only such prohibitions as are necessary for the purpose mentioned in subsection (8).
- (10) The court must not discharge a relevant order before the end of 2 years beginning with the day on which the order was made without the consent of the defendant and the chief constable.
- (11) The defendant may appeal against the making of an order under this section, or the refusal to make such an order, as if it were a decision constituting final judgment in civil proceedings within the meaning of the Courts Reform (Scotland) Act 2014 ([asp 18](#)).
- (12) In this section—
 - “the appropriate sheriff” means—

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in any case, a sheriff in whose sheriffdom the defendant resides, or
 - (b) in a case where the application is made by the chief constable—
 - (i) a sheriff in whose sheriffdom the defendant is believed by the chief constable to be, or
 - (ii) a sheriff to whose sheriffdom the defendant is believed by the chief constable to be intending to come;
- “the chief constable” means the chief constable of the Police Service of Scotland;
- “child”—
- (a) in relation to the renewal or variation of a sexual risk order, means a person under 18;
 - (b) in relation to the renewal or variation of a risk of sexual harm order, means a person under 16;
- “harm” and “vulnerable adult”, in relation to the renewal or variation of a sexual risk order, have the meanings given by section 122B(1).]

Textual Amendments

F108 Ss. 136ZE, 136ZF inserted (31.3.2023) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 18 para. 4](#); S.I. 2023/387, reg. 3(g)(ii)

[^{F109}136ZG] **Variation, renewal or discharge of sexual harm prevention order made in Scotland by court in England and Wales**

- (1) This section applies where a relevant Scottish order has been made in respect of a person (“the defendant”) who now—
 - (a) is residing in England and Wales, or
 - (b) is in or is intending to come to England and Wales.
- (2) In this section “relevant Scottish order” means a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).
- (3) A person within subsection (4) may by complaint to the appropriate court apply for an order varying, renewing or discharging the relevant order.
- (4) Those 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.
- (5) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (4) (b) or (c) must have regard to the list in considering—
 - (a) whether to apply for an order varying or renewing the relevant Scottish order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.
- (6) Subject to subsections (7) to (14), on an application under this section the court, after hearing the person making the application and (if they wish to be heard) the other persons mentioned in subsection (4), may make any order varying, renewing or discharging the relevant Scottish order that the court considers appropriate.
- (7) In determining the application the court must have regard to—
 - (a) the time for which the defendant is likely to remain in England and Wales, and
 - (b) whether the defendant is likely to return to, or to visit, Scotland.
- (8) A relevant Scottish order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of—
 - (a) protecting the public in England and Wales, or any particular members of the public in England and Wales, 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.
- (9) A relevant Scottish order as renewed or varied under this section may contain only such prohibitions and requirements 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.
- (10) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—
 - (a) whether any order varying or renewing the relevant Scottish order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
 - (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.
- (11) A relevant Scottish order may be renewed or varied under this section so as to require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions and requirements imposed by the order.
- (12) Section 103FA (electronic monitoring requirements) applies in relation to—
 - (a) the variation under this section of a relevant Scottish order to require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions and requirements imposed by the order, or
 - (b) the renewal of an order to continue such a requirement,as it applies in relation to the making of a sexual harm prevention order, subject to subsection (13).
- (13) In its application to the variation or renewal of a relevant Scottish order, section 103FA has effect as if—

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- (a) the reference in subsection (4)(b) to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision,
 - (b) the reference in subsection (4)(b) to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated, and
 - (c) the reference in subsection (9) to section 103E were to this section.
- (14) The court must not discharge a relevant Scottish order, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer 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.
- (15) In this section—
- “adult magistrates’ court” means a magistrates’ court that is not a youth court;
 - “the appropriate court” means—
 - (a) where 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;
 - (b) where the defendant is under the age of 18, 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;
 - “child” means a person under 18;
 - “prohibition on foreign travel” includes a prohibition on foreign travel within the meaning of Chapter 3 of Part 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (see sections 17 and 25 of that Act);
 - “sexual harm” and “vulnerable adult” have the same meanings as in Chapter 3 of Part 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (see sections 10 and 25 of that Act).]

Textual Amendments

F109 Ss. 136ZG-136ZJ inserted (31.3.2023 for specified purposes) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 18 para. 6](#); S.I. 2023/387, reg. 3(g)(iii)

[^{F109}136ZJ] **Variation, renewal or discharge of sexual offences prevention order or foreign travel order by court in England and Wales**

- (1) This section applies where a relevant order has been made in respect of a person who now—
- (a) is residing in England and Wales, or
 - (b) is in or is intending to come to England and Wales.

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In this section “relevant order” means—
 - (a) a sexual offences prevention order, or
 - (b) a foreign travel order.
- (3) A person within subsection (4) may by complaint to the appropriate court apply for an order varying, renewing or discharging the relevant order.
- (4) Those 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.
- (5) If—
 - (a) this section applies in relation to a person because that person is subject to a foreign travel order, and
 - (b) a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn,a person mentioned in subsection (4)(b) or (c) must have regard to the list in considering whether to apply for an order varying or renewing the foreign travel order.
- (6) Subject to subsections (7) to (16), on an application under this section the court, after hearing the person making the application and (if they wish to be heard) the other persons mentioned in subsection (4), may make any order varying, renewing or discharging the relevant order that the court considers appropriate.
- (7) In determining the application the court must have regard to—
 - (a) the time for which the defendant is likely to remain in England and Wales, and
 - (b) whether the defendant is likely to return to, or to visit, Northern Ireland.
- (8) A sexual offences prevention order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of protecting the public in England and Wales, or any particular members of the public in England and Wales, from serious sexual harm from the defendant.
- (9) A sexual offences prevention order as renewed or varied under this section may contain only such prohibitions and requirements as are necessary for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- (10) A sexual offences prevention order may be renewed or varied under this section so as to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order.
- (11) Section 103FA (electronic monitoring requirements) applies in relation to—
 - (a) the variation under this section of a sexual offences prevention order to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order, or
 - (b) the renewal of an order to continue such a requirement,as it applies in relation to the making of a sexual harm prevention order, subject to subsection (12).

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

Changes to legislation: Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (12) In its application to the variation or renewal of a sexual offences prevention order, section 103FA has effect as if—
- (a) the reference in subsection (4)(b) to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision,
 - (b) the reference in subsection (4)(b) to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated, and
 - (c) the reference in subsection (9) to section 103E were to this section.
- (13) The court must not discharge a sexual offences prevention 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 under this section 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.
- (14) A foreign travel order may be renewed, or varied under this section 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.
- (15) A foreign travel order as renewed or varied under this section may contain only such prohibitions as are necessary for the purpose mentioned in subsection (14).
- (16) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering whether to renew or vary a foreign travel order under this section.
- (17) In this section—
- “adult magistrates’ court” means a magistrates’ court that is not a youth court;
- “the appropriate court” means—
- (a) where 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;
 - (b) where the defendant is under the age of 18, 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;
- “child” means a person under 18;
- “serious sexual harm”—
- (a) in relation to the renewal or variation of a sexual offences prevention order, means serious physical or psychological harm caused by the defendant committing one or more of the offences listed in Schedule 3;
 - (b) in relation to the renewal or variation of a foreign travel order, means 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.]

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Textual Amendments

F109 Ss. 136ZG-136ZJ inserted (31.3.2023 for specified purposes) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 18 para. 6](#); S.I. 2023/387, reg. 3(g)(iii)

[^{F109}136Z] **Variation, renewal or discharge of sexual risk order made in Scotland by court in England and Wales**

- (1) This section applies where a relevant Scottish order has been made in respect of a person (“the defendant”) who now—
 - (a) is residing in England and Wales, or
 - (b) is in or is intending to come to England and Wales.
- (2) In this section “relevant Scottish order” means a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)).
- (3) A person within subsection (4) may by complaint to the appropriate court apply for an order varying, renewing or discharging the relevant Scottish order.
- (4) Those 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.
- (5) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (4) (b) or (c) must have regard to the list in considering—
 - (a) whether to apply for an order varying or renewing the relevant Scottish order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
 - (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.
- (6) Subject to subsections (7) to (14), 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 (4), may make any order varying, renewing or discharging the relevant Scottish order that the court considers appropriate.
- (7) In determining the application the court must have regard to—
 - (a) the time for which the defendant is likely to remain in England and Wales, and
 - (b) whether the defendant is likely to return to, or to visit, Scotland.
- (8) A relevant Scottish order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of—
 - (a) protecting the public in England and Wales, or any particular members of the public in England and Wales, 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.

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

Changes to legislation: *Sexual Offences Act 2003, Cross Heading: General is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (9) A relevant Scottish order as renewed or varied under this section may contain only such prohibitions and requirements 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.
- (10) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—
- (a) whether any order varying or renewing the relevant Scottish order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
 - (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.
- (11) A relevant Scottish order may be renewed or varied under this section so as to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order.
- (12) Section 122EA (electronic monitoring requirements) applies in relation to—
- (a) the variation under this section of a relevant Scottish order to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order, or
 - (b) the renewal of an order to continue such a requirement,
- as it applies in relation to the making of a sexual risk order, subject to subsection (13).
- (13) In its application to the variation or renewal of a relevant Scottish order, section 122EA has effect as if—
- (a) the reference in subsection (4)(b) to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision,
 - (b) the reference in subsection (4)(b) to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated, and
 - (c) the reference in subsection (9) to section 122D were to this section.
- (14) The court must not discharge a relevant Scottish order, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer 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.
- (15) In this section—
- “adult magistrates’ court” means a magistrates’ court that is not a youth court;
- “the appropriate court” means—
- (a) where 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

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- 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 the defendant is under the age of 18, 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;
- “child” means a person under 18;
- “harm” and “vulnerable adult” have the same meanings as in Chapter 4 of Part 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (see sections 26 and 36 of that Act);
- “prohibition on foreign travel” includes a prohibition on foreign travel within the meaning of Chapter 4 of Part 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (see sections 29 and 36 of that Act).]

Textual Amendments

F109 Ss. 136ZG-136ZJ inserted (31.3.2023 for specified purposes) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 18 para. 6](#); S.I. 2023/387, reg. 3(g)(iii)

[^{F109} 136Z] **Variation, renewal or discharge of risk of sexual harm order by court in England and Wales**

- (1) This section applies where a risk of sexual harm order has been made in respect of a person who now—
- is residing in England and Wales, or
 - is in or is intending to come to England and Wales.
- (2) A person within subsection (3) may by complaint to the appropriate court apply for an order varying, renewing or discharging the order.
- (3) Those persons are—
- the defendant;
 - the chief officer of police for the area in which the defendant resides;
 - a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area.
- (4) Subject to subsections (5) to (10), 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 (3), may make any order varying, renewing or discharging the risk of sexual harm order that the court considers appropriate.
- (5) A risk of sexual harm order may be renewed, or varied under this section so as to impose—
- additional prohibitions on the defendant, or
 - requirements of the kind mentioned in subsection (7) on the defendant,
- only if it is necessary to do so for the purpose of protecting children generally or any child from physical or psychological harm, caused by the defendant doing acts within section 123(3).
- (6) A risk of sexual harm order as renewed or varied under this section may contain only—

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- (a) such prohibitions as are necessary for the purpose mentioned in subsection (5), and
 - (b) such requirements of the kind mentioned in subsection (7) as are necessary for that purpose.
- (7) A risk of sexual harm order may be renewed or varied under this section so as to require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions imposed by the order.
- (8) Section 122EA (electronic monitoring requirements) applies in relation to—
- (a) the variation under this section of a risk of sexual harm order to require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions imposed by the order, or
 - (b) the renewal of an order to continue such a requirement,
- as it applies in relation to the making of a sexual harm prevention order, subject to subsection (9).
- (9) In its application to the variation or renewal of a risk of sexual harm order, section 122EA has effect as if—
- (a) subsection (4)(b)(i) were omitted,
 - (b) the reference in subsection (4)(b) to a case where it is proposed to include in the order a provision mentioned in sub-paragraph (ii) included a case where the order already includes such a provision,
 - (c) the reference in subsection (4)(b) to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated, and
 - (d) the reference in subsection (9) to section 122D were to this section.
- (10) The court must not discharge a risk of sexual harm 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 under this section 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.
- (11) In this section—
- “adult magistrates’ court” means a magistrates’ court that is not a youth court;
 - “the appropriate court” means—
 - (a) where 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;
 - (b) where the defendant is under the age of 18, 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;
 - “child” means a person under 16.]

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