

SCHEDULES

SCHEDULE 5

Section 66.

AMENDMENTS OF THE SEX OFFENDERS ACT 1997

Introductory

- 1 (1) The Sex Offenders Act 1997 is amended as follows.
- (2) In this Schedule—
- (a) “commencement”, in relation to any paragraph, means the coming into force of that paragraph,
 - (b) “relevant date” has the same meaning as in Part I of that Act.

Period and place for giving notification

- 2 (1) In section 2 (effect of notification requirements), in subsection (1), for “14 days” there is substituted “three days”.
- (2) For subsection (5) of that section there is substituted—
- “(5) A person may give a notification under this section by—
- (a) attending at any police station in his local police area, and
 - (b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station,
- and a notification under subsection (2) above may also be given by sending a written notification to any such police station”.
- (3) This paragraph applies in relation to any person—
- (a) whose relevant date falls after commencement, or
 - (b) whose relevant date falls before commencement but in whose case the period mentioned in subsection (1) of that section has not begun.

Additional requirements on giving notification

- 3 After subsection (6) of that section there is inserted—
- “(6A) A person giving a notification under subsection (1) above shall also, if requested to do so by the police officer or other person referred to in subsection (5)(b) above, allow the officer or person to take his fingerprints and his photograph, or either of them.
- (6B) The power to take fingerprints in pursuance of subsection (6A) above is exercisable for the purpose of verifying the identity of the person giving the notification by checking the fingerprints against any other fingerprints to which the officer or person has access.

Status: This is the original version (as it was originally enacted).

(6C) In relation to persons subject to the notification requirements of this Part, or any description of such persons, the Secretary of State may by regulations provide for subsection (5)(a) above to have effect as if for the reference to any police station in a person’s local police area there were substituted a reference to a police station or police stations prescribed by the regulations.

The power to make regulations under this subsection is exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Notice of intention to leave or return to the UK

4 Before subsection (7) of that section there is inserted—

“(6D) In relation to persons subject to the notification requirements of this Part who leave the United Kingdom, or any description of such persons, the Secretary of State may by regulations make provision for requiring them—

- (a) to give in accordance with the regulations, before they leave, a notice under subsection (6E) below, and
- (b) if they subsequently return to the United Kingdom, to give in accordance with the regulations a notice under subsection (6F) below.

(6E) A notice under this subsection must disclose—

- (a) the date on which he will leave the United Kingdom, the country to which he will travel (or, if there is more than one, the first country) and his point of arrival, determined in accordance with the regulations, in that country,
- (b) any other information prescribed by the regulations which the person holds about his departure from or return to the United Kingdom or his movements while outside the United Kingdom.

In this subsection, “country” includes territory.

(6F) A notice under this subsection must disclose any information prescribed by the regulations about the person’s return to the United Kingdom.

(6G) The power to make regulations under subsections (6D) to (6F) above is exercisable by statutory instrument, and no such regulations shall be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.”

Penalties

5 (1) In section 3 (offences), in subsection (1), for the words following paragraph (b) there is substituted—

“he is guilty of an offence.

(1A) A person guilty of an offence under subsection (1) above is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both,
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.

Status: This is the original version (as it was originally enacted).

- (1B) If without reasonable excuse—
- (a) a person fails to comply with section 2(6A) above, or
 - (b) a person fails to comply with any requirement imposed by virtue of section 2(6D) above to give a notice, or gives a notice which does not disclose the required information or which discloses information which he knows to be false,
- he is guilty of an offence and liable as mentioned in subsection (1A) above.”

- (2) This paragraph applies where the act constituting the offence in question occurs after commencement.

Restraining orders

- 6 (1) After section 5 there is inserted—

“5A Restraining orders

- (1) This section applies where—
- (a) the Crown Court or the Court of Appeal imposes a sentence of imprisonment, or makes a hospital or guardianship order, in respect of a person convicted of a sexual offence to which this Part applies,
 - (b) the Crown Court or the Court of Appeal orders that a person who has been found not guilty of such an offence by reason of insanity, or to be under a disability and to have done the act charged against him in respect of such an offence, be admitted to hospital or makes a guardianship order in respect of him,
 - (c) a youth court makes a detention and training order for a term of twelve months or more, or a hospital or guardianship order, in respect of a person convicted of such an offence,
 - (d) a youth court makes a hospital or guardianship order in respect of a person who has been found not guilty of such an offence by reason of insanity, or to be under a disability and to have done the act charged against him in respect of such an offence.
- (2) The court may make an order under this section in respect of the person (“the offender”) if it is satisfied that it is necessary to do so in order to protect the public in general, or any particular members of the public, from serious harm from him.
- (3) The order may prohibit the offender from doing anything described in the order.
- (4) The order shall have effect for the period specified in it or until further order; and the offender shall not cease to be subject to the notification requirements of this Part while the order has effect.
- (5) The offender may appeal against the order—
- (a) where he was convicted of a sexual offence to which this Part applies, as if the order were a sentence passed on him for that offence,

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- (b) in a case within subsection (1)(b) or (d) above, as if he had been convicted of such an offence and the order were a sentence passed on him for that offence.
- (6) The Crown Court or, in a case within subsection (1)(c) or (d) above, the youth court for the area in which the offender resides may, on the application of—
 - (a) the offender, or
 - (b) the chief officer of police, or the local probation board, for the area in which the offender resides,
 vary or discharge the order.
- (7) On the application the court may, after hearing the applicant, and the other persons mentioned in subsection (6) above (if they so wish), make any order under this section varying or discharging the previous order which the court considers appropriate.
- (8) If without reasonable excuse the offender does anything which he is prohibited from doing by an order under this section, he is guilty of an offence.
- (9) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both,
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.
- (10) In this section, “hospital order” has the same meaning as in the Mental Health Act 1983.”
- (2) Sub-paragraph (1) has effect in relation to sexual offences to which Part I of the Sex Offenders Act 1997 applies where the acts constituting the offence occurred after commencement.
- (3) In section 10 (short title etc.), after subsection (3) there is inserted—
 - “(3A) The Secretary of State may by order make any modifications of section 5A above which he considers necessary or expedient for the purpose of enabling courts in Northern Ireland to exercise the powers conferred by that section.
 The power to make an order under this subsection is exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Information

7 After section 5A there is inserted—

“5B Information about release or transfer

- (1) This section applies to any person (“the offender”) who—
 - (a) is subject to the notification requirements of this Part, and
 - (b) is serving a sentence of imprisonment or a term of service detention, or is detained in a hospital.

Status: This is the original version (as it was originally enacted).

- (2) The Secretary of State may by regulations require notice to be given by the person who is responsible for the offender to persons prescribed by the regulations of any occasion when the offender is released or a different person becomes responsible for him.
- (3) The regulations may make provision for determining who is to be treated for the purposes of this section as responsible for an offender.
- (4) The power to make regulations under this section is exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Supplementary

8 In section 6 (interpretation of Part I), after the definition of “guardianship order” there is inserted—

““local probation board” has the same meaning as in the Criminal Justice and Court Services Act 2000”.

9 At the end of section 10 there is inserted—

“(6) Any power to make regulations or an order under this Act may be exercised so as to make different provision for different purposes.”

Consequential

10 In section 4(4) (young sex offenders), for the words following “section” there is substituted “3(1A) above shall have effect as if, for paragraphs (a) and (b) there were substituted “on summary conviction to a fine not exceeding level 5 on the standard scale””.