



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 2

#### NOTIFICATION AND ORDERS

##### *Notification orders*

#### **97 Notification orders: applications and grounds**

- (1) A chief officer of police may, by complaint to any magistrates' court whose commission area includes any part of his police area, apply for an order under this section (a "notification order") in respect of a person ("the defendant") if—
  - (a) it appears to him that the following three conditions are met with respect to the defendant, and
  - (b) the defendant resides in his police area or the chief officer believes that the defendant is in, or is intending to come to, his police area.
- (2) The first condition is that under the law in force in a country outside the United Kingdom—
  - (a) he has been convicted of a relevant offence (whether or not he has been punished for it),
  - (b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that he is not guilty by reason of insanity,
  - (c) such a court has made in respect of a relevant offence a finding equivalent to a finding that he is under a disability and did the act charged against him in respect of the offence, or
  - (d) he has been cautioned in respect of a relevant offence.
- (3) The second condition is that—
  - (a) the first condition is met because of a conviction, finding or caution which occurred on or after 1st September 1997,

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- (b) the first condition is met because of a conviction or finding which occurred before that date, but the person was dealt with in respect of the offence or finding on or after that date, or has yet to be dealt with in respect of it, or
  - (c) the first condition is met because of a conviction or finding which occurred before that date, but on that date the person was, in respect of the offence or finding, subject under the law in force in the country concerned to detention, supervision or any other disposal equivalent to any of those mentioned in section 81(3) (read with sections 81(6) and 131).
- (4) The third condition is that the period set out in section 82 (as modified by subsections (2) and (3) of section 98) in respect of the relevant offence has not expired.
- (5) If on the application it is proved that the conditions in subsections (2) to (4) are met, the court must make a notification order.
- (6) In this section and section 98, “relevant offence” has the meaning given by section 99.

## **98 Notification orders: effect**

- (1) Where a notification order is made—
- (a) the application of this Part to the defendant in respect of the conviction, finding or caution to which the order relates is subject to the modifications set out below, and
  - (b) subject to those modifications, the defendant becomes or (as the case may be) remains subject to the notification requirements of this Part for the notification period set out in section 82.
- (2) The “relevant date” means—
- (a) in the case of a person within section 97(2)(a), the date of the conviction;
  - (b) in the case of a person within section 97(2)(b) or (c), the date of the finding;
  - (c) in the case of a person within section 97(2)(d), the date of the caution.
- (3) In section 82—
- (a) references, except in the Table, to a person (or relevant offender) within any provision of section 80 are to be read as references to the defendant;
  - (b) the reference in the Table to section 80(1)(d) is to be read as a reference to section 97(2)(d);
  - (c) references to an order of any description are to be read as references to any corresponding disposal made in relation to the defendant in respect of an offence or finding by reference to which the notification order was made;
  - (d) the reference to offences listed in Schedule 3 is to be read as a reference to relevant offences.
- (4) In sections 83 and 85, references to the commencement of this Part are to be read as references to the date of service of the notification order.

## **99 Sections 97 and 98: relevant offences**

- (1) “Relevant offence” in sections 97 and 98 means an act which—
- (a) constituted an offence under the law in force in the country concerned, and
  - (b) would have constituted an offence listed in Schedule 3 (other than at paragraph 60) if it had been done in any part of the United Kingdom.

- (2) An act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law for the purposes of subsection (1) however it is described in that law.
- (3) Subject to subsection (4), on an application for a notification order the condition in subsection (1)(b) is to be taken as met unless, not later than rules of court may provide, the defendant serves on the applicant a notice—
  - (a) stating that, on the facts as alleged with respect to the act concerned, the condition is not in his opinion met,
  - (b) showing his grounds for that opinion, and
  - (c) requiring the applicant to prove that the condition is met.
- (4) The court, if it thinks fit, may permit the defendant to require the applicant to prove that the condition is met without service of a notice under subsection (3).

#### **100 Interim notification orders**

- (1) This section applies where an application for a notification order (“the main application”) has not been determined.
- (2) An application for an order under this section (“an interim notification order”)—
  - (a) may be made in the complaint containing the main application, or
  - (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.
- (3) The court may, if it considers it just to do so, make an interim notification order.
- (4) Such an order—
  - (a) has effect only for a fixed period, specified in the order;
  - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
- (5) While such an order has effect—
  - (a) the defendant is subject to the notification requirements of this Part;
  - (b) this Part applies to the defendant, subject to the modification set out in subsection (6).
- (6) The “relevant date” means the date of service of the order.
- (7) The applicant or the defendant may by complaint apply to the court that made the interim notification order for the order to be varied, renewed or discharged.

#### **101 Notification orders and interim notification orders: appeals**

A defendant may appeal to the Crown Court against the making of a notification order or interim notification order.

#### **102 Appeals in relation to notification orders and interim notification orders: Scotland**

In Scotland—

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- (a) an interlocutor granting or refusing a notification order or interim notification order is an appealable interlocutor; and
- (b) where an appeal is taken against an interlocutor so granting such an order the order shall, without prejudice to any power of the court to vary or recall it, continue to have effect pending the disposal of the appeal.

### **103 Sections 97 to 100: Scotland**

- (1) Sections 97 to 100 apply to Scotland with the following modifications—
  - (a) references to a chief officer of police and to his police area are to be read, respectively, as references to a chief constable and to the area of his police force;
  - (b) references to the defendant are to be read as references to the person in respect of whom the order is sought or has effect;
  - (c) an application for a notification order or interim notification order is made by summary application to any sheriff within whose sheriffdom lies any part of the area of the applicant’s police force (references to “the court” being construed accordingly).
- (2) A record of evidence shall be kept on any summary application made by virtue of subsection (1)(c) above.
- (3) The clerk of the court by which, by virtue of that subsection, a notification order or interim notification order is made, varied, renewed or discharged shall cause a copy of, as the case may be—
  - (a) the order as so made, varied or renewed; or
  - (b) the interlocutor by which discharge is effected,to be given to the person named in the order or sent to him by registered post or by the recorded delivery service (an acknowledgement or certificate of delivery of a copy so sent, issued by the Post Office, being sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate).