

## SCHEDULES

### SCHEDULE 18

#### VARIATION ETC OF ORDER BY COURT IN ANOTHER PART OF THE UNITED KINGDOM

#### PART 3

##### VARIATION OF ORDER BY COURT IN ENGLAND AND WALES

- 6 After section 136ZF of the Sexual Offences Act 2003 (inserted by paragraph 4) insert—

**“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Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (4)(b) or (c) must have regard to the list in considering—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
  - (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

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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 subparagraph (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).

### **136ZH 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.

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- (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—

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- (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).
- (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 subparagraph (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

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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.

### **136ZI 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,

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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.
- (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—

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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 subparagraph (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 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).

### **136ZJ 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—
- (a) is residing in England and Wales, or
  - (b) 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—
- (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.
- (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—
- (a) additional prohibitions on the defendant, or
  - (b) 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—
- (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

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- 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.”