



# Police, Crime, Sentencing and Courts Act 2022

## 2022 CHAPTER 32

### PART 10

#### MANAGEMENT OF OFFENDERS

### CHAPTER 3

#### MANAGEMENT OF SEX OFFENDERS

#### *Orders made in different parts of the United Kingdom*

#### **180 Enforcement of requirements of orders made in Scotland or Northern Ireland**

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 103I (offence: breach of SHPO or interim SHPO etc), after subsection (1) insert—
- “(1A) A person who, without reasonable excuse, fails to do something that the person is required to do by a sexual offences prevention order or an interim sexual offences prevention order commits an offence.
- (1B) A person who, without reasonable excuse—
- (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
  - (b) fails to do something that the person is required to do by a relevant Scottish order,
- commits an offence.
- (1C) In subsection (1B) “relevant Scottish order” means—

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- (a) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or
  - (b) an interim sexual harm prevention order made under section 21 of that Act.”
- (3) In section 113 (offence: breach of SOPO or interim SOPO etc), after subsection (1ZA) insert—
  - “(1ZB) A person commits an offence if, without reasonable excuse, the person—
    - (a) contravenes a prohibition imposed by a relevant Scottish order other than a prohibition on foreign travel, or
    - (b) fails to comply with a requirement imposed by a relevant Scottish order.
  - (1ZC) In subsection (1ZB)—
    - “prohibition on foreign travel” has the meaning given by section 17(2) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22);
    - “relevant Scottish order” means—
      - (a) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, or
      - (b) an interim sexual harm prevention order made under section 21 of that Act.”
- (4) In section 122(1) (offence: breach of foreign travel order)—
  - (a) omit the “or” at the end of paragraph (a), and
  - (b) at the end of paragraph (b) insert “, or
  - (c) he contravenes a prohibition on foreign travel imposed by a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).”
- (5) In section 122H (offence: breach of sexual risk order or interim sexual risk order etc)—
  - (a) in subsection (1) omit paragraphs (e) and (f), and
  - (b) after subsection (1) insert—
    - “(1A) A person who, without reasonable excuse, does anything that the person is required to do by a risk of sexual harm order that has been renewed or varied as mentioned in section 136ZJ(7) commits an offence.
    - (1B) A person who, without reasonable excuse—
      - (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
      - (b) fails to do something that the person is required to do by a relevant Scottish order,
 commits an offence.
    - (1C) In subsection (1B) “relevant Scottish order” means—
      - (a) a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or

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- (b) an interim sexual risk order made under section 31 of that Act.”
- (6) In section 128 (offence: breach of risk of sexual harm order or interim risk of sexual harm order etc)—
  - (a) in subsection (1) omit paragraphs (e) and (f), and
  - (b) after subsection (1A) (inserted by section 177) insert—
    - “(1B) A person who, without reasonable excuse—
      - (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
      - (b) fails to do something that the person is required to do by a relevant Scottish order,
 commits an offence.
    - (1C) In subsection (1B) “relevant Scottish order” means—
      - (a) a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)), or
      - (b) an interim sexual risk order made under section 31 of that Act.”
- (7) In section 136ZA (application of orders throughout the United Kingdom) in subsection (1)—
  - (a) after paragraph (i) insert—
    - “(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.”, and
  - (b) omit paragraphs (j) and (k).

#### Commencement Information

- I1** S. 180 not in force at Royal Assent, see [s. 208\(1\)](#)
- I2** [S. 180\(1\)\(2\)\(5\)-\(7\)](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(c\)](#) (with [reg. 4\(1\)](#))
- I3** [S. 180\(3\)\(4\)](#) in force at 31.3.2023 for N.I. by [S.I. 2023/387](#), [reg. 3\(c\)](#)

## 181 Effect of conviction for breach of Scottish order etc

- (1) In section 122I of the Sexual Offences Act 2003 (effect of conviction etc of an offence under section 122H etc)—
  - (a) in subsection (2), omit paragraph (b),
  - (b) after subsection (2) insert—
    - “(2A) This section also applies to a person (“the defendant”) who—
      - (a) is convicted of an offence mentioned in subsection (2B),

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- (b) is acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995, or
- (c) is found, in respect of such an offence, to be unfit for trial under section 53F of that Act in a case where the court determines that the defendant has done the act constituting the offence.

(2B) Those offences are—

- (a) an offence under section 34 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)) (breach of sexual risk order or interim sexual risk order in Scotland);
- (b) an offence under section 37 of that Act (breach of equivalent orders) in respect of a breach of an order made under section 122A, 122E, 123 or 126 of this Act.”
- (c) in subsection (6)—
  - (i) in paragraph (a), for “or caution” substitute “, caution or acquittal”,
  - (ii) in that paragraph, after “subsection (1)” insert “or (2A)”,
  - (iii) in paragraph (b), for “or caution” substitute “, caution or acquittal”, and
  - (iv) in that paragraph, after “subsection (1)” insert “or (2A)”,
- (d) after subsection (6) insert—
 

“(6A) In subsection (6) “sexual risk order” and “interim sexual risk order” include orders under sections 27 and 31 (respectively) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and
- (e) omit subsection (7).

(2) In section 129 of the Sexual Offences Act 2003 (effect of conviction etc of an offence under section 128 etc)—

- (a) in subsection (1A), omit paragraph (b),
- (b) after subsection (1A) insert—

“(1B) This section also applies to a person (“the defendant”) who—

- (a) is convicted of an offence mentioned in subsection (1C),
- (b) is acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995, or
- (c) is found, in respect of such an offence, to be unfit for trial under section 53F of that Act in a case where the court determines that the defendant has done the act constituting the offence.

(1C) Those offences are—

- (a) an offence under section 34 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)) (breach of sexual risk order or interim sexual risk order in Scotland);
- (b) an offence under section 37 of that Act (breach of equivalent orders) in respect of a breach of an order made under section 122A, 122E, 123 or 126 of this Act.”
- (c) in subsection (5)—

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- (i) in paragraph (a), for “or caution” substitute “, caution or acquittal”,
- (ii) in that paragraph, after “subsection (1)” insert “or (1B)”,
- (iii) in paragraph (b), for “or caution” substitute “, caution or acquittal”,  
and
- (iv) in that paragraph, after “subsection (1)” insert “or (1B)”,
- (d) after subsection (5) insert—
  - “(5A) In subsection (5) “sexual risk order” and “interim sexual risk order” include orders under sections 27 and 31 (respectively) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and
- (e) omit subsection (6).

#### Commencement Information

- I4** S. 181 not in force at Royal Assent, see [s. 208\(1\)](#)
- I5** [S. 181](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(d\)](#) (with [reg. 4\(1\)](#))

## 182 Orders superseding, or superseded by, Scottish orders

- (1) In section 349(2) of the Sentencing Code (making of sexual harm prevention order: effect on other orders)—
  - (a) omit the “or” at the end of paragraph (a), and
  - (b) at the end of paragraph (b) insert “, or
  - (c) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act [2016 \(asp 22\)](#).”.
- (2) Section 136ZB of the Sexual Offences Act 2003 (order ceases to have effect when new order made) is amended as follows.
- (3) In subsection (1), in the table—
  - (a) in the entry relating to a sexual harm prevention order, in the second column, after “—foreign travel order” insert—
 

—	“sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act <a href="#">2016 (asp 22)</a> .”, and
(b)	in the entry relating to a sexual risk order, in the second column, after “—foreign travel order” insert—
—	“sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”
- (4) In subsection (2)—
  - (a) in the words before the table—
    - (i) omit “or Scotland”, and
    - (ii) after “England and Wales” insert “or Scotland”, and
  - (b) in the table—
    - (i) in the entry relating to a sexual offences prevention order, in the second column, after “—in the case of a sexual harm prevention

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order containing a prohibition on foreign travel, each of its other prohibitions” insert—

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- “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.”
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(ii) in the entry relating to a foreign travel order, in the second column, after “—prohibition on foreign travel contained in a sexual harm prevention order” insert—

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- “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.”, and
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(iii) in the entry relating to a risk of sexual harm order, in the second column, after “—in the case of a sexual risk order containing a prohibition on foreign travel, each of its other prohibitions” insert—

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- “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 prohibition on foreign travel, each of its other prohibitions.”
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(5) After subsection (2) insert—

“(2ZA) Where a court in Scotland 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 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	<ul style="list-style-type: none"> <li>— sexual harm prevention order;</li> <li>— sexual offences prevention order;</li> <li>— foreign travel order.</li> </ul>
Sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016	<ul style="list-style-type: none"> <li>— sexual risk order;</li> <li>— risk of sexual harm order;</li> <li>— foreign travel order.”</li> </ul>

(6) In subsection (2A), after “subsection (2)” insert “or subsection (2ZA)”.

(7) In subsection (3), omit paragraph (b).

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#### Commencement Information

- I6** S. 182 not in force at Royal Assent, see [s. 208\(1\)](#)  
**I7** [S. 182](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(e\)](#) (with [reg. 4](#))

### 183 Variation etc of order by court in another part of the United Kingdom

- (1) Schedule 18 contains amendments enabling a court in one part of the United Kingdom to vary, renew or discharge an order made in another.
- (2) In that Schedule—
- (a) Part 1 enables a court in Northern Ireland to renew or discharge orders made in England and Wales and to vary, renew or discharge orders made in Scotland;
  - (b) Part 2 enables a court in Scotland to vary, renew or discharge orders made in England and Wales or Northern Ireland;
  - (c) Part 3 enables a court in England and Wales to vary, renew or discharge orders made in Scotland or Northern Ireland.

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#### Commencement Information

- I8** S. 183 not in force at Royal Assent, see [s. 208\(1\)](#)  
**I9** [S. 183](#) in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(f\)](#)

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