



# Violent Crime Reduction Act 2006

## 2006 CHAPTER 38

### PART 3

#### MISCELLANEOUS

#### *Sexual offences*

#### **54 Forfeiture and detention of vehicles etc.**

Schedule 4 (which amends the Sexual Offences Act 2003 (c. 42) to restore powers of forfeiture and detention of vehicles, ships and aircraft used in relation to offences of trafficking for sexual exploitation) has effect.

#### **55 Continuity of sexual offences law**

(1) This section applies where, in any proceedings—

- (a) a person (“the defendant”) is charged in respect of the same conduct both with an offence under the Sexual Offences Act 2003 (“the 2003 Act offence”) and with an offence specified in subsection (2) (“the pre-commencement offence”);
- (b) the only thing preventing the defendant from being found guilty of the 2003 Act offence is the fact that it has not been proved beyond a reasonable doubt that the time when the conduct took place was after the coming into force of the enactment providing for the offence; and
- (c) the only thing preventing the defendant from being found guilty of the pre-commencement offence is the fact that it has not been proved beyond a reasonable doubt that that time was before the coming into force of the repeal of the enactment providing for the offence.

(2) The offences referred to in subsection (1)(a) are—

- (a) any offence under the Sexual Offences Act 1956 (c. 69);
- (b) an offence under section 4 of the Vagrancy Act 1824 (c. 83) (obscene exposure);

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*Status: This is the original version (as it was originally enacted).*

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- (c) an offence under section 28 of the Town Police Clauses Act 1847 (c. 89) (indecent exposure);
  - (d) an offence under section 61 or 62 of the Offences against the Person Act 1861 (c. 100) (buggery etc.);
  - (e) an offence under section 128 of the Mental Health Act 1959 (c. 72) (sexual intercourse with patients);
  - (f) an offence under section 1 of the Indecency with Children Act 1960 (c. 33) (indecenty with children);
  - (g) an offence under section 4 or 5 of the Sexual Offences Act 1967 (procuring an man to commit buggery and living on the earnings of male prostitution);
  - (h) an offence under section 9 of the Theft Act 1968 (c. 60) (burglary, including entering premises with intent to commit rape);
  - (i) an offence under section 54 of the Criminal Law Act 1977 (c. 45) (incitement of girl under 16 to commit incest);
  - (j) an offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children);
  - (k) an offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust);
  - (l) an offence under section 145 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (traffic in prostitution).
- (3) For the purpose of determining the guilt of the defendant it shall be conclusively presumed that the time when the conduct took place was—
- (a) if the maximum penalty for the pre-commencement offence is less than the maximum penalty for the 2003 Act offence, a time before the coming into force of the repeal of the enactment providing for the pre-commencement offence; and
  - (b) in any other case, a time after the coming into force of the enactment providing for the 2003 Act offence.
- (4) In subsection (3) the reference, in relation an offence, to the maximum penalty is a reference to the maximum penalty by way imprisonment or other detention that could be imposed on the defendant on conviction of the offence in the proceedings in question.
- (5) A reference in this section to an offence under the Sexual Offences Act 2003 (c. 42) or to an offence specified in subsection (2) includes a reference to—
- (a) inciting the commission of that offence;
  - (b) conspiracy to commit that offence; and
  - (c) attempting to commit that offence;
- and, in relation to an offence falling within paragraphs (a) to (c), a reference in this section to the enactment providing for the offence so falling has effect as a reference to the enactment providing for the offence under that Act or, as the case may be, for the offence so specified.
- (6) This section applies to any proceedings, whenever commenced, other than proceedings in which the defendant has been convicted or acquitted of the 2003 Act offence or the pre-commencement offence before the commencement of this section.

## **56 Cross-border provisions relating to sexual offences**

- (1) The following provisions of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) extend to England and Wales and to Northern Ireland, as well as to Scotland—
  - (a) section 17 (which relates to the making of sexual offences prevention orders in Scotland); and
  - (b) section 18 and the Schedule, so far as they provide for the amendment of the Sexual Offences Act 2003 (c. 42) (see paragraph 3 of the Schedule, which relates to the offences in respect of which powers are exercisable under Part 2 of the 2003 Act).
- (2) In section 128 of the Sexual Offences Act 2003 (offence of contravening a risk of sexual harm order or an interim order), after subsection (1) insert—

“(1A) In subsection (1) and, accordingly, in section 129(5) the references to a risk of sexual harm order and to an interim risk of sexual harm order include references, respectively—

  - (a) to an order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (RSHOs in Scotland); and
  - (b) to an order under section 5 of that Act (interim RSHOs in Scotland);

and, for the purposes of this section, prohibitions imposed by an order made in one part of the United Kingdom apply (unless expressly confined to particular localities) throughout that and every other part of the United Kingdom.”
- (3) In section 129 of that Act, in subsection (1)(a) (effect of conviction under section 128), for “under section 128” substitute “mentioned in subsection (1A)”; and after subsection (1) insert—

“(1A) Those offences are—

  - (a) an offence under section 128 of this Act;
  - (b) an offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (contravention of RSHO or interim RSHO in Scotland).”
  - (4) Subsection (3) of section 282 of the Criminal Justice Act 2003 (c. 44) (increase of maximum sentence on summary conviction of an either way offence), so far as it applies to offences under the Sexual Offences Act 2003, applies to them as amended, extended or applied by virtue of this section.

## **57 Amendment of s. 82 of the Sexual Offences Act 2003**

- (1) In the table in section 82(1) of the Sexual Offences Act 2003 (c. 42) (notification period for persons convicted of sexual offences under requirement to notify the police about certain matters), in the entry relating to a person sentenced to imprisonment for life or for a term of 30 months or more, for “or for” substitute “, to imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or to imprisonment for”.
- (2) This section applies in relation to sentences passed before the passing of this Act, as well as to those passed after that.

**58 Power of entry and search of relevant offender's home address**

(1) Before section 97 of the Sexual Offences Act 2003 insert—

*“Entry and search of home address*

**96B Power of entry and search of relevant offender's home address**

- (1) If on an application made by a senior police officer of the relevant force a justice of the peace is satisfied that the requirements in subsection (2) are met in relation to any premises, he may issue a warrant authorising a constable of that force—
  - (a) to enter the premises for the purpose of assessing the risks posed by the relevant offender to which the warrant relates; and
  - (b) to search the premises for that purpose.
- (2) The requirements are—
  - (a) that the address of each set of premises specified in the application is an address falling within subsection (3);
  - (b) that the relevant offender is not one to whom subsection (4) applies;
  - (c) that it is necessary for a constable to enter and search the premises for the purpose mentioned in subsection (1)(a); and
  - (d) that on at least two occasions a constable has sought entry to the premises in order to search them for that purpose and has been unable to obtain entry for that purpose.
- (3) An address falls within this subsection if—
  - (a) it is the address which was last notified in accordance with this Part by a relevant offender to the police as his home address; or
  - (b) there are reasonable grounds to believe that a relevant offender resides there or may regularly be found there.
- (4) This subsection applies to a relevant offender if he is—
  - (a) remanded in or committed to custody by order of a court;
  - (b) serving a sentence of imprisonment or a term of service detention;
  - (c) detained in a hospital; or
  - (d) outside the United Kingdom.
- (5) A warrant issued under this section must specify the one or more sets of premises to which it relates.
- (6) The warrant may authorise the constable executing it to use reasonable force if necessary to enter and search the premises.
- (7) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose mentioned in subsection (1)(a).
- (8) Where a warrant issued under this section authorises multiple entries, the number of entries authorised may be unlimited or limited to a maximum.

(9) In this section a reference to the relevant offender to whom the warrant relates is a reference to the relevant offender—

- (a) who has in accordance with this Part notified the police that the premises specified in the warrant are his home address; or
- (b) in respect of whom there are reasonable grounds to believe that he resides there or may regularly be found there.

(10) In this section—

‘the relevant force’ means the police force maintained for the police area in which the premises in respect of which the application is made or the warrant is issued are situated;

‘senior police officer’ means a constable of the rank of superintendent or above.”

(2) In section 136 of that Act (application of Part 2 to Northern Ireland), after subsection (7) insert—

“(7A) References to a justice of the peace are to be read as references to a lay magistrate.”