

Sexual Offences Act 2003

2003 CHAPTER 42

PART 2

NOTIFICATION AND ORDERS

General

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 [^{F1}57A(2)] 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) [^{F2}section 46 of the Mental Health Act 1983, [^{F3}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]

^{F4}[^{F5}"applicable date" has the meaning given by section 88D(5)] "cautioned" means—

- (a) cautioned [^{F6}(or, in Northern Ireland, cautioned by a police officer)] after the person concerned has admitted the offence, ^{F7}...
- (b) ^{F7}...

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) [^{F8}(as that Act had effect before the passing of the Criminal Justice Act 2003)];

- (b) [^{F9}a community payback order made under the Criminal Procedure (Scotland) Act 1995 (c.46);]
- (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;

^{F10}[^{F11}"date of discharge" has the meaning given by section 88B(1)]

"detained in a hospital" means detained in a hospital under-

- (a) Part 3 of the Mental Health Act 1983, [^{F12}section 136 of the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13)], Part 6 of the Criminal Procedure (Scotland) Act 1995 or Part III of the Mental Health (Northern Ireland) Order 1986;
- (b) Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991; or
- (c) [^{F13}section 46 of the Mental Health Act 1983, [^{F14}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]

^{F15}[^{F16}"further date of discharge" has the meaning given by section 88B(3)]

"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);

[F17 interim sexual harm prevention order" has the meaning given by section 103F(2);]

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

[^{F17}...interim sexual risk order" has the meaning given by section 122E(2);]

[^{F18} kept in service custody" means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (but see also subsection (3));]

"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);

 $^{F19}[^{F20\hdots}$ notification continuation order" has the meaning given by section 88C(2)]

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

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

[^{F21}"order for conditional discharge" means an order under any of the following provisions discharging the offender conditionally—

- (a) [^{F22}section 80 of the Sentencing Code;]
- (b) Article 4 of the Criminal Justice (Northern Ireland) Order 1996;
- (c) section 185 of the Armed Forces Act 2006;
- (d) paragraph 3 of Schedule 5A to the Army Act 1955 or Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957;]

"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) [^{F23}section 80(1) of the Sentencing Code;]

- (b) Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996;
- (c) [^{F24}section 185(2) of the Armed Forces Act 2006;]

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[^{F17}"prohibition on foreign travel" has the meaning given by section 103D(2) or 122C(2);]

"relevant date" has the meaning given by section 82(6) (save in the circumstances mentioned in sections ${}^{F26}[{}^{F27}88B,][{}^{F28}, 96ZC], {}^{F28}[{}^{F29}98], [{}^{F29}96A(6)][{}^{F28}, 100], 107, 109 and 129);$

"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) [^{F30}a direction under section 46 of the Mental Health Act 1983, [^{F31}section 69 of the Mental Health (Scotland) Act 1984] or Article 52 of the Mental Health (Northern Ireland) Order 1986;]

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

[^{F32}"service detention" has the meaning given by section 374 of the Armed Forces Act 2006;]

[^{F17}"sexual harm prevention order" has the meaning given by section 103A(1);]

"sexual offences prevention order" has the meaning given by section 106(1); [^{F17}"sexual risk order" has the meaning given by section 122A(1);]

[^{F33}"specified", in relation to an offender supervision requirement, means specified in the requirement.]

"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;

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- [^{F35}(1A) A reference to a provision specified in paragraph (a) of the definition of "admitted to a hospital", "detained in a hospital" or "restriction order" includes a reference to the provision as it applies by virtue of—
 - (a) section 5 of the Criminal Procedure (Insanity) Act 1964,
 - (b) section 6 or 14 of the Criminal Appeal Act 1968,
 - [Schedule 4 to the Armed Forces Act 2006 (including as applied by section 16(2) of the Court Martial Appeals Act 1968),]
 - (c) section 116A of the Army Act 1955 or the Air Force Act 1955 or section 63A of the Naval Discipline Act 1957, or
 - (d) section 16 or 23 of the Courts-Martial (Appeals) Act 1968.]
 - (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.
 - [^{F37}(3) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006, "kept in service custody" means being kept in military, air-force or naval custody by virtue of an order made under section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be).]

Textual Amendments

- F1 S. 133(1): words in definition of "admitted to a hospital" substituted (S.) (27.9.2005) and otherwise (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 2, Sch. 1 para. 33(2)(a) and The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 15, Sch. 1 para. 7(a)
- F2 In s. 133(1) in definition of "admitted to a hospital" para. (c) substituted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 57(2)(a); S.I. 2005/579, art. 3(f)(g)
- **F3** S. 133(1): words in definition of "admitted to a hospital" repealed (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 3, Sch. 2
- F4 S. 133(1): definition of "applicable date" inserted (S.) (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45), arts. 1(1), 4(2)(a) (which Order revokes and reenacts with modifications the The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), see art. 5)
- F5 S. 133(1): definition of "applicable date" inserted (S.) (25.10.2010) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), arts. 1(1), 4(1)(a) (which Order is revoked and re-enacted with modifications (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45))
- F6 S. 133(1): words in definition of "cautioned" substituted for "by a police officer" (E.W.N.I.) (14.7.2008) by virtue of Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), Sch. 26 para. 56(2)(a); S.I. 2008/1586, art. 2, Sch. 1 para. 48(r) (subject to Sch. 2)
- F7 S. 133(1): words in definition of "cautioned" omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 24 para. 25 (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F8 S. 133(1): words in definition of "community order" inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, Sch. 32 para. 144; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(39) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

- F9 Words in definition of "community order" in s. 133(1) substituted (S.) (1.2.2011) by The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential and Supplementary Provisions) Order 2011 (S.S.I. 2011/25), arts. 1, 2, Sch. para. 2(6)(a) (with art. 3)
- F10 S. 133(1): definition of "date of discharge" inserted (S.) (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45), arts. 1(1), 4(2)(a) (which Order revokes and reenacts with modifications the The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), see art. 5)
- F11 S. 133(1): definition of "date of discharge" inserted (S.) (at 17.00 hours on 25.10.2010) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), arts. 1(1), 4(1)(a) (which Order is revoked and re-enacted with modifications (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45))
- F12 S. 133(1): words in definition of "detained in a hospital" substituted (S.) (27.9.2005) and otherwise (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 2, Sch. 1 para. 33(2)(b) and The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 15, Sch. 1 para. 7(b)
- F13 In s. 133(1) in definition of "detained in a hospital" para. (c) substituted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 57(2)(b); S.I. 2005/579, art. 3(f)(g)
- F14 S. 133(1): words in definition of "detained in a hospital" repealed (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 3, Sch. 2
- F15 S. 133(1): definition of "further date of discharge" inserted (S.) (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45), arts. 1(1), 4(2)(a) (which Order revokes and re-enacts with modifications the The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), see art. 5)
- F16 S. 133(1): definition of "further date of discharge" inserted (S.) (at 17.00 hours on 25.10.2010) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), arts. 1(1), 4(1)(a) (which Order is revoked and re-enacted with modifications (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45))
- F17 Definitions in s. 133(1) inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), Sch. 11 para. 76(2) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F18 S. 133(1): definition of "kept in service custody" inserted (E.W.N.I.) (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), Sch. 26 para. 56(2)(b); S.I. 2009/2606, art. 3(i)
- F19 S. 133(1): definition of "notification continuation order" inserted (S.) (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45), arts. 1(1), 4(2)(a) (which Order revokes and re-enacts with modifications the The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), see art. 5)
- F20 S. 133(1): definition of "notification continuation order" inserted (S.) (at 17.00 hours on 25.10.2010) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), arts. 1(1), 4(1)
 (a) (which Order is revoked and re-enacted with modifications (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45))
- F21 S. 133(1): definition of "order for conditional charge" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), Sch. 16 para. 209(2)(a); S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F22 Words in s. 133(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 211(a) (with Sch. 27); S.I. 2020/1236, reg. 2
- F23 Words in s. 133(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 211(b) (with Sch. 27); S.I. 2020/1236, reg. 2
- F24 S. 133(1): words in definition of "the period of conditional discharge" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), Sch. 16 para. 209(2)(b); S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

- **F25** S. 133(1): definitions of "probation order" and "probation period" repealed (S.) (1.2.2011) by The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential and Supplementary Provisions) Order 2011 (S.S.I. 2011/25), arts. 1, 2, **Sch. para. 2(6)(b)** (with art. 3)
- F26 S. 133(1): words in definition of "relevant date" inserted (S.) (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45), arts. 1(1), 4(2)(b) (which Order revokes and re-enacts with modifications the The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), see art. 5)
- F27 S. 133(1): words in definition of "relevant date" inserted (S.) (at 17.00 hours on 25.10.2010) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (S.S.I. 2010/370), arts. 1(1), 4(1)(b) (which Order is revoked and re-enacted with modifications (28.1.2011) by The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (S.S.I. 2011/45))
- **F28** Word in s. 133(1) substituted (E.W.) (29.11.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 169(6), 208(1) (with s. 169(7)(8)); S.I. 2022/1227, reg. 3(b)
- **F29** S. 133(1): word in definition of "relevant date" substituted (N.I.) (24.6.2014) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), ss. 4(5), 15(2)(c); S.R. 2014/179, art. 2(b)
- F30 In s. 133(1) in definition of "restriction order" para. (c) substituted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 57(2)(c); S.I. 2005/579, art. 3(f)(g)
- **F31** S. 133(1): words in definition of "restriction order" repealed (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 3, Sch. 2
- F32 S. 133(1): definition of "service detention" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), Sch. 16 para. 209(2)(c); S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- **F33** S. 133(1): definition of "specified" inserted (S.) (1.2.2011) by The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential and Supplementary Provisions) Order 2011 (S.S.I. 2011/25), arts. 1, 2, Sch. para. 2(6)(c) (with art. 3)
- F34 S. 133(1): definition of "term of service detention" repealed (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378, 383(2), Sch. 16 para. 209(2)(d), Sch. 17; S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- **F35** S. 133(1A) inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 57(3); S.I. 2005/579, art. 3(f)(g)
- F36 S. 133(1A)(ba) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), Sch. 16 para. 209(3); S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- **F37** S. 133(3) inserted (E.W.N.I.) (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), **Sch. 26 para. 56(3)**; S.I. 2009/2606, **art. 3(i)**

Modifications etc. (not altering text)

C1 S. 133(1) modified (24.4.2009 for certain purposes and otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, Sch. 1 para. 52(1)

Changes to legislation:

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Sexual Offences Act 2003, Section 133 is up to date with all changes known to be in force on or before 08 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters: Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60B(5)(i) substituted for s. 60B(5)(i)(ii) by 2015 c. 9 (N.I.) Sch. 1 para. 123(1)Sch.
 9 Pt. 1 (This amendment not applied to legislation.gov.uk. S. 60B already repealed (N.I.) (14.1.2015) by 2015 c. 2 (N.I.), s. 28(2), Sch. 5; and omitted (E.W.) (31.7.2015) by virtue of 2015 c. 30, Sch. 5 para. 5(2); S.I. 2015/1476, reg. 2(j))
- s. 103C(4B) inserted by 2022 c. 32 s. 178(7)(b)
- s. 103E(5C)(5D) inserted by 2022 c. 32 s. 178(8)
- s. 103F(3B) inserted by 2022 c. 32 s. 178(9)(a)
- s. 103FA103FB inserted by 2022 c. 32 s. 178(10)
- s. 108(9) inserted by 2011 c. 18 s. 17(2)
- s. 122A(8A) inserted by 2022 c. 32 s. 178(11)(a)
- s. 122A(9B) inserted by 2022 c. 32 s. 178(11)(b)
- s. 122D(4C)(4D) inserted by 2022 c. 32 s. 178(12)
- s. 122E(3B) inserted by 2022 c. 32 s. 178(13)(a)
- s. 122EA122EB inserted by 2022 c. 32 s. 178(14)
- s. 136ZA(3) inserted by 2022 c. 32 s. 178(15)