



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 2

#### NOTIFICATION AND ORDERS

##### *Notification orders*

#### **[<sup>F1</sup>97] Notification orders: applications and grounds**

- [<sup>F2</sup>(1) [<sup>F3</sup>The chief constable of the Police Service of Scotland (“the chief constable”) may by application to any sheriff], apply for an order under this section (a “notification order”) in respect of a person [<sup>F4</sup>... if—
- (a) it appears to [<sup>F5</sup>the chief constable] that the following three conditions are met with respect to the [<sup>F6</sup>person], and
  - (b) the [<sup>F7</sup>person] resides in [<sup>F8</sup>Scotland] or the [<sup>F9</sup>chief constable] believes that the [<sup>F7</sup>person] is in, or is intending to come to, [<sup>F8</sup>Scotland].
- (2) The first condition is that under the law in force in a country outside the United Kingdom—
- (a) [<sup>F10</sup>the person] has been convicted of a relevant offence (whether or not [<sup>F10</sup>the person] has been punished for it),
  - (b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that [<sup>F10</sup>the person] is not guilty by reason of insanity,
  - (c) such a court has made in respect of a relevant offence a finding equivalent to a finding that [<sup>F10</sup>the person] is under a disability and did the act charged against [<sup>F11</sup>the person] in respect of the offence, or
  - (d) [<sup>F10</sup>the person] has been cautioned in respect of a relevant offence.
- (3) The second condition is that—
- (a) the first condition is met because of a conviction, finding or caution which occurred on or after 1st September 1997,

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- (b) the first condition is met because of a conviction or finding which occurred before that date, but the person was dealt with in respect of the offence or finding on or after that date, or has yet to be dealt with in respect of it, or
  - (c) the first condition is met because of a conviction or finding which occurred before that date, but on that date the person was, in respect of the offence or finding, subject under the law in force in the country concerned to detention, supervision or any other disposal equivalent to any of those mentioned in section 81(3) (read with sections 81(6) and 131).
- (4) The third condition is that the period set out in section 82 (as modified by subsections (2) and (3) of section 98) in respect of the relevant offence has not expired.
- (5) If on the application it is proved that the conditions in subsections (2) to (4) are met, the [<sup>F12</sup>sheriff] must make a notification order.
- [<sup>F13</sup>(5A) A record of evidence must be kept on any application for an order under this section.
- (5B) The clerk of the court by which a notification order under this section is made must cause a copy of the order as so made to be—
- (a) given to the person named in the order,
  - (b) sent to the person by registered post, or
  - (c) sent to the person by the recorded delivery service,
- and where a copy of the order is so sent to the person, an acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.]
- (6) In this section and section 98, “relevant offence” has the meaning given by section 99.]]

#### Textual Amendments

- F1** Ss. 97-101 repealed (N.I.) (24.6.2014) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), ss. 4(3), 15(2)(c)(e), **Sch. 4 Pt. 1** (with s. 4(4)); S.R. 2014/179, art. 2(b)
- F2** Ss. 97-103 omitted (E.W.) (29.11.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 169(5), 208(1)** (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- F3** Words in s. 97(1) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(a)(i)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F4** Words in s. 97(1) omitted (S.) (29.11.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(a)(ii)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F5** Words in s. 97(1)(a) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(b)(i)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F6** Word in s. 97(1)(a) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(b)(ii)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F7** Word in s. 97(1)(b) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(c)(i)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F8** Word in s. 97(1)(b) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(c)(ii)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F9** Words in s. 97(1)(b) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(c)(iii)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F10** Words in s. 97(2) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(d)(i)**, 208(1); S.I. 2022/1227, reg. 3(c)
- F11** Words in s. 97(2)(c) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(2)(d)(ii)**, 208(1); S.I. 2022/1227, reg. 3(c)

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- F12** Word in s. 97(5) substituted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(2\)\(e\)](#), 208(1); S.I. 2022/1227, reg. 3(c)
- F13** S. 97(5A)(5B) inserted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(2\)\(f\)](#), 208(1); S.I. 2022/1227, reg. 3(c)

## [<sup>F198</sup> Notification orders: effect

- [<sup>F2</sup>(1) Where a notification order is made—
- (a) the application of this Part to the [<sup>F14</sup>person in respect of whom the order has effect] in respect of the conviction, finding or caution to which the order relates is subject to the modifications set out below, and
  - (b) subject to those modifications, the [<sup>F15</sup>person] becomes or (as the case may be) remains subject to the notification requirements of this Part for the notification period set out in section 82.
- (2) The “relevant date” means—
- (a) in the case of a person within section 97(2)(a), the date of the conviction;
  - (b) in the case of a person within section 97(2)(b) or (c), the date of the finding;
  - (c) in the case of a person within section 97(2)(d), the date of the caution.
- (3) In section 82—
- (a) references, except in the Table, to a person (or relevant offender) within any provision of section 80 are to be read as references to the [<sup>F16</sup>person in respect of whom the order has effect];
  - (b) the reference in the Table to section 80(1)(d) is to be read as a reference to section 97(2)(d);
  - (c) references to an order of any description are to be read as references to any corresponding disposal made in relation to the [<sup>F17</sup>person in respect of whom the order has effect] in respect of an offence or finding by reference to which the notification order was made;
  - (d) the reference to offences listed in Schedule 3 is to be read as a reference to relevant offences.
- (4) In sections 83 and 85, references to the commencement of this Part are to be read as references to the date of service of the notification order.]]

### Textual Amendments

- F1** Ss. 97-101 repealed (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 4\(3\)](#), [15\(2\)\(c\)\(e\)](#), [Sch. 4 Pt. 1](#) (with s. 4(4)); S.R. 2014/179, art. 2(b)
- F2** Ss. 97-103 omitted (E.W.) (29.11.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 169\(5\)](#), 208(1) (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- F14** Words in s. 98(1)(a) substituted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(3\)\(a\)](#), 208(1); S.I. 2022/1227, reg. 3(c)
- F15** Word in s. 98(1)(b) substituted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(3\)\(b\)](#), 208(1); S.I. 2022/1227, reg. 3(c)
- F16** Words in s. 98(3)(a) substituted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(3\)\(a\)](#), 208(1); S.I. 2022/1227, reg. 3(c)
- F17** Words in s. 98(3)(c) substituted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(3\)\(a\)](#), 208(1); S.I. 2022/1227, reg. 3(c)

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## [<sup>F199</sup> Sections 97 and 98: relevant offences

- [<sup>F2</sup>(1) “Relevant offence” in sections 97 and 98 means an act which—
- (a) constituted an offence under the law in force in the country concerned, and
  - (b) would have constituted an offence listed in Schedule 3 (other than at paragraph 60) if it had been done in any part of the United Kingdom.
- (2) An act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law for the purposes of subsection (1) however it is described in that law.
- (3) Subject to subsection (4), on an application for a notification order the condition in subsection (1)(b) is to be taken as met unless, not later than rules of court may provide, the [<sup>F18</sup>person in respect of whom the order is sought] serves on the applicant a notice—
- (a) stating that, on the facts as alleged with respect to the act concerned, the condition is not in his opinion met,
  - (b) showing his grounds for that opinion, and
  - (c) requiring the applicant to prove that the condition is met.
- (4) The court, if it thinks fit, may permit the [<sup>F19</sup>person in respect of whom the order is sought] to require the applicant to prove that the condition is met without service of a notice under subsection (3).]

### Textual Amendments

- F1** Ss. 97-101 repealed (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\), ss. 4\(3\), 15\(2\)\(c\)\(e\), Sch. 4 Pt. 1](#) (with s. 4(4)); S.R. 2014/179, art. 2(b)
- F2** Ss. 97-103 omitted (E.W.) (29.11.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 169\(5\), 208\(1\)](#) (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- F18** Words in s. 99(3) substituted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 170\(4\), 208\(1\)](#); S.I. 2022/1227, reg. 3(c)
- F19** Words in s. 99(4) substituted (S.) (29.11.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 170\(4\), 208\(1\)](#); S.I. 2022/1227, reg. 3(c)

## [<sup>F1100</sup> Interim notification orders

- [<sup>F2</sup>(1) This section applies where an application for a notification order (“the main application”) has not been determined.
- (2) An application for an order under this section (“an interim notification order”)—
- (a) may be made in <sup>F20</sup>... the main application, or
  - (b) if the main application has been made, may be made by the person who has made that application, [<sup>F21</sup>by further application to the sheriff to whom the main application has been made].
- (3) The court may, if it considers it just to do so, make an interim notification order.
- (4) Such an order—
- (a) has effect only for a fixed period, specified in the order;
  - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
- (5) While such an order has effect—

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- (a) the [<sup>F22</sup>person in respect of whom the order has effect] is subject to the notification requirements of this Part;
  - (b) this Part applies to the [<sup>F23</sup>person], subject to the modification set out in subsection (6).
- (6) The “relevant date” means the date of service of the order.
- (7) The applicant or the [<sup>F24</sup>person in respect of whom the order has effect] may by [<sup>F25</sup>application] apply to the court that made the interim notification order for the order to be varied, renewed or discharged.]]
- [<sup>F26</sup>(7A) A record of evidence must be kept on any application for an order under this section.
- (7B) The clerk of the court by which an interim notification order is made, varied, renewed or discharged under this section must cause a copy of, as the case may be—
- (a) the order as so made, varied or renewed, or
  - (b) the interlocutor by which discharge is effected,
- to be given to the person named in the order or to be sent to the person in accordance with subsection (7C).
- (7C) A copy of the order may be sent to the person named in the order—
- (a) by registered post, or
  - (b) by the recorded delivery service,
- and where a copy of the order is so sent to the person, an acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.]

#### Textual Amendments

- F1** Ss. 97-101 repealed (N.I.) (24.6.2014) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), ss. 4(3), 15(2)(c)(e), **Sch. 4 Pt. 1** (with s. 4(4)); S.R. 2014/179, art. 2(b)
- F2** Ss. 97-103 omitted (E.W.) (29.11.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 169(5), 208(1)** (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- F20** Words in s. 100(2)(a) omitted (S.) (29.11.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(5)(a)(i), 208(1)**; S.I. 2022/1227, reg. 3(c)
- F21** Words in s. 100(2)(b) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(5)(a)(ii), 208(1)**; S.I. 2022/1227, reg. 3(c)
- F22** Words in s. 100(5)(a) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(5)(b)(i), 208(1)**; S.I. 2022/1227, reg. 3(c)
- F23** Word in s. 100(5)(b) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(5)(b)(ii), 208(1)**; S.I. 2022/1227, reg. 3(c)
- F24** Words in s. 100(7) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(5)(c)(i), 208(1)**; S.I. 2022/1227, reg. 3(c)
- F25** Word in s. 100(7) substituted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(5)(c)(ii), 208(1)**; S.I. 2022/1227, reg. 3(c)
- F26** S. 100(7A)-(7C) inserted (S.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 170(5)(d), 208(1)**; S.I. 2022/1227, reg. 3(c)

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#### Textual Amendments

- F2** Ss. 97-103 omitted (E.W.) (29.11.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 169\(5\)](#), 208(1) (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- F27** Ss. 97-101 repealed (N.I.) (24.6.2014) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), ss. 4(3), 15(2)(c)(e), [Sch. 4 Pt. 1](#) (with s. 4(4)); S.R. 2014/179, art. 2(b)
- F28** S. 101 omitted (S.) (29.11.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(6\)](#), 208(1); S.I. 2022/1227, reg. 3(c)

### 102 Appeals in relation to notification orders and interim notification orders: Scotland

[<sup>F2</sup>In Scotland—

- (a) an interlocutor granting or refusing a notification order or interim notification order is an appealable interlocutor; and
- (b) where an appeal is taken against an interlocutor so granting such an order the order shall, without prejudice to any power of the court to vary or recall it, continue to have effect pending the disposal of the appeal.]

#### Textual Amendments

- F2** Ss. 97-103 omitted (E.W.) (29.11.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 169\(5\)](#), 208(1) (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)

### <sup>F2F29</sup>103 Sections 97 to 100: Scotland

#### Textual Amendments

- F2** Ss. 97-103 omitted (E.W.) (29.11.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 169\(5\)](#), 208(1) (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- F29** S. 103 omitted (S.) (29.11.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 170\(6\)](#), 208(1); S.I. 2022/1227, reg. 3(c)

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