



Sexual Offences Act 2003

2003 CHAPTER 42

PART 2

NOTIFICATION AND ORDERS

[^{F1}Sexual offences prevention orders [^{F1}(Scotland and Northern Ireland)]

[^{F1}[^{F2}106]Section 104: supplemental

- (1) In this Part, “sexual offences prevention order” means an order under section 104 or 105.
- (2) Subsections (3) to (8) apply for the purposes of section 104.
- (3) “Protecting the public or any particular members of the public from serious sexual harm from the defendant” means protecting the public in the United Kingdom or any particular members of that public from serious physical or psychological harm, caused by the defendant committing one or more offences listed in Schedule 3.
- (4) Acts, behaviour, convictions and findings include those occurring before the commencement of this Part.
- (5) “Qualifying offender” means a person within subsection (6) or (7).
- (6) A person is within this subsection if, whether before or after the commencement of this Part, he—
 - (a) has been convicted of an offence listed in Schedule 3 (other than at paragraph 60) or in Schedule 5,
 - (b) has been found not guilty of such an offence by reason of insanity,
 - (c) has been found to be under a disability and to have done the act charged against him in respect of such an offence, or
 - (d) in England and Wales or Northern Ireland, has been cautioned in respect of such an offence.

Changes to legislation: Sexual Offences Act 2003, Section 106 is up to date with all changes known to be in force on or before 03 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) View outstanding changes

- (7) A person is within this subsection if, under the law in force in a country outside the United Kingdom and whether before or after the commencement of this Part—
- (a) he has been convicted of a relevant offence (whether or not he has been punished for it),
 - (b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that he is not guilty by reason of insanity,
 - (c) such a court has made in respect of a relevant offence a finding equivalent to a finding that he is under a disability and did the act charged against him in respect of the offence, or
 - (d) he has been cautioned in respect of a relevant offence.
- (8) “Appropriate date”, in relation to a qualifying offender, means the date or (as the case may be) the first date on which he was convicted, found or cautioned as mentioned in subsection (6) or (7).
- (9) In subsection (7), “relevant offence” means an act which—
- (a) constituted an offence under the law in force in the country concerned, and
 - (b) would have constituted an offence listed in Schedule 3 (other than at paragraph 60) or in Schedule 5 if it had been done in any part of the United Kingdom.
- (10) 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 (9), however it is described in that law.
- (11) Subject to subsection (12), on an application under section 104(5) the condition in subsection (9)(b) (where relevant) is to be taken as met unless, not later than rules of court may provide, the defendant serves on the applicant a notice—
- (a) stating that, on the facts as alleged with respect to the act concerned, the condition is not in his opinion met,
 - (b) showing his grounds for that opinion, and
 - (c) requiring the applicant to prove that the condition is met.
- (12) The court, if it thinks fit, may permit the defendant to require the applicant to prove that the condition is met without service of a notice under subsection (11).
- [^{F3}(13) Subsection (14) applies for the purposes of section 104 and this section [^{F4}in their application in relation to England and Wales or Northern Ireland].
- (14) In construing any reference to an offence listed in Schedule 3, any condition subject to which an offence is so listed that relates—
- (a) to the way in which the defendant is dealt with in respect of an offence so listed or a relevant finding (as defined by section 132(9)), or
 - (b) to the age of any person,
- is to be disregarded.]]]

Textual Amendments

- F1** Ss. 104-122 repealed (E.W.) (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), [Sch. 5 para. 3](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F2** Ss. 104-109 repealed (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#) (asp 22), [ss. 39\(1\)\(a\), 45\(2\)\(3\)](#) (with ss. 40(2)-(4), 44); S.S.I. 2023/51, [reg. 2](#) (with reg. 3)

Changes to legislation: *Sexual Offences Act 2003, Section 106 is up to date with all changes known to be in force on or before 03 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) View outstanding changes*

- F3** S. 106(13)(14) inserted (E.W.N.I.) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 141\(1\)](#), 153(7); [S.I. 2008/1586](#), [art. 2](#), Sch. 1 para. 44 (subject to Sch. 2)
- F4** Words in s. 106(13) repealed (S.) (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 100\(2\)\(a\)](#), 206(1); [S.S.I. 2011/354](#), art. 2, sch.

Modifications etc. (not altering text)

- C1** Pt. 2 applied (with modifications) (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), [ss. 18\(3\)](#), 45(2)(3) (with s. 44); [S.S.I. 2023/51](#), reg. 2 (with reg. 3)
- C2** Pt. 2 applied (with modifications) (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), [ss. 35\(3\)\(4\)](#), 45(2)(3) (with s. 44); [S.S.I. 2023/51](#), reg. 2 (with reg. 3)
- C3** Pt. 2 applied (with modifications) (S.) (31.3.2023) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), [s. 38\(4\)-\(6\)](#), 45(2)(3) (with s. 44); [S.S.I. 2023/51](#), reg. 2 (with reg. 3)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60B(5)(i) substituted for s. 60B(5)(i)(ii) by [2015 c. 9 \(N.I.\) Sch. 1 para. 123\(1\)Sch. 9 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). S. 60B already repealed (N.I.) (14.1.2015) by [2015 c. 2 \(N.I.\)](#), s. 28(2), Sch. 5; and omitted (E.W.) (31.7.2015) by virtue of [2015 c. 30](#), Sch. 5 para. 5(2); S.I. 2015/1476, reg. 2(j))
- s. 103C(4B) inserted by [2022 c. 32 s. 178\(7\)\(b\)](#)
- s. 103E(5C)(5D) inserted by [2022 c. 32 s. 178\(8\)](#)
- s. 103F(3B) inserted by [2022 c. 32 s. 178\(9\)\(a\)](#)
- s. 103FA103FB inserted by [2022 c. 32 s. 178\(10\)](#)
- s. 108(9) inserted by [2011 c. 18 s. 17\(2\)](#)
- s. 122A(8A) inserted by [2022 c. 32 s. 178\(11\)\(a\)](#)
- s. 122A(9B) inserted by [2022 c. 32 s. 178\(11\)\(b\)](#)
- s. 122D(4C)(4D) inserted by [2022 c. 32 s. 178\(12\)](#)
- s. 122E(3B) inserted by [2022 c. 32 s. 178\(13\)\(a\)](#)
- s. 122EA122EB inserted by [2022 c. 32 s. 178\(14\)](#)
- s. 136ZA(3) inserted by [2022 c. 32 s. 178\(15\)](#)