



Sexual Offences Act 2003

2003 CHAPTER 42

PART 3

GENERAL

138 Orders and regulations **E+W+N.I.**

- (1) Any power to make orders or regulations conferred by this Act on the Secretary of State is exercisable by statutory instrument.
- (2) A statutory instrument containing an order or regulations under section 21, [F1 22A,] [F2 any of sections 83 to 86 [F3, section 130 or section 136Q(1)]] may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (3) Any other statutory instrument, except one containing an order under section 141, is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- [F4] (4) Orders or regulations made by the Secretary of State under this Act may—
 - (a) make different provision for different purposes;
 - (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.]
 - [F5] (5) Any power of the Department of Justice in Northern Ireland to make orders or regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
 - (6) An order or regulations under any of sections 83 to 86 or section 130 may not be made by the Department of Justice unless a draft of the order or regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
 - (7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W+N.I. - England, Wales and Northern Ireland extent S - Scotland extent

Changes to legislation: Sexual Offences Act 2003, Section 138 is up to date with all changes known to be in force on or before 19 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. (See end of Document for details) View outstanding changes

- (8) Any other order or regulations made by the Department of Justice are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).
- (9) Orders or regulations made by the Department of Justice may—
- (a) make different provision for different purposes;
 - (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.]

Extent Information

- E1** This version of this provision extends to England, Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

- F1** Word in s. 138(2) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 47\(3\)](#), [208\(5\)\(c\)](#)
- F2** Words in s. 138(2) substituted (E.W.N.I.) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 142\(10\)](#), [153\(7\)](#); S.I. 2008/1586, [art. 2](#), [Sch. 1 para. 45](#) (subject to [Sch. 2](#))
- F3** Words in s. 138(2) substituted (E.W.N.I.) (1.4.2010 for E.W. and otherwise prosp.) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 21\(1\)](#), [116\(1\)](#), [Sch. 2 para. 2](#); S.I. 2010/507, [art. 5\(t\)](#) (subject to [art. 6](#))
- F4** S. 138(4) inserted (E.W.N.I.) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 148\(1\)](#), [153\(7\)](#), [Sch. 26 para. 57\(1\)](#); S.I. 2008/1586, [art. 2](#), [Sch. 1 para. 48\(r\)](#) (subject to [Sch. 2](#))
- F5** S. 138(5)-(9) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), [art. 1\(2\)](#), [Sch. 14 para. 77\(3\)](#) (with [arts. 28-31](#))

138 Orders and regulations **S**

- (1) Any power to make orders or regulations conferred by this Act on the Secretary of State is exercisable by statutory instrument.
- (2) A statutory instrument containing an order or regulations under section 21, ^[F122A,]^[F683, 84,]^[F785,] 86 ^{F8}^[F9, 88H] or 130 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (3) Any other statutory instrument, except one containing an order under section 141, is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- ^[F10](4) Orders or regulations made by the Scottish Ministers under this Act may—
- (a) make different provision for different purposes,
 - (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.]

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W+N.I. - England, Wales and Northern Ireland extent S - Scotland extent

Changes to legislation: Sexual Offences Act 2003, Section 138 is up to date with all changes known to be in force on or before 19 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. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** Word in s. 138(2) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 47(3), 208(5)(c)**
- F6** Words in s. 138(2) inserted (S.) (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 78(9), 104**; S.S.I. 2006/432, **art. 2(d)**
- F7** Words in s. 138(2) inserted (S.) (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 102(6), 206(1)**; S.I. 2011/178, art. 2 {Sch.}
- F8** Word in s. 138(2) 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)** (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)
- F9** Word in s. 138(2) 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(2)** (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))
- F10** S. 138(4) inserted (S.) (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 102(6), 206(1)**; S.I. 2011/178, art. 2 {Sch.}

Status:

There are multiple versions of this provision on screen. These apply to different geographical extents.

Skip to:

- E+W+N.I. - England, Wales and Northern Ireland extent
- S - Scotland extent

Changes to legislation:

Sexual Offences Act 2003, Section 138 is up to date with all changes known to be in force on or before 19 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.

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Changes and effects yet to be applied to :

- s. 138(3) words inserted by [2022 c. 32 s. 178\(16\)](#)

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\(15\)](#)