



Sexual Offences Act 2003

2003 CHAPTER 42

PART 2

NOTIFICATION AND ORDERS

General

131 Young offenders: application

This Part applies to—

- (a) a period of detention which a person is liable to serve under a detention and training order, or a secure training order,
- (b) a period for which a person is ordered to be detained in residential accommodation under section 44(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46),
- (c) a period of training in a training school, or of custody in a remand centre, which a person is liable to undergo or serve by virtue of an order under section 74(1)(a) or (e) of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.)),
- (d) a period for which a person is ordered to be detained in a juvenile justice centre under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)),
- (e) a period for which a person is ordered to be kept in secure accommodation under Article 44A of the Order referred to in paragraph (d),
- (f) a sentence of detention in a young offender institution, a young offenders institution or a young offenders centre,
- (g) a sentence under a custodial order within the meaning of section 71AA of, or paragraph 10(1) of Schedule 5A to, the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 43AA of, or paragraph 10(1) of Schedule 4A to, the Naval Discipline Act 1957 (c. 53),
- (h) a sentence of detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 208 of the Criminal Procedure

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(Scotland) Act 1995 or Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998,

- (i) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6),
- (j) a sentence of detention, or custody for life, under section 71A of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 43A of the Naval Discipline Act 1957 (c. 53),

as it applies to an equivalent sentence of imprisonment; and references in this Part to prison or imprisonment are to be interpreted accordingly.

132 Offences with thresholds

- (1) This section applies to an offence which in Schedule 3 is listed subject to a condition relating to the way in which the defendant is dealt with in respect of the offence or (where a relevant finding has been made in respect of him) in respect of the finding (a “sentencing condition”).
- (2) Where an offence is listed if either a sentencing condition or a condition of another description is met, this section applies only to the offence as listed subject to the sentencing condition.
- (3) For the purposes of this Part (including in particular section 82(6))—
 - (a) a person is to be regarded as convicted of an offence to which this section applies, or
 - (b) (as the case may be) a relevant finding in relation to such an offence is to be regarded as made,
 at the time when the sentencing condition is met.
- (4) In the following subsections, references to a foreign offence are references to an act which—
 - (a) constituted an offence under the law in force in a country outside the United Kingdom (“the relevant foreign law”), and
 - (b) would have constituted an offence to which this section applies (but not an offence, listed in Schedule 3, to which this section does not apply) if it had been done in any part of the United Kingdom.
- (5) In relation to a foreign offence, references to the corresponding UK offence are references to the offence (or any offence) to which subsection (4)(b) applies in the case of that foreign offence.
- (6) For the purposes of this Part, a person is to be regarded as convicted under the relevant foreign law of a foreign offence at the time when he is, in respect of the offence, dealt with under that law in a way equivalent to that mentioned in Schedule 3 as it applies to the corresponding UK offence.
- (7) Where in the case of any person a court exercising jurisdiction under the relevant foreign law makes in respect of a foreign offence a finding equivalent to a relevant finding, the court’s finding is, for the purposes of this Part, to be regarded as made at the time when the person is, in respect of the finding, dealt with under that law in a way equivalent to that mentioned in Schedule 3 as it applies to the corresponding UK offence.

- (8) Where (by virtue of an order under section 130 or otherwise) an offence is listed in Schedule 5 subject to a sentencing condition, this section applies to that offence as if references to Schedule 3 were references to Schedule 5.
- (9) In this section, “relevant finding”, in relation to an offence, means—
- (a) a finding that a person is not guilty of the offence by reason of insanity, or
 - (b) a finding that a person is under a disability and did the act charged against him in respect of the offence.

133 Part 2: general interpretation

- (1) In this Part—

“admitted to a hospital” means admitted to a hospital under—

- (a) section 37 of the Mental Health Act 1983 (c. 20), section 57(2)(a) or 58 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or Article 44 or 50A(2) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));
- (b) Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25); or
- (c) regulations under subsection (3) of section 116B of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 63B of the Naval Discipline Act 1957 (c. 53);

“cautioned” means—

- (a) cautioned by a police officer after the person concerned has admitted the offence, or
- (b) reprimanded or warned within the meaning given by section 65 of the Crime and Disorder Act 1998 (c. 37),

and “caution” is to be interpreted accordingly;

“community order” means—

- (a) a community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
- (b) a probation order or community service order under the Criminal Procedure (Scotland) Act 1995 or a supervised attendance order made in pursuance of section 235 of that Act;
- (c) a community order within the meaning of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)), a probation order under section 1 of the Probation Act (Northern Ireland) 1950 (c. 7 (N.I.)) or a community service order under Article 7 of the Treatment of Offenders (Northern Ireland) Order 1976 (S.I. 1976/226 (N.I. 40)); or
- (d) a community supervision order;

“community supervision order” means an order under paragraph 4 of Schedule 5A to the Army Act 1955 or the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957;

“country” includes territory;

“detained in a hospital” means detained in a hospital under—

- (a) Part 3 of the Mental Health Act 1983, section 71 of the Mental Health (Scotland) Act 1984 (c. 36), Part 6 of the Criminal Procedure (Scotland) Act 1995 or Part III of the Mental Health (Northern Ireland) Order 1986;

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(b) Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991; or

(c) regulations under subsection (3) of section 116B of the Army Act 1955 or the Air Force Act 1955 or section 63B of the Naval Discipline Act 1957;

“guardianship order” means a guardianship order under section 37 of the Mental Health Act 1983 (c. 20), section 58 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or Article 44 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));

“home address” has the meaning given by section 83(7);

“interim notification order” has the meaning given by section 100(2);

“interim risk of sexual harm order” has the meaning given by section 126(2);

“interim sexual offences prevention order” has the meaning given by section 109(2);

“local police area” has the meaning given by section 88(3);

“local probation board” has the same meaning as in the Criminal Justice and Court Services Act 2000 (c. 43);

“notification order” has the meaning given by section 97(1);

“notification period” has the meaning given by section 80(1);

“order for conditional discharge” has the meaning given by each of the following—

(a) section 12(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

(b) Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24));

(c) paragraph 2(1) of Schedule 5A to the Army Act 1955 (3 & 4 Eliz. 2 c. 18);

(d) paragraph 2(1) of Schedule 5A to the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19);

(e) paragraph 2(1) of Schedule 4A to the Naval Discipline Act 1957 (c. 53);

“parental responsibility” has the same meaning as in the Children Act 1989 (c. 41) or the Children (Northern Ireland) Order 1995 (S.I. 1995/ 755 (N.I. 2)), and “parental responsibilities” has the same meaning as in Part 1 of the Children (Scotland) Act 1995 (c. 36);

“the period of conditional discharge” has the meaning given by each of the following—

(a) section 12(3) of the Powers of Criminal Courts (Sentencing) Act 2000;

(b) Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996;

(c) paragraph 2(1) of Schedule 5A to the Army Act 1955;

(d) paragraph 2(1) of Schedule 5A to the Air Force Act 1955;

(e) paragraph 2(1) of Schedule 4A to the Naval Discipline Act 1957;

“probation order” has the meaning given by section 228(1) of the Criminal Procedure (Scotland) Act 1995;

“probation period” has the meaning given by section 307(1) of the Criminal Procedure (Scotland) Act 1995;

“relevant date” has the meaning given by section 82(6) (save in the circumstances mentioned in sections 98, 100, 107, 109 and 129);

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“relevant offender” has the meaning given by section 80(2);

“restriction order” means—

- (a) an order under section 41 of the Mental Health Act 1983, section 57(2) (b) or 59 of the Criminal Procedure (Scotland) Act 1995 or Article 47(1) of the Mental Health (Northern Ireland) Order 1986;
- (b) a direction under paragraph 2(1)(b) of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25) or Article 50A(3)(b) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)); or
- (c) a direction under subsection (2) of section 116B of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 63B of the Naval Discipline Act 1957 (c. 53);

“risk of sexual harm order” has the meaning given by section 123(1);

“sexual offences prevention order” has the meaning given by section 106(1);

“supervision” means supervision in pursuance of an order made for the purpose or, in the case of a person released from prison on licence, in pursuance of a condition contained in his licence;

“term of service detention” means a term of detention awarded under section 71(1)(e) of the Army Act 1955 or the Air Force Act 1955 or section 43(1)(e) of the Naval Discipline Act 1957.

- (2) Where under section 141 different days are appointed for the commencement of different provisions of this Part, a reference in any such provision to the commencement of this Part is to be read (subject to section 98(4)) as a reference to the commencement of that provision.

134 Conditional discharges and probation orders

- (1) The following provisions do not apply for the purposes of this Part to a conviction for an offence in respect of which an order for conditional discharge or, in Scotland, a probation order is made—
 - (a) section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (conviction with absolute or conditional discharge deemed not to be a conviction);
 - (b) Article 6(1) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (conviction with absolute or conditional discharge deemed not to be a conviction);
 - (c) section 247(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (conviction with probation order or absolute discharge deemed not to be a conviction);
 - (d) paragraph 5(1) of Schedule 5A to the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or Schedule 4A to the Naval Discipline Act 1957 (c. 53) (conviction with absolute or conditional discharge or community supervision order deemed not to be a conviction).
- (2) Subsection (1) applies only to convictions after the commencement of this Part.
- (3) The provisions listed in subsection (1)(d) do not apply for the purposes of this Part to a conviction for an offence in respect of which a community supervision order is or has (before or after the commencement of this Part) been made.

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135 Interpretation: mentally disordered offenders

- (1) In this Part, a reference to a conviction includes a reference to a finding of a court in summary proceedings, where the court makes an order under an enactment within subsection (2), that the accused did the act charged; and similar references are to be interpreted accordingly.
- (2) The enactments are—
- (a) section 37(3) of the Mental Health Act 1983 (c. 20);
 - (b) section 58(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46);
 - (c) Article 44(4) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (3) In this Part, a reference to a person being or having been found to be under a disability and to have done the act charged against him in respect of an offence includes a reference to his being or having been found—
- (a) unfit to be tried for the offence;
 - (b) to be insane so that his trial for the offence cannot or could not proceed; or
 - (c) unfit to be tried and to have done the act charged against him in respect of the offence.
- (4) In section 133—
- (a) a reference to admission or detention under Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), and the reference to a direction under paragraph 2(1)(b) of that Schedule, include respectively—
 - (i) a reference to admission or detention under Schedule 1 to the Criminal Procedure (Insanity) Act 1964 (c. 84); and
 - (ii) a reference to a restriction order treated as made by paragraph 2(1) of that Schedule;
 - (b) a reference to admission or detention under any provision of Part 6 of the Criminal Procedure (Scotland) Act 1995, and the reference to an order under section 57(2)(b) or 59 of that Act, include respectively—
 - (i) a reference to admission or detention under section 174(3) or 376(2) of the Criminal Procedure (Scotland) Act 1975 (c. 21); and
 - (ii) a reference to a restriction order made under section 178(1) or 379(1) of that Act;
 - (c) a reference to admission or detention under regulations made under subsection (3), and the reference to a direction under subsection (2), of section 116B of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 63B of the Naval Discipline Act 1957 (c. 53) include respectively—
 - (i) a reference to admission or detention, and
 - (ii) a reference to a direction,

under section 46 of the Mental Health Act 1983, section 69 of the Mental Health (Scotland) Act 1984 (c. 36) or Article 52 of the Mental Health (Northern Ireland) Order 1986.

136 Part 2: Northern Ireland

- (1) This Part applies to Northern Ireland with the following modifications.

- (2) References to a chief officer of police are to be read as references to the Chief Constable of the Police Service of Northern Ireland.
- (3) References to police areas are to be read as references to Northern Ireland.
- (4) References to a complaint are to be read as references to a complaint under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to a court of summary jurisdiction.
- (5) Subject to subsection (6), references to a magistrates' court are to be read as references to a court of summary jurisdiction.
- (6) References to a magistrates' court for the area in which the defendant resides are to be read as references to a court of summary jurisdiction for the petty sessions district which includes the area where the defendant resides.
- (7) References to a youth court for the area in which the defendant resides are to be read as references to a youth court for the petty sessions district which includes the area where the defendant resides.
- (8) References in sections 101, 110(1), (2), (3)(b), (4) and (5), 119 and 127 to the Crown Court are to be read as references to a county court.
- (9) Any direction of the county court made under section 89(1) on an appeal under Article 143 of the Magistrates' Courts (Northern Ireland) Order 1981 (appeals in other cases) (other than one directing that an application be re-heard by a court of summary jurisdiction) is, for the purposes of section 90, to be treated as if it were made by the court from which the appeal was brought and not by the county court.
- (10) Any order of the county court made on an appeal under Article 143 of the Magistrates' Courts (Northern Ireland) Order 1981 (other than one directing that an application be re-heard by a court of summary jurisdiction) is, for the purposes of section 108, to be treated as if it were an order of the court from which the appeal was brought and not an order of the county court.