



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 3

#### GENERAL

#### 137 Service courts

- (1) In this Act [<sup>F1</sup>and in sections 343 to 354 of the Sentencing Code (sexual harm prevention orders on conviction)]—
- (a) a reference to a court order or a conviction or finding includes a reference to an order of or a conviction or finding by a service court,
  - (b) a reference to an offence includes a reference to an offence triable by a service court,
  - (c) “proceedings” includes proceedings before a service court, and
  - (d) a reference to proceedings for an offence under this Act includes a reference to proceedings for [<sup>F2</sup>an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is that offence.]
- (2) In sections 92 and [<sup>F3</sup>103A(1) [<sup>F4</sup>of this Act, and section 345 of the Sentencing Code,]] “court” includes a service court.
- [<sup>F5</sup>(3) Where the court making a sexual harm prevention order is a service court—
- (a) sections 103A(3) [<sup>F6</sup>and (4)] to (9), 103F [<sup>F7</sup>, 103FA(3)(a), (4) and (6) and 103J of this Act, and sections 348A(3)(a), (4) and (6) and 355 to 357 of the Sentencing Code] do not apply;
  - (b) sections [<sup>F8</sup>103A(1), (2) and (3A),] 103B to 103E [<sup>F9</sup>, 103FA(1), (2), (3)(b) and (5) to (9), 103FB and 103G to 103I of this Act, and sections 343 to 348, 348A(1), (2), (3)(b) and (5) to (9), 348B to 354 and 358 of the Sentencing Code] apply—
    - (i) subject to paragraphs [<sup>F10</sup>(ba), (bb)] (c) and (d), and
    - (ii) as if they extended to the whole of the United Kingdom;

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- [<sup>F11</sup>(ba) if section 103CA applies to the defendant at a time when the defendant is a person subject to service law or a civilian subject to service discipline, the reference in section 103CA(4)(c) (requirements included in order: report on compliance) to the appropriate chief officer of police is to be read as a reference to a Provost Marshal;
- (bb) if section 347A applies to the defendant at a time when the defendant is a person subject to service law or a civilian subject to service discipline, the reference in section 347A(4)(c) of the Sentencing Code (requirements included in order: report on compliance) to the appropriate chief office of police is to be read as a reference to a Provost Marshal;]
- (c) in relation to an application under section 103E [<sup>F12</sup>of this Act, or an application under section 350 of the Sentencing Code,] in respect of a defendant who at the time of the application is a person subject to service law or a civilian subject to service discipline—
- (i) the application may be made only by the defendant or a [<sup>F13</sup>Provost Marshal], and must be made to the Court Martial;
- [<sup>F14</sup>(ia) the reference in section 103E(2A) to a person mentioned in subsection (2)(b) to (d) is to be read as a reference to a Provost Marshal;
- (ib) the reference in section 350(3A) of the Sentencing Code to a person mentioned in subsection (2)(b) or (c) is to be read as a reference to a Provost Marshal;]
- (ii) consent under section 103E(7) [<sup>F15</sup>of this Act, or section 350(7) of the Sentencing Code,] must be the consent of the defendant and a [<sup>F13</sup>Provost Marshal];
- (iii) an appeal against the making of an order under section 103E [<sup>F16</sup>of this Act or section 350 of the Sentencing Code], or the refusal to make such an order, must be made to the Court Martial Appeal Court;
- (d) in relation to an application under section 103E [<sup>F17</sup>of this Act, or an application under section 350 of the Sentencing Code,] in respect of a defendant who at the time of the application is neither a person subject to service law nor a civilian subject to service discipline—
- (i) the application must be made to the Crown Court in England and Wales;
- (ii) an appeal against the making of an order under section 103E [<sup>F18</sup>of this Act or section 350 of the Sentencing Code], or the refusal to make such an order, must be made to the Court of Appeal in England and Wales.]
- (4) In this [<sup>F19</sup>section—
- “civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006 (see section 370 of that Act);
- [<sup>F20</sup>“Provost Marshal” means the Provost Marshal of a service police force or the Provost Marshal for serious crime;]
- “service court” means][<sup>F21</sup>the Court Martial or the Service Civilian Court];
- [<sup>F22</sup>“subject to service law” has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act).]
- [<sup>F23</sup>(5) In subsection (1)(a) the reference to a service court includes a reference to the following—
- (a) the Court Martial Appeal Court;

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- (b) the Supreme Court on an appeal brought from the Court Martial Appeal Court;
- (c) a court-martial;
- (d) a Standing Civilian Court.]

[<sup>F24</sup>(6) Paragraphs (c)(i) and (d)(i) of subsection (3) have effect, in relation to a sexual harm prevention order made by the Court Martial Appeal Court, as if the reference to a service court in that subsection included a reference to that court.]

#### Textual Amendments

- F1 Words in s. 137(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 215(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F2 Words in s. 137(1)(d) 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. 211(2)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F3 Word in s. 137(2) substituted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 5 para. 7(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F4 Words in s. 137(2) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 215(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F5 S. 137(3) substituted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 5 para. 7(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F6 Words in s. 137(3)(a) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(a)(i)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F7 Words in s. 137(3)(a) substituted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(a)(ii)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F8 Words in s. 137(3)(b) substituted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(b)(i)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F9 Words in s. 137(3)(b) substituted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(b)(ii)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F10 Words in s. 137(3)(b)(i) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(c)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F11 S. 137(3)(ba)(bb) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(d)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F12 Words in s. 137(3)(c) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 215(6)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F13 Words in s. 137(3)(c) substituted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(e)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F14 S. 137(3)(c)(ia)(ib) inserted (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 179(f)**, 208(1); S.I. 2022/1227, reg. 3(k)
- F15 Words in s. 137(3)(c)(ii) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 215(6)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F16 Words in s. 137(3)(c)(iii) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 215(6)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F17 Words in s. 137(3)(d) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 215(7)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F18 Words in s. 137(3)(d)(ii) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 215(7)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F19 Words in s. 137(4) substituted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 5 para. 7(4)(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F20 Words in s. 137(4) inserted (1.5.2022 for specified purposes, 5.12.2022 in so far as not already in force) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 23**; S.I. 2022/471, reg. 2(e); S.I. 2022/1095, reg. 4

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- F21** Words in s. 137(4) 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. 211(3)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F22** Words in s. 137(4) inserted (8.3.2015) by **Anti-social Behaviour, Crime and Policing Act 2014** (c. 12), s. 185(1), **Sch. 5 para. 7(4)(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)
- F23** S. 137(5) added (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. 211(4)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F24** S. 137(6) inserted (8.3.2015) by **Anti-social Behaviour, Crime and Policing Act 2014** (c. 12), s. 185(1), **Sch. 5 para. 7(5)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(e)

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

- C1** S. 137 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(2)**

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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\(15\)](#)