



# Police, Crime, Sentencing and Courts Act 2022

## 2022 CHAPTER 32

### PART 10

#### MANAGEMENT OF OFFENDERS

### CHAPTER 3

#### MANAGEMENT OF SEX OFFENDERS

##### *Sexual harm prevention orders and sexual risk orders*

PROSPECTIVE

#### **178 Electronic monitoring requirements**

- (1) The Sentencing Code is amended in accordance with subsections (2) to (5).
- (2) In section 343 (sexual harm prevention order), after subsection (3) (inserted by section 175 of this Act) insert—
  - “(4) A sexual harm prevention order may require the offender to submit to electronic monitoring of the offender’s compliance with the prohibitions and requirements imposed by the order (see section 348A for further provision about such a requirement).”
- (3) In section 347 (sexual harm prevention orders: matters to be specified)—
  - (a) in subsection (1), in the words after paragraph (b), after “United Kingdom” insert “and section 348A for further matters to be included in the case of an electronic monitoring requirement”, and

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 178. (See end of Document for details)*

- (b) in subsection (2), in the words after paragraph (b), after “travel)” insert “and section 348A(8) (electronic monitoring requirements)”.

- (4) After section 348 insert—

**“348A Sexual harm prevention orders: electronic monitoring requirements**

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 343(4), an electronic monitoring requirement on the offender in a sexual harm prevention order.
- (2) If there is a person (other than the offender) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (3) The court may impose the requirement only if—
  - (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
  - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
  - (a) the local justice area in which it appears to the court that the offender resides or will reside, and
  - (b) in a case where it is proposed to include in the order—
    - (i) a requirement that the offender must remain, for specified periods, at a specified place, or
    - (ii) a provision prohibiting the offender from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.

“Specified” means specified in the sexual harm prevention order under which the electronic monitoring requirement is imposed.
- (5) A sexual harm prevention order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual harm prevention order imposes an electronic monitoring requirement on the offender, the offender must (among other things)—
  - (a) submit, as required from time to time by the responsible person, to—
    - (i) being fitted with, or the installation of, any necessary apparatus, and
    - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
  - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and

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- (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (8) A sexual harm prevention order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 350.

### **348B Data from electronic monitoring: code of practice**

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of offenders under electronic monitoring requirements imposed by sexual harm prevention orders.
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”
- (5) In section 350 (sexual harm prevention orders: variations, renewals, discharges), after subsection (6B) (inserted by section 173 of this Act) insert—
  - “(6C) Section 348A (electronic monitoring requirements) applies in relation to—
    - (a) the variation of an 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 (6D).
  - (6D) In its application to the variation or renewal of an order, section 348A(4)(b) has effect as if—
    - (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and
    - (b) the reference 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.”
- (6) The Sexual Offences Act 2003 is amended in accordance with subsections (7) to (16).
- (7) In section 103C (sexual harm prevention orders: effect)—
  - (a) in subsection (2), for “section 103D(1)” substitute “sections 103D(1) and 103FA(8)”, and
  - (b) after subsection (4A) (inserted by section 175 of this Act) insert—
    - “(4B) A sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant’s compliance

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with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).”

- (8) In section 103E (sexual harm prevention orders: variations, renewals and discharges) after subsection (5B) (inserted by section 173 of this Act) insert—

“(5C) Section 103FA (electronic monitoring requirements) applies in relation to—

- (a) the variation of an 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 (5D).

- (5D) In its application to the variation or renewal of an order, section 103FA(4)(b) has effect as if—

- (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and
- (b) the reference 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.”

- (9) In section 103F (interim sexual harm prevention orders)—

- (a) after subsection (3A) (inserted by section 173 of this Act) insert—

“(3B) An interim sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).”, and

- (b) in subsection (4) for “Such an order” substitute “An interim sexual harm prevention order”.

- (10) After section 103F insert—

**“103FA SHPOs and interim SHPOs: electronic monitoring requirements**

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 103C(4B) or section 103F(3B), an electronic monitoring requirement on the defendant in a sexual harm prevention order or interim sexual harm prevention order.

- (2) If there is a person (other than the defendant) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.

- (3) The court may impose the requirement only if—

- (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
- (b) it is satisfied that the necessary provision can be made under the arrangements currently available.

- (4) In subsection (3)(a) “the relevant area” means—

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- (a) the local justice area in which it appears to the court that the defendant resides or will reside, and
- (b) in a case where it is proposed to include in the order—
  - (i) a requirement that the defendant must remain, for specified periods, at a specified place, or
  - (ii) a provision prohibiting the defendant from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.

“Specified” means specified in the sexual harm prevention order or interim sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (5) A sexual harm prevention order or interim sexual harm prevention order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual harm prevention order or interim sexual harm prevention order imposes an electronic monitoring requirement on the defendant, the defendant must (among other things)—
  - (a) submit, as required from time to time by the responsible person, to—
    - (i) being fitted with, or the installation of, any necessary apparatus, and
    - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
  - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
  - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual harm prevention order or interim sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (8) A sexual harm prevention order or an interim sexual harm prevention order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 103E.

### **103FB Data from electronic monitoring: code of practice**

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of defendants under electronic monitoring requirements imposed by—
  - (a) sexual harm prevention orders,

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- (b) relevant Scottish orders within the meaning of section 136ZG that have been renewed or varied as mentioned in subsection (11) of that section (variation etc by court in England and Wales to impose electronic monitoring requirement), and
  - (c) sexual offences prevention orders that have been renewed or varied as mentioned in section 136ZH(10) (variation etc by court in England and Wales to impose electronic monitoring requirement).
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”
- (11) In section 122A (sexual risk orders: applications, grounds and effect)—
  - (a) after subsection (8) insert—
 

“(8A) Subsection (8) is subject to section 122C(1) (duration of prohibitions on foreign travel) and section 122EA(8) (duration of electronic monitoring requirements).”, and
  - (b) after subsection (9A) (as inserted by section 176 of this Act) insert—
 

“(9B) A sexual risk order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).”
- (12) In section 122D (sexual risk orders: variations, renewals and discharges) after subsection (4B) (inserted by section 173 of this Act) insert—
 

“(4C) Section 122EA (electronic monitoring requirements) applies in relation to—

  - (a) the variation of an 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 (4D).

(4D) In its application to the variation or renewal of an order, section 122EA(4)(b) has effect as if—

  - (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and
  - (b) the reference 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.”
- (13) In section 122E (interim sexual risk orders)—
  - (a) after subsection (3A) (inserted by section 173 of this Act) insert—
 

“(3B) An interim sexual risk order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).”, and
  - (b) in subsection (4) for “Such an order” substitute “An interim sexual risk order”.

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(14) After section 122E insert—

**“122EA Sexual risk orders and interim sexual risk orders: electronic monitoring requirements**

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 122A(9B) or section 122E(3B), an electronic monitoring requirement on the defendant in a sexual risk order or interim sexual risk order.
- (2) If there is a person (other than the defendant) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (3) The court may impose the requirement only if—
  - (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
  - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
  - (a) the local justice area in which it appears to the court that the defendant resides or will reside, and
  - (b) in a case where it is proposed to include in the order—
    - (i) a requirement that the defendant must remain, for specified periods, at a specified place, or
    - (ii) a provision prohibiting the defendant from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.

“Specified” means specified in the sexual risk order or interim sexual risk order under which the electronic monitoring requirement is imposed.
- (5) A sexual risk order or interim sexual risk order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual risk order or interim sexual risk order imposes an electronic monitoring requirement on the defendant, the defendant must (among other things)—
  - (a) submit, as required from time to time by the responsible person, to—
    - (i) being fitted with, or the installation of, any necessary apparatus, and
    - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
  - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and



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- (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual risk order or interim sexual risk order under which the electronic monitoring requirement is imposed.

- (8) A sexual risk order or an interim sexual risk order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 122D.

#### **122EB Data from electronic monitoring: code of practice**

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of defendants under electronic monitoring requirements imposed by—
  - (a) sexual risk orders,
  - (b) relevant Scottish orders within the meaning of section 136ZI that have been renewed or varied as mentioned in subsection (11) of that section (variation etc by court in England and Wales to impose electronic monitoring requirement), and
  - (c) risk of sexual harm orders that have been renewed or varied as mentioned in section 136ZJ(7) (variation etc by court in England and Wales to impose electronic monitoring requirement).

- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”

- (15) In section 136ZA, after subsection (2) insert—

“(3) A requirement that is imposed by a relevant order and that relates to the electronic monitoring of a person’s compliance with the prohibitions or requirements imposed by the order is to be treated for the purposes of subsection (2) as a requirement that is expressly confined to a particular locality.”

- (16) In section 138(3), after “containing” insert “only regulations under section 103FA(6) or section 122EA(6) or”.

#### **Commencement Information**

- II** S. 178 not in force at Royal Assent, see [s. 208\(1\)](#)



**Status:**

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**Changes to legislation:**

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