

## SCHEDULES

### SCHEDULE 5

#### AMENDMENTS OF THE SEX OFFENDERS ACT 1997

##### *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,
  - (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.”