

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 10: Special immigration status

Section 140: Disclosure of information about convictions etc of child sex offenders to members of the public

806. *Subsection (1)* inserts new sections 327A and 327B into the 2003 Act.
807. New subsection 327A(1) places a duty on MAPPA authorities (which includes the police, prison and probation services) to consider, in every case, disclosure to members of the public of information in its possession relating to the convictions of any child sex offender being managed by it.
808. New subsections 327A(2) and (3) create a presumption that information will be disclosed where the responsible MAPPA authority has reasonable cause to believe that a child sex offender poses a risk of serious harm to any particular child or children or to children of any particular description, and the disclosure of information to a particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by that offender.
809. New subsection 327A(4) makes clear that the presumption to disclose is not dependent on a request from the public.
810. New subsection 327A(5) allows responsible authorities the discretion, when making a disclosure under this section to disclose such information about the offender's convictions as it considers appropriate. It also allows the responsible authority to impose conditions preventing the recipient of the information from disclosing it to others.
811. New subsection 327A(6) obliges responsible authorities to ensure that, having made a decision that information should be disclosed, it should disclose this information as soon as is reasonably practicable.
812. New subsection 327A(7) and (8) require that any decision to disclose information or not, and the reasons for such a decision, must be recorded by the responsible MAPPA authority. Any conditions attached to the disclosure should also be recorded.
813. New subsection 327A(9) makes it clear that a disclosure should not be made under this section which contravenes the Data Protection Act 1998.
814. New subsection 327A(10) confirms that the authorities' powers to disclose are not affected by this section. They will still need to ensure that they have the necessary vires under their common law or prerogative powers to disclose.

*These notes refer to the Criminal Justice and Immigration
Act 2008 (c.4) which received Royal Assent on 8 May 2008*

815. The new section 327B provides a definition of the terms used in new section 327A, notably that a child is a person under 18, a child sex offender includes a person convicted or cautioned of an offence listed in the new Schedule 34A, or an equivalent offence abroad, whether spent or not, and that “serious harm” includes serious physical or psychological harm caused by committing any offence listed in the new Schedule 34A