



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 10

MANAGEMENT OF OFFENDERS

CHAPTER 1

SERIOUS VIOLENCE REDUCTION ORDERS

165 Serious violence reduction orders

(1) In Part 11 of the Sentencing Code (behaviour orders) after Chapter 1 insert—

“CHAPTER 1A

SERIOUS VIOLENCE REDUCTION ORDERS

342A Power to make serious violence reduction order

- (1) This section applies where—
- (a) a person aged 18 or over (“the offender”) is convicted of an offence which was committed on or after the first appointed day, and
 - (b) the prosecution makes an application to the court for a serious violence reduction order to be made in respect of the offender.
- (2) Subject to subsection (6), the court may make a serious violence reduction order in respect of the offender if—
- (a) the condition in subsection (3) or (4) is met, and
 - (b) the condition in subsection (5) is met.

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- (3) The condition in this subsection is that the court is satisfied on the balance of probabilities that—
 - (a) a bladed article or offensive weapon was used by the offender in the commission of the offence, or
 - (b) the offender had a bladed article or offensive weapon with them when the offence was committed.
- (4) The condition in this subsection is that the court is satisfied on the balance of probabilities that—
 - (a) a bladed article or offensive weapon was used by another person in the commission of the offence and the offender knew or ought to have known that this would be the case, or
 - (b) another person who committed the offence had a bladed article or offensive weapon with them when the offence was committed and the offender knew or ought to have known that this would be the case.
- (5) The condition in this subsection is that the court considers it necessary to make a serious violence reduction order in respect of the offender to—
 - (a) protect the public in England and Wales from the risk of harm involving a bladed article or offensive weapon,
 - (b) protect any particular members of the public in England and Wales (including the offender) from such risk, or
 - (c) prevent the offender from committing an offence involving a bladed article or offensive weapon.
- (6) The court may make a serious violence reduction order in respect of the offender only if it—
 - (a) does so in addition to dealing with the offender for the offence, and
 - (b) does not make an order for absolute discharge under section 79 in respect of the offence.
- (7) For the purpose of deciding whether to make a serious violence reduction order the court may consider evidence led by the prosecution and evidence led by the offender.
- (8) It does not matter whether the evidence would have been admissible in the proceedings in which the offender was convicted.
- (9) The court may adjourn any proceedings on an application for a serious violence reduction order even after sentencing the offender.
- (10) If the offender does not appear for any adjourned proceedings the court may—
 - (a) further adjourn the proceedings,
 - (b) issue a warrant for the offender’s arrest, or
 - (c) hear the proceedings in the offender’s absence.
- (11) The court may not act under subsection (10)(b) unless it is satisfied that the offender has had adequate notice of the time and place of the adjourned proceedings.
- (12) The court may not act under subsection (10)(c) unless it is satisfied that the offender—

- (a) has had adequate notice of the time and place of the adjourned proceedings, and
 - (b) has been informed that if the offender does not appear for those proceedings the court may hear the proceedings in the offender's absence.
- (13) On making a serious violence reduction order the court must in ordinary language explain to the offender—
- (a) the effects of the order, and
 - (b) the powers that a constable has in respect of the offender under section 342E while the order is in effect.
- (14) In subsection (1)(a) “the first appointed day” means the first day appointed by regulations under section 208(1) of the Police, Crime, Sentencing and Courts Act 2022 for the coming into force to any extent of section 165 of that Act.
- (15) In subsection (4) the references to the offence include references to any offence arising out of the same facts as the offence.

342B Meaning of “serious violence reduction order”

- (1) In this Chapter, “serious violence reduction order” means an order made in respect of an offender that imposes on the offender—
- (a) the requirements specified in subsections (2) and (4), and
 - (b) the requirements and prohibitions, if any, specified in regulations made by the Secretary of State for the purposes of this section.
- (2) The offender must be required to notify the information in subsection (3) to the police within the period of 3 days beginning with the day on which the order takes effect.
- (3) That information is—
- (a) the offender's name on the day that the notification is given and, where the offender uses one or more other names on that day, each of those names,
 - (b) the offender's home address on that day, and
 - (c) the address of any other premises at which, on that day, the offender regularly resides or stays.
- (4) The offender must be required to notify the information mentioned in subsection (5) to the police within the period of 3 days beginning with the day on which the offender—
- (a) uses a name which has not been previously notified to the police in accordance with the order,
 - (b) changes their home address, or
 - (c) decides to live for a period of one month or more at any premises the address of which has not been previously notified to the police in accordance with the order.
- (5) That information is—
- (a) in a case within subsection (4)(a), the name which has not previously been notified,
 - (b) in a case within subsection (4)(b), the new home address, and

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- (c) in a case within subsection (4)(c), the address of the premises at which the offender has decided to live.
- (6) A serious violence reduction order must provide that the offender gives a notification of the kind mentioned in subsection (2) or (4) by—
 - (a) attending at a police station in a police area in which the offender lives, and
 - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (7) The Secretary of State may make regulations under subsection (1)(b) only if—
 - (a) the Secretary of State has laid a report before Parliament under section 166(3) of the Police, Crime, Sentencing and Courts Act 2022 (report to be laid after piloting of serious violence reduction orders), and
 - (b) the Secretary of State considers that it is appropriate to make the regulations for the purpose of assisting constables to exercise the powers conferred by section 342E.
- (8) Regulations under subsection (1)(b) are subject to the affirmative resolution procedure.
- (9) In this section, “home address”, in relation to the offender, means—
 - (a) the address of the offender’s sole or main residence, or
 - (b) if the offender has no such residence, the address or location of a place where the offender can regularly be found and, if there is more than one such place, such one of those places as the offender may select.

342C Serious violence reduction orders: additional requirements etc

- (1) A serious violence reduction order may impose on the offender any requirement or prohibition specified in regulations made by the Secretary of State for the purposes of this section if the condition in subsection (2) is met.
- (2) The condition in this subsection is that the court considers it appropriate for the order to impose the requirement or prohibition on the offender for the purpose of assisting constables to exercise the powers conferred by section 342E in respect of the offender.
- (3) Regulations under this section may be made only after the Secretary of State has laid a report before Parliament under section 166(3) of the Police, Crime, Sentencing and Courts Act 2022 (report to be laid after piloting of serious violence reduction orders).
- (4) Regulations under this section are subject to the affirmative resolution procedure.

342D Duration of serious violence reduction orders

- (1) A serious violence reduction order takes effect on the day it is made, subject to subsections (3) and (4).

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- (2) A serious violence reduction order must specify the period for which it has effect, which must be a fixed period of not less than 6 months and not more than 2 years.
- (3) Subsection (4) applies in relation to a serious violence reduction order if—
 - (a) the offender has been remanded in or committed to custody by an order of a court, or
 - (b) a custodial sentence has been imposed on the offender or the offender is serving or otherwise subject to a such a sentence.
- (4) The order may provide that it does not take effect until the offender is released from custody or ceases to be subject to a custodial sentence.
- (5) Where a court makes a serious violence reduction order and the offender is already subject to such an order, the earlier order ceases to have effect.

342E Serious violence reduction orders: powers of constables

- (1) This section applies where a serious violence reduction order is in effect.
- (2) A constable may search the offender for the purpose of ascertaining whether the offender has a bladed article or an offensive weapon with them.
- (3) A constable may detain the offender for the purpose of carrying out the search.
- (4) A constable may seize anything that the constable finds in the course of the search if the constable reasonably suspects it to be a bladed article or an offensive weapon.
- (5) The powers in this section may be exercised only while the offender is in a public place.
- (6) A constable may use reasonable force, if necessary, for the purpose of exercising a power conferred by this section.
- (7) The powers conferred on a constable by this section are additional to powers which the constable has at common law or by virtue of any other enactment and does not affect those powers.

342F Retention and disposal of things seized under section 342E

- (1) Any thing seized by a constable under section 342E may be retained in accordance with regulations made by the Secretary of State under this section.
- (2) The Secretary of State may by regulations make provision—
 - (a) regulating the retention and safekeeping of things seized by a constable under section 342E, and
 - (b) regulating the disposal and destruction of such things in such circumstances as the regulations may prescribe.
- (3) Regulations under this section are subject to the negative resolution procedure.

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

342G Offences relating to a serious violence reduction order

- (1) Where a serious violence reduction order is in effect, the offender commits an offence if the offender—
 - (a) fails without reasonable excuse to do anything the offender is required to do by the order,
 - (b) without reasonable excuse does anything the offender is prohibited from doing by the order,
 - (c) notifies to the police, in purported compliance with the order, any information which the offender knows to be false,
 - (d) tells a constable that they are not subject to a serious violence reduction order, or
 - (e) intentionally obstructs a constable in the exercise of any power conferred by section 342E.
- (2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.
- (3) In relation to an offence committed before the coming into force of paragraph 24(2) of Schedule 22 (maximum sentence that may be imposed on summary conviction of offence triable either way) the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (4) If a person is convicted of an offence under this section, an order for conditional discharge under section 80 is not available to the court by or before which the person is convicted.

342H Variation, renewal or discharge of serious violence reduction order

- (1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a serious violence reduction order.
- (2) Those persons are—
 - (a) the offender;
 - (b) the chief officer of police for the police area in which the offender lives;
 - (c) the chief officer of police for the police area in which the offender committed the offence on the basis of which the order was made;
 - (d) a chief officer of police who believes that the offender is in, or is intending to come to, the chief officer's police area;
 - (e) where the offence on the basis of which the order was made is an offence to which this paragraph applies, the chief constable of the British Transport Police Force.
- (3) Paragraph (e) of subsection (2) applies to an offence which—
 - (a) was committed at, or in relation to, a place within section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003 (jurisdiction of British Transport Police Force), or

- (b) otherwise related to a railway within the meaning given by section 67 of the Transport and Works Act 1992 or a tramway within the meaning given by that section.
- (4) An application under this section must be made in accordance with rules of court.
- (5) Before making a decision on an application under this section, the court must hear—
 - (a) the person making the application, and
 - (b) any other person within subsection (2) who wishes to be heard.
- (6) Subject to subsection (7), on an application under this section the court may make such order varying, renewing or discharging the serious violence reduction order as it thinks appropriate.
- (7) The court may renew a serious violence reduction order, or vary such an order so as to lengthen its duration, only if it considers that to do so is necessary—
 - (a) to protect the public in England and Wales from the risk of harm involving a bladed article or offensive weapon,
 - (b) to protect any particular members of the public in England and Wales (including the offender) from such risk, or
 - (c) to prevent the offender from committing an offence involving a bladed article or offensive weapon.
- (8) On making an order under this section varying or renewing a serious violence reduction order, the court must in ordinary language explain to the offender—
 - (a) the effects of the serious violence reduction order (as varied or renewed), and
 - (b) the powers that a constable has in respect of the offender under section 342E while the serious violence reduction order is in effect.
- (9) In this section the “appropriate court” means—
 - (a) where the Crown Court or the Court of Appeal made the serious violence reduction order, the Crown Court;
 - (b) where a magistrates’ court made the serious violence reduction order and the application is made by the offender or the chief constable of the British Transport Police Force—
 - (i) that magistrates’ court, or
 - (ii) a magistrates’ court for the area in which the offender lives;
 - (c) where a magistrates’ court made the serious violence reduction order and the application is made by a chief officer of police—
 - (i) that magistrates’ court,
 - (ii) a magistrates’ court for the area in which the offender lives, or
 - (iii) a magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area.

342I Appeal against serious violence reduction order etc

- (1) An appeal against the making of a serious violence reduction order may be brought by the offender as if the order were a sentence passed on the offender for an offence.

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

- (2) Where an application is made under section 342H for an order varying, renewing or discharging a serious violence reduction order—
- (a) the person who made the application may appeal against a refusal to make an order under that section;
 - (b) the offender may appeal against the making of an order under that section which was made on the application of a chief officer of police or the chief constable of the British Transport Police Force;
 - (c) a chief officer of police within subsection (2) of that section may appeal against the making of an order under that section which was made on the application of the offender;
 - (d) where the offence on the basis of which the serious violence reduction order was made is an offence to which this paragraph applies, the chief constable of the British Transport Police Force may appeal against the making of an order under that section which was made on the application of the offender.
- (3) Paragraph (d) of subsection (2) applies to an offence which—
- (a) was committed at, or in relation to, a place within section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003 (jurisdiction of British Transport Police Force), or
 - (b) otherwise related to a railway within the meaning given by section 67 of the Transport and Works Act 1992 or a tramway within the meaning given by that section.
- (4) An appeal under subsection (2)—
- (a) is to be made to the Court of Appeal if the application under section 342H was made to the Crown Court;
 - (b) is to be made to the Crown Court in any other case.
- (5) On an appeal under subsection (2) to the Crown Court, the court may make—
- (a) such orders as may be necessary to give effect to its determination of the appeal, and
 - (b) such incidental and consequential orders as appear to it to be appropriate.

342J Guidance

- (1) The Secretary of State may issue guidance to—
- (a) constables,
 - (b) chief officers of police, and
 - (c) the chief constable of the British Transport Police Force,
- in relation to serious violence reduction orders.
- (2) The guidance may in particular include—
- (a) guidance about the exercise by constables, chief officers of police and the chief constable of the British Transport Police Force of their functions under this Chapter,
 - (b) guidance about identifying offenders in respect of whom it may be appropriate for applications for serious violence reduction orders to be made, and

- (c) guidance about providing assistance to prosecutors in connection with applications for serious violence reduction orders.
- (3) The Secretary of State may revise any guidance issued under this section.
- (4) The Secretary of State must arrange for any guidance issued under this section to be published.
- (5) A constable, chief officer of police or the chief constable of the British Transport Police Force must have regard to any guidance issued under this section.

342K Guidance: Parliamentary procedure

- (1) Before issuing guidance under section 342J, the Secretary of State must lay a draft of the guidance before Parliament.
- (2) If, within the 40-day period, either House of Parliament resolves not to approve the draft guidance, the guidance may not be issued.
- (3) If no such resolution is made within that period, the Secretary of State may issue the guidance.
- (4) In this section “the 40-day period”, in relation to draft guidance, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
- (5) In calculating the 40-day period, no account is to be taken of any period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) both Houses are adjourned for more than 4 days.

342L Serious violence reduction orders: interpretation

In this Chapter—

“bladed article” means an article to which section 139 of the Criminal Justice Act 1988 applies;

“custodial sentence” includes a pre-Code custodial sentence (see section 222(4));

“harm” includes physical and psychological harm;

“offensive weapon” has the same meaning as in section 1(4) of the Prevention of Crime Act 1953;

“public place” means—

- (a) any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, or
- (b) any other place to which people have ready access but which is not a dwelling;

“the offender”, in relation to a serious violence reduction order, means the offender in respect of whom the order or the application for the order has been made.”

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

- (2) In section 80(3) of the Sentencing Code (list of circumstances where an order for conditional discharge is not available) after paragraph (d) insert—
- “(da) section 342G(4) (offences relating to a serious violence reduction order);”.
- (3) In section 3(2) of the Prosecution of Offences Act 1985 (functions of the Director of Public Prosecutions) after paragraph (fg) insert—
- “(fh) to have the conduct of applications for orders under section 342A of the Sentencing Code (serious violence reduction orders);”.

166 Serious violence reduction orders: piloting

- (1) The Secretary of State may exercise the power in section 208(1) so as to bring section 165 into force—
- (a) for all purposes, and
 - (b) in relation to the whole of England and Wales,
- only if the conditions in subsections (2) and (3) are met.
- (2) The condition in this subsection is that regulations under section 208(1) have brought section 165 into force only—
- (a) for one or more specified purposes, or
 - (b) in relation to one or more specified areas.
- (3) The condition in this subsection is that the Secretary of State has laid before Parliament a report on the operation of Chapter 1A of Part 11 of the Sentencing Code (inserted by section 165)—
- (a) for one or more of those purposes, or
 - (b) in relation to one or more of those areas.
- (4) A report under subsection (3) must in particular include—
- (a) information about the number of offenders in respect of whom serious violence reduction orders have been made;
 - (b) information about the offences that were the basis for applications as a result of which serious violence reduction orders were made;
 - (c) information about the exercise by constables of the powers in section 342E of the Sentencing Code (serious violence reduction orders: powers of constables);
 - (d) an assessment of the impact of the operation of Chapter 1A of Part 11 of the Sentencing Code on people with protected characteristics (within the meaning of the Equality Act 2010);
 - (e) an initial assessment of the impact of serious violence reduction orders on the reoffending rates of offenders in respect of whom such orders have been made;
 - (f) an assessment of the impact on offenders of being subject to a serious violence reduction order;
 - (g) information about the number of offences committed under section 342G of the Sentencing Code (offences relating to a serious violence reduction order) and the number of suspected offences under that section that have been investigated.
- (5) Regulations under section 208(1) which bring section 165 into force only for a specified purpose or in relation to a specified area may—

- (a) provide for section 165 to be in force for that purpose or in relation to that area for a specified period;
 - (b) make transitional or saving provision in connection with section 165 ceasing to be in force at the end of the specified period.
- (6) Regulations containing provision by virtue of subsection (5)(a) may be amended by subsequent regulations under section 208(1) so as to continue section 165 in force—
- (a) for the specified purpose, or
 - (b) in relation to the specified area,
- for a further specified period.
- (7) Accordingly, the reference in section 419(1) of the Sentencing Act 2020, as applied by section 206, to the coming into force of an amendment is to be read as including a reference to the continuing in force of an amendment by reason of subsection (6).
- (8) In this section—
- “serious violence reduction order” has the same meaning as in Chapter 1A of Part 11 of the Sentencing Code (see section 342B of the Sentencing Code);
 - “specified” means specified in regulations under section 208(1).

CHAPTER 2

KNIFE CRIME PREVENTION ORDERS

167 Knife crime prevention order on conviction: adjournment of proceedings

- (1) In section 19 of the Offensive Weapons Act 2019 (knife crime prevention orders made on conviction), after subsection (9) insert—
- “(9A) The court may adjourn any proceedings on an application for a knife crime prevention order even after sentencing the defendant.
- (9B) If the defendant does not appear for any adjourned proceedings the court may—
- (a) further adjourn the proceedings,
 - (b) issue a warrant for the defendant’s arrest, or
 - (c) hear the proceedings in the defendant’s absence.
- (9C) The court may not act under subsection (9B)(b) unless it is satisfied that the defendant has had adequate notice of the time and place of the adjourned proceedings.
- (9D) The court may not act under subsection (9B)(c) unless it is satisfied that the defendant—
- (a) has had adequate notice of the time and place of the adjourned proceedings, and
 - (b) has been informed that if the defendant does not appear for those proceedings the court may hear the proceedings in the defendant’s absence.”
- (2) Regulations under section 208(1) which bring subsection (1) into force only for a specified purpose or in relation to a specified area may—

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

- (a) provide for that provision to be in force for that purpose or in relation to that area for a specified period;
 - (b) make transitional or saving provision in relation to that provision ceasing to be in force at the end of the specified period.
- (3) Regulations containing provision by virtue of subsection (2)(a) may be amended by subsequent regulations under section 208(1) so as to continue subsection (1) in force for the specified purpose or in relation to the specified area for a further specified period.
- (4) In this section “specified” means specified in regulations under section 208(1).

CHAPTER 3

MANAGEMENT OF SEX OFFENDERS

Notification requirements

168 Locations for sexual offender notification

- (1) Section 87 of the Sexual Offences Act 2003 (method of notification and related matters) is amended as follows.
- (2) For paragraph (a) of subsection (1) substitute—
- “(a) attending at the police station in the person’s local police area that is for the time being specified in a document published for that local police area under this section or, if there is more than one such police station, at any one of them, and”.
- (3) After subsection (2) insert—
- “(2A) The chief officer of police for each police area must publish, in such manner as the chief officer thinks fit, a document containing the name and address of each police station in that area at which a person may give a notification under section 83(1), 84(1) or 85(1).
- (2B) A chief officer of police must keep under review a document published by the chief officer under this section and may from time to time publish a revised version of the document in such manner as the chief officer thinks fit.”

169 Offences outside the United Kingdom: notification requirements

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) After section 96 insert—

“Offences outside the United Kingdom: notification requirements

96ZA Offences outside the United Kingdom: notification requirements

- (1) Where this section applies to a person (“P”), P is subject to the notification requirements of this Part for the notification period set out in section 82.

This is subject to sections 96ZB (young offenders: parental notices) and 96ZC (modifications of notification requirements).

- (2) This section applies to P if P has been given a notice under subsection (3) and that notice has not been cancelled.
- (3) A constable may give a notice to P if—
 - (a) the conditions in subsections (6), (7) and (8) are met in respect of P, and
 - (b) an officer of at least the rank of inspector has authorised the giving of the notice to P.
- (4) A notice given to P under subsection (3) must be given to P in person and must contain details of—
 - (a) the notifications that P is required to give under this Part,
 - (b) when those notifications must be given, and
 - (c) where those notifications may be given.
- (5) A notice given under subsection (3) may be cancelled by a constable giving notice in writing to P in person but such a cancellation must be authorised by an officer of at least the rank of inspector.
- (6) The first condition is that under the law in force in a country outside the United Kingdom—
 - (a) P has been convicted of a relevant offence (whether or not P 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 P 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 P is under a disability and did the act charged against P in respect of the offence, or
 - (d) P has been cautioned in respect of a relevant offence.
- (7) The second condition is that—
 - (a) the first condition is met because of a conviction, finding or caution which occurred on or after 1 September 1997,
 - (b) the first condition is met because of a conviction or finding which occurred before that date, but P 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 P 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).
- (8) The third condition is that the period set out in section 82 (as it would have effect as modified by section 96ZC(2) and (3) if this section applied to P) in respect of the relevant offence has not expired.
- (9) In this section and section 96ZC “relevant offence” means an act which—

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- (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.
- (10) For the purposes of subsection (9)(a), an act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law however it is described in that law.

96ZB Young offenders: parental notices

- (1) Where the person (“P”) given a notice under section 96ZA is under 18 a constable may also give a notice (a “parental notice”) to a person (“the parent”) with parental responsibility for P.
- (2) Subsections (3)(b) to (5) of section 96ZA apply to the giving of a parental notice as if references to P were references to the parent.
- (3) If a parental notice has been given to the parent and has not been cancelled or ceased to have effect—
 - (a) the obligations that would (apart from this subsection) be imposed by virtue of section 96ZA on P are to be treated instead as obligations on the parent, and
 - (b) the parent must ensure that P attends with them at the police station when a notification under this Part is being given.
- (4) The parental notice ceases to have effect when P reaches the age of 18.
- (5) If a parental notice is to be given, section 96ZA(4)(a) has effect in relation to the notice given to P as if the reference to the notifications that P is required to give under this Part were a reference to—
 - (a) the notifications that the parent is required to give under this Part, and
 - (b) the notifications (if any) that P is required to give under this Part once the parental notice ceases to have effect.

96ZC Modifications of notification requirements

- (1) The application of this Part to a person (“P”) to whom section 96ZA applies in respect of a conviction, finding or caution is subject to the modifications set out in this section.
- (2) References to the “relevant date”—
 - (a) in a case where P is within section 96ZA(6)(a), are to the date of the conviction,
 - (b) in a case where P is within section 96ZA(6)(b) or (c), are to the date of the finding, and
 - (c) in a case where P is within section 96ZA(6)(d), are to 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 P;

- (b) the reference in the Table to section 80(1)(d) is to be read as a reference to section 96ZA(6)(d);
 - (c) references to an order of any description are to be read as references to any corresponding disposal made in relation to P in respect of an offence or finding by reference to which a notice has been given to P under section 96ZA;
 - (d) the reference to offences listed in Schedule 3 is to be read as a reference to relevant offences (see section 96ZA(9)).
- (4) Section 83 has effect as if after subsection (1) there were inserted—
- “(1A) In the case of a relevant offender who is subject to the notification requirements of this Part by virtue of a notice being given to the relevant offender under section 96ZA, the reference in subsection (1) to the period of 3 days beginning with the relevant date (or if later the commencement of this Part) is to be read as a reference to the period of 3 days beginning with the day on which the notice was given to the relevant offender.”
- (5) Section 83(4) has effect as if—
- (a) for the words “Where a notification order is made” there were substituted “Where a relevant offender is subject to the notification requirements of this Part by virtue of a notice given under section 96ZA”, and
 - (b) in paragraph (a) for the words “the order was made” there were substituted “the notice was given to the relevant offender”.

96ZD Appeal against the issue of a notice under section 96ZA or 96ZB

- (1) A person (“P”) may appeal to a magistrates’ court against the decision to give them a notice under section 96ZA.
- (2) The grounds for bringing an appeal under subsection (1) include—
 - (a) that one or more of the conditions for the giving of the notice were not met in respect of P at the time the notice was given;
 - (b) that the conviction, finding or caution by reason of which P was given the notice falls within subsection (3).
- (3) A conviction, finding or caution falls within this subsection if—
 - (a) any investigations or proceedings leading to it were conducted in a way which contravened any of the Convention rights (within the meaning of section 1 of the Human Rights Act 1998) which P would have had if those investigations or proceedings had taken place in the United Kingdom, and
 - (b) that contravention was such that the conviction, finding or caution cannot be safely relied on for the purposes of meeting the condition in section 96ZA(6).
- (4) A person (“the parent”) may appeal to a magistrates’ court against the decision to give them a parental notice under section 96ZB.
- (5) The grounds for bringing an appeal under subsection (4) include—
 - (a) that one or more of the conditions for the giving of a notice under section 96ZA to the person (“P”) for whom the parent has parental

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- responsibility were not met in respect of P at the time the notice under section 96ZA was given;
- (b) that the conviction, finding or caution by reason of which P was given a notice under section 96ZA falls within subsection (3);
 - (c) that one or more of the requirements for giving the parent a parental notice under section 96ZB were not met at the time the parental notice was given.
- (6) On an appeal under subsection (1) or (4) a magistrates’ court may cancel or confirm the notice which is the subject of the appeal.”
- (3) In section 91(1)(a) (offences relating to notification) for “or 89(2)(b)” substitute “, 89(2)(b) or 96ZB(3)(b)”.
- (4) In section 91A(3) (review of indefinite notification requirements) for paragraph (c) substitute—
- “(c) a notice given under section 96ZA.”
- (5) Omit sections 97 to 103 (notification orders) and section 103G(6) and (7) (notification order made on application for sexual harm prevention order or interim sexual harm prevention order).
- (6) In section 133(1) (general interpretation), in the definition of “relevant date” for “98, 100” substitute “, 96ZC”.
- (7) Subsection (5) does not affect—
- (a) the validity or effect of any order made under section 97 or 100 of the Sexual Offences Act 2003 before the coming into force of this section or the application of Part 2 of that Act to any person in respect of whom such an order was so made;
 - (b) in respect of an application made under section 97(1) or section 100(2) of that Act before the coming into force of this section—
 - (i) the determination of such an application, or
 - (ii) the validity and effect of any order made on such an application or the application of Part 2 of that Act to any person in respect of whom such an order was so made.
- (8) The amendments made by subsections (4) and (6) do not apply in respect of any order to which, or any person to whom, subsection (7) applies.

170 Notification orders: Scotland

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 97 (notification orders: applications and grounds)—
- (a) in subsection (1), in the words before paragraph (a)—
 - (i) for the words from “A chief officer of police” to “police area” substitute “The chief constable of the Police Service of Scotland (“the chief constable”) may by application to any sheriff”, and
 - (ii) omit “(“the defendant””,
 - (b) in subsection (1)(a)—
 - (i) for “him” substitute “the chief constable”, and
 - (ii) for “defendant” substitute “person”,

- (c) in subsection (1)(b)—
 - (i) for “defendant”, in both places it occurs, substitute “person”,
 - (ii) for “his police area”, in both places it occurs, substitute “Scotland”, and
 - (iii) for “chief officer” substitute “chief constable”,
 - (d) in subsection (2)—
 - (i) for “he”, in each place it occurs, substitute “the person”, and
 - (ii) in paragraph (c), for “him” substitute “the person”,
 - (e) in subsection (5) for “court” substitute “sheriff”, and
 - (f) after subsection (5) insert—
 - “(5A) A record of evidence must be kept on any application for an order under this section.
 - (5B) The clerk of the court by which a notification order under this section is made must cause a copy of the order as so made to be—
 - (a) given to the person named in the order,
 - (b) sent to the person by registered post, or
 - (c) sent to the person by the recorded delivery service,
 and where a copy of the order is so sent to the person, an acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.”
- (3) In section 98 (notification orders: effect)—
- (a) in subsections (1)(a) and (3)(a) and (c) for “defendant” substitute “person in respect of whom the order has effect”, and
 - (b) in subsection (1)(b) for “defendant” substitute “person”.
- (4) In section 99 (sections 97 and 98: relevant offences), in subsections (3) and (4), for “defendant” substitute “person in respect of whom the order is sought”.
- (5) In section 100 (interim notification orders)—
- (a) in subsection (2)—
 - (i) in paragraph (a), omit “the complaint containing”, and
 - (ii) in paragraph (b), for “by complaint to the court to which that application has been made” substitute “by further application to the sheriff to whom the main application has been made”,
 - (b) in subsection (5)—
 - (i) in paragraph (a), for “defendant” substitute “person in respect of whom the order has effect”, and
 - (ii) in paragraph (b), for “defendant” substitute “person”,
 - (c) in subsection (7)—
 - (i) for “defendant” substitute “person in respect of whom the order has effect”, and
 - (ii) for “complaint” substitute “application”, and
 - (d) after subsection (7) insert—
 - “(7A) A record of evidence must be kept on any application for an order under this section.

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- (7B) The clerk of the court by which an interim notification order is made, varied, renewed or discharged under this section must 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 to be sent to the person in accordance with subsection (7C).
- (7C) A copy of the order may be sent to the person named in the order—
- (a) by registered post, or
 - (b) by the recorded delivery service,
- and where a copy of the order is so sent to the person, an acknowledgement or certificate of delivery issued by the Post Office is sufficient evidence of the delivery of the copy on the day specified in the acknowledgement or certificate.”
- (6) Omit sections 101 (notification orders and interim notification orders: appeals in England and Wales) and 103 (sections 97 to 100: Scotland).

Sexual harm prevention orders and sexual risk orders

171 Applications by British Transport Police and Ministry of Defence Police

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) Section 103A (sexual harm prevention orders: applications and grounds) is amended in accordance with subsections (3) to (6).
- (3) In subsection (4), for the words before paragraph (a) substitute “A person mentioned in subsection (4A) (“the applicant”) may by complaint to a magistrates’ court apply for a sexual harm prevention order in respect of a person if it appears to the applicant that—”.
- (4) After subsection (4) insert—

“(4A) Those persons are—

 - (a) a chief officer of police;
 - (b) the Director General of the National Crime Agency (“the Director General”);
 - (c) the chief constable of the British Transport Police Force;
 - (d) the chief constable of the Ministry of Defence Police.”
- (5) For subsection (7) substitute—

“(7) If the Director General, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under subsection (4), that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.”
- (6) In subsection (9)(b)—

- (a) in the words before sub-paragraph (i), after “the Director General” insert “, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police”, and
- (b) in sub-paragraph (ii), for “Director General” substitute “applicant”.
- (7) In section 103F (interim sexual harm prevention orders), after subsection (6) (inserted by section 173 of this Act) insert—
- “(7) If the Director General of the National Crime Agency, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under this section, that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.
- (8) In subsection (7), “relevant police area” has the same meaning as in section 103A (sexual harm prevention orders: applications and grounds) (see section 103A(9)).”
- (8) In section 103J(1) (sexual harm prevention orders and interim sexual harm prevention orders: guidance) for “chief officers of police and to the Director General of the National Crime Agency” substitute “chief officers of police, the Director General of the National Crime Agency, the chief constable of the British Transport Police Force and the chief constable of the Ministry of Defence Police”.
- (9) Section 122A (sexual risk orders: applications, grounds and effect) is amended in accordance with subsections (10) and (11).
- (10) For subsection (1) substitute—
- “(1) A person mentioned in subsection (1A) (“the applicant”) may by complaint to a magistrates’ court apply for an order under this section (a “sexual risk order”) in respect of a person (“the defendant”) if it appears to the applicant that the condition in subsection (2) is met.
- (1A) Those persons are—
- (a) a chief officer of police;
- (b) the Director General of the National Crime Agency (“the Director General”);
- (c) the chief constable of the British Transport Police Force;
- (d) the chief constable of the Ministry of Defence Police.”
- (11) For subsection (5) substitute—
- “(5) If the Director General, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under subsection (1), that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.”
- (12) In section 122B(3)(b) (interpretation of section 122A)—
- (a) after “Agency” insert “, the chief constable of the British Transport Police Force or the chief constable for the Ministry of Defence Police”, and
- (b) in sub-paragraph (ii), for “Director General” substitute “applicant”.
- (13) In section 122E (interim sexual risk orders), after subsection (6) (inserted by section 173 of this Act) insert—

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- “(7) If the Director General of the National Crime Agency, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under this section, that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.
- (8) In subsection (7), “relevant police area” has the same meaning as in section 122A (sexual risk orders: applications, grounds and effect) (see section 122B(3)).”
- (14) In section 122J(1) (sexual risk orders and interim sexual risk orders: guidance) for “chief officers of police and to the Director General of the National Crime Agency” substitute “chief officers of police, the Director General of the National Crime Agency, the chief constable of the British Transport Police Force and the chief constable of the Ministry of Defence Police”.

172 List of countries

- (1) The Secretary of State may—
- (a) prepare a list of countries and territories outside the United Kingdom in which the Secretary of State considers children are at a high risk of sexual abuse or sexual exploitation from United Kingdom nationals or United Kingdom residents, or
 - (b) direct a relevant person to prepare a list of countries and territories outside the United Kingdom in which the relevant person considers children are at a high risk of sexual abuse or sexual exploitation from United Kingdom nationals or United Kingdom residents.
- (2) If a list is prepared by the Secretary of State, the Secretary of State must lay the list before Parliament.
- (3) If a list is prepared by a relevant person—
- (a) the relevant person must submit the list to the Secretary of State, and
 - (b) the Secretary of State must lay the list before Parliament.
- (4) As soon as reasonably practicable after a list has been laid before Parliament, the person who prepared the list must publish it.
- (5) A list published under subsection (4) has effect for the purposes of—
- (a) section 346 of the Sentencing Code (exercise of power to make sexual harm prevention order),
 - (b) section 350 of the Sentencing Code (sexual harm prevention orders: variations, renewals and discharges),
 - (c) section 103A of the Sexual Offences Act 2003 (sexual harm prevention orders: applications and grounds),
 - (d) section 103E of that Act (sexual harm prevention orders: variations, renewals and discharges),
 - (e) section 103F of that Act (interim sexual harm prevention orders),
 - (f) section 122A of that Act (sexual risk orders: applications, grounds and effect),
 - (g) section 122D of that Act (sexual risk orders: variations, renewals and discharges),
 - (h) section 122E of that Act (interim sexual risk orders),

- (i) section 136ZG of that Act (variation of sexual harm prevention order made in Scotland by court in England and Wales),
 - (j) section 136ZH of that Act (variation of sexual offences prevention order or foreign travel order by court in England and Wales), and
 - (k) section 136ZI of that Act (variation of sexual risk order made in Scotland by court in England and Wales).
- (6) If a list has been published, the person who prepared it must keep it under review and may, from time to time, prepare a revised list (but see subsections (7) and (8)).
- (7) If the function under subsection (6) is for the time being exercisable by the Secretary of State, the Secretary of State may direct a relevant person to exercise that function.
- (8) If the function under subsection (6) is for the time being exercisable by a relevant person, the Secretary of State may direct that the function is to be exercisable by another relevant person or by the Secretary of State.
- (9) A list published under this section may at any time be withdrawn by the Secretary of State.
- (10) Subsections (2) to (9) apply to a revised list as they apply to a list prepared under subsection (1).
- (11) In this section—
- “child” means a person under 18;
 - “relevant person” means a person whose statutory functions relate to—
 - (a) the prevention or detection of crime, or
 - (b) other law enforcement purposes;
 - “United Kingdom national” means—
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act;
 - “United Kingdom resident” means an individual who is resident in the United Kingdom.

173 Requirement for courts and certain persons to have regard to the list of countries

- (1) In section 346 of the Sentencing Code (exercise of power to make sexual harm prevention order)—
- (a) the existing text becomes subsection (1), and
 - (b) after that subsection insert—
 - “(2) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at a high risk of sexual abuse or sexual exploitation) and has not been withdrawn, the court must have regard to the list in considering—
 - (a) whether a sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular

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- children, from sexual harm from the offender outside the United Kingdom, and
- (b) in particular, whether a prohibition on foreign travel (see section 348) is necessary for that purpose.”
- (2) In section 350 of the Sentencing Code (sexual harm prevention orders: variations, renewals and discharges)—
- (a) after subsection (3) insert—
- “(3A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (2)(b) or (c) must have regard to the list in considering—
- (a) whether to apply for an order varying or renewing a sexual harm prevention order for the purpose of protecting children generally, or any particular children, from sexual harm from the offender outside the United Kingdom, and
- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.”, and
- (b) after subsection (6A) (inserted by section 175) insert—
- “(6B) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—
- (a) whether an order varying or renewing the sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the offender outside the United Kingdom, and
- (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.”
- (3) The Sexual Offences Act 2003 is amended as follows.
- (4) In section 103A (sexual harm prevention orders: applications and grounds)—
- (a) after subsection (3) insert—
- “(3A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, the court must have regard to the list in considering—
- (a) whether a sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
- (b) in particular, whether a prohibition on foreign travel (see section 103D) is necessary for that purpose.”, and
- (b) after subsection (4A) (inserted by section 171) insert—
- “(4B) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, a

person mentioned in subsection (4A) must have regard to the list in considering—

- (a) whether a person has since the appropriate date acted in such a way as to give reasonable cause to believe that it is necessary for a sexual harm prevention order to be made for the purpose of protecting children generally, or any particular children, from sexual harm from that person outside the United Kingdom, and
- (b) whether to apply for a prohibition on foreign travel (see section 103D) to be included in any such order for that purpose.”

(5) In section 103E (sexual harm prevention orders: variations, renewals and discharges)

(a) after subsection (2) insert—

“(2A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (2)(b) to (d) must have regard to the list in considering—

- (a) whether to apply for an order varying or renewing a sexual harm prevention order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.”,

(b) after subsection (5A) (inserted by section 175) insert—

“(5B) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—

- (a) whether any order varying or renewing the sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
- (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.”,

(c) in subsection (6), for “subsection (5)” substitute “subsections (2A), (5) and (5B)”.

(6) In section 103F (interim sexual harm prevention orders)—

(a) after subsection (2) insert—

“(2A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person who has made, or is considering making, an application under section 103A(4) must have regard to the list in considering—

- (a) whether to apply for an interim sexual harm prevention order for the purpose of protecting children generally, or any

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- particular children, from sexual harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to apply for a prohibition on foreign travel to be included in any such order for that purpose.”
- (b) after subsection (3) insert—
- “(3A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—
- (a) whether to make an interim sexual harm prevention order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to include in any such order a prohibition on foreign travel for that purpose.”, and
- (c) after subsection (5) insert—
- “(6) Subsections (2A) and (3A) apply in relation to an application for the variation or renewal of an interim sexual harm prevention order as they apply in relation to an application for such an order.”
- (7) In section 122A (sexual risk orders: applications, grounds and effect)—
- (a) after subsection (2) insert—
- “(2A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (1A) must have regard to the list in considering—
- (a) whether as a result of the act mentioned in subsection (2) there is reasonable cause to believe that it is necessary for a sexual risk order to be made for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) whether to apply for a prohibition on foreign travel (see section 122C) to be included in any such order for that purpose.”, and
- (b) after subsection (6) insert—
- “(6A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—
- (a) whether a sexual risk order is necessary for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether a prohibition on foreign travel (see section 122C) is necessary for that purpose.”
- (8) In section 122D (sexual risk order: variations, renewals and discharges),
- (a) after subsection (2) insert—
- “(2A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are

at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (2)(b) to (d) must have regard to the list in considering—

- (a) whether to apply for an order varying or renewing a sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.”,
- (b) in subsection (3) for “the application” substitute “an application made under this section”, and
- (c) after subsection (4A) (inserted by section 176) insert—

“(4B) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—

- (a) whether any order varying or renewing the sexual risk order is necessary for the purposes of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.”

(9) In section 122E (interim sexual risk orders)—

- (a) after subsection (2) insert—

“(2A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person who has made, or is considering making, an application for a sexual risk order must have regard to the list in considering—

- (a) whether to apply for an interim sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to apply for a prohibition on foreign travel to be included in any such order for that purpose.”,
- (b) after subsection (3) insert—

“(3A) If a list has been published under section 172 of the Police, Crime, Sentencing and Courts Act 2022 and has not been withdrawn, the court must have regard to the list in considering—

- (a) whether to make an interim sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and
- (b) in particular, whether to include a prohibition on foreign travel in any such order for that purpose.”, and
- (c) after subsection (5) insert—

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“(6) Subsections (2A) and (3A) apply in relation to an application for the variation or renewal of an interim sexual risk order as they apply in relation to an application for such an order.”

174 Standard of proof

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 103A(3) (sexual harm prevention orders: applications and grounds)—
 - (a) omit “and” at the end of paragraph (a), and
 - (b) for paragraph (b) substitute—
 - “(b) the court is satisfied on the balance of probabilities that since the appropriate date the defendant has acted in one or more of the ways alleged by the person making the application, and
 - (c) the court is satisfied that the defendant having acted in such a way makes it necessary to make a sexual harm prevention order, for the purpose of—
 - (i) protecting the public or any particular members of the public from sexual harm from the defendant, or
 - (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.”
- (3) In section 122A (sexual risk orders: applications, grounds and effect), for subsection (6) substitute—
 - “(6) On an application under subsection (1), the court may make a sexual risk order if—
 - (a) the court is satisfied on the balance of probabilities that the defendant has, whether before or after the commencement of this Part, done one or more of the acts of a sexual nature alleged by the person making the application, and
 - (b) the court is satisfied that as a result of the defendant acting in such a way it is necessary to make such an order for the purpose of—
 - (i) protecting the public or any particular members of the public from harm from the defendant, or
 - (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.”

175 Sexual harm prevention orders: power to impose positive requirements

- (1) The Sentencing Code is amended in accordance with subsections (2) to (6).
- (2) In section 343 (sexual harm prevention order)—
 - (a) for subsection (1) substitute—
 - “(1) In this Code a “sexual harm prevention order” means an order made under this Chapter in respect of an offender.
 - (1A) A sexual harm prevention order may—

- (a) prohibit the offender from doing anything described in the order;
- (b) require the offender to do anything described in the order.”,
- (b) in subsection (2), after “prohibitions” insert “or requirements”, and
- (c) after subsection (2) insert—
 - “(3) The prohibitions or requirements which are imposed on the offender by a sexual harm prevention order must, so far as practicable, be such as to avoid—
 - (a) any conflict with the offender’s religious beliefs,
 - (b) any interference with the times, if any, at which the offender normally works or attends any educational establishment, and
 - (c) any conflict with any other court order or injunction to which the offender may be subject (but see section 349).”
- (3) In section 347 (sexual harm prevention order: matters to be specified)—
 - (a) in subsection (1)(a), after “prohibitions” insert “and requirements”,
 - (b) in subsection (1)(b)—
 - (i) after “each prohibition” insert “or requirement”, and
 - (ii) for ““prohibition period”” substitute ““specified period””,
 - (c) in subsection (2)—
 - (i) in the words before paragraph (a), for “prohibition period” substitute “specified period”, and
 - (ii) in paragraph (b), after “prohibition” insert “or requirement”, and
 - (d) in subsection (3), after “prohibitions”, in both places it occurs, insert “or requirements”.
- (4) After section 347 insert—

“347A Sexual harm prevention orders: requirements included in order etc.

- (1) A sexual harm prevention order that imposes a requirement to do something on an offender must specify a person who is to be responsible for supervising compliance with the requirement.

The person may be an individual or an organisation.
- (2) Before including such a requirement in a sexual harm prevention order, the court must receive evidence about its suitability and enforceability from—
 - (a) the individual to be specified under subsection (1), if an individual is to be specified;
 - (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.
- (3) Subsections (1) and (2) do not apply in relation to electronic monitoring requirements (see instead section 348A(5) and (6)).
- (4) It is the duty of a person specified under subsection (1)—
 - (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (“the relevant requirements”);

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- (b) to promote the offender’s compliance with the relevant requirements;
 - (c) if the person considers that—
 - (i) the offender has complied with all the relevant requirements, or
 - (ii) the offender has failed to comply with a relevant requirement, to inform the appropriate chief officer of police.
- (5) In subsection (4)(c) the “appropriate chief officer of police means—
- (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the offender lives, or
 - (b) if it appears to that person that the offender lives in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.
- (6) An offender subject to a requirement imposed by a sexual harm prevention order must—
- (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
 - (b) notify that person of any change of the offender’s home address.
- These obligations have effect as requirements of the order.
- (7) In this section “home address”, in relation to an offender, means—
- (a) the address of the offender’s sole or main residence in the United Kingdom, or
 - (b) where the offender has no such residence, the address or location of a place in the United Kingdom where the offender can regularly be found and, if there is more than one such place, such one of those places as the offender may select.”
- (5) In section 350 (sexual harm prevention orders: variations, renewals and discharges)—
- (a) in subsection (6)—
 - (i) in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
 - (ii) in the words after paragraph (b), after “prohibitions” insert “and requirements”,
 - (b) after subsection (6) insert—

“(6A) Any additional prohibitions or requirements that are imposed on the offender must, so far as practicable, be such as to avoid—

 - (a) any conflict with the offender’s religious beliefs,
 - (b) any interference with the times, if any, at which the offender normally works or attends any educational establishment, and
 - (c) any conflict with any other court order or injunction to which the offender may be subject.”, and
 - (c) in subsection (8), after “other prohibitions” insert “or requirements”.
- (6) In section 354 (offence: breach of sexual harm prevention order)—
- (a) for subsection (1) substitute—

- “(1) A person commits an offence if, without reasonable excuse, the person—
- (a) does anything that the person is prohibited from doing by a sexual harm prevention order, or
 - (b) fails to do something that the person is required to do by a sexual harm prevention order.”,
- (b) in subsection (2), for “doing anything prohibited by such an order” substitute “breaching such an order”, and
- (c) omit subsection (3).
- (7) In paragraph 98 of Schedule 22 to the Sentencing Act 2020 (amendment of section 354 of the Sentencing Code), in the substituted subsection (2) for “doing anything prohibited by such an order” substitute “breaching such an order”.
- (8) The Sexual Offences Act 2003 is amended as follows.
- (9) In section 103C (sexual harm prevention orders: effect)—
- (a) for subsection (1) substitute—

“(1) A sexual harm prevention order may—

 - (a) prohibit the defendant from doing anything described in the order;
 - (b) require the defendant to do anything described in the order.”,

(b) in subsection (2), after “prohibition” insert “or requirement”,

(c) in subsection (3), after “prohibitions”, in both places it occurs, insert “or requirements”,

(d) in subsection (4), after “prohibitions” insert “or requirements”, and

(e) after subsection (4) insert—

“(4A) The prohibitions or requirements which are imposed on the defendant by a sexual harm prevention order must, so far as practicable, be such as to avoid—

 - (a) any conflict with the defendant’s religious beliefs,
 - (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
 - (c) any conflict with any other court order or injunction to which the defendant may be subject (but see subsection (6)).”

(10) After section 103C insert—

“103CA SHPOs: requirements included in order etc.

- (1) A sexual harm prevention order that imposes a requirement to do something on a defendant must specify a person who is to be responsible for supervising compliance with the requirement.
- The person may be an individual or an organisation.
- (2) Before including such a requirement in a sexual harm prevention order, the court must receive evidence about its suitability and enforceability from—
- (a) the individual to be specified under subsection (1), if an individual is to be specified;

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- (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.
- (3) Subsections (1) and (2) do not apply in relation to electronic monitoring requirements (see instead section 103FA(5) and (6)).
- (4) It is the duty of a person specified under subsection (1)—
- (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (“the relevant requirements”);
 - (b) to promote the defendant’s compliance with the relevant requirements;
 - (c) if the person considers that—
 - (i) the defendant has complied with all the relevant requirements, or
 - (ii) the defendant has failed to comply with a relevant requirement,
 to inform the appropriate chief officer of police.
- (5) In subsection (4)(c) the “appropriate chief officer of police means—
- (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the defendant resides, or
 - (b) if it appears to that person that the defendant resides in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.
- (6) A defendant subject to a requirement imposed by a sexual harm prevention order must—
- (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
 - (b) notify that person of any change of the defendant’s home address.
- These obligations have effect as requirements of the order.”
- (11) In section 103E (sexual harm prevention orders: variations, renewals and discharges)
- (a) in subsection (5)—
 - (i) in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
 - (ii) in the words after paragraph (b), after “prohibitions” insert “and requirements”,
 - (b) after subsection (5) insert—

“(5A) Any additional prohibitions or requirements that are imposed on the defendant must, so far as practicable, be such as to avoid—

 - (a) any conflict with the defendant’s religious beliefs,
 - (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
 - (c) any conflict with any other court order or injunction to which the defendant may be subject.”, and
 - (c) in subsection (8), after “prohibitions” insert “or requirements”.

- (12) In section 103F(3) (interim sexual harm prevention orders), for the words from “, prohibiting the defendant” to the end of the subsection substitute “—
- (a) prohibiting the defendant from doing anything described in the order;
 - (b) requiring the defendant to do anything described in the order.”
- (13) In section 103I (offence: breach of sexual harm prevention order or interim sexual harm prevention order)—
- (a) before subsection (1) insert—

“(A1) A person who, without reasonable excuse—

 - (a) does anything that the person is prohibited from doing by a sexual harm prevention order or an interim sexual harm prevention order, or
 - (b) fails to do something that the person is required to do by a sexual harm prevention order or an interim sexual harm prevention order,

commits an offence.”,

 - (b) in subsection (1), omit paragraphs (a) and (b), and
 - (c) omit subsection (2).

176 Sexual risk orders: power to impose positive requirements

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 122A (sexual risk orders: applications, grounds and effect)—
- (a) for subsection (7) substitute—

“(7) A sexual risk order may—

 - (a) prohibit the defendant from doing anything described in the order;
 - (b) require the defendant to do anything described in the order.”,
 - (b) in subsection (8), for the words from “may specify” to the end of the subsection substitute “—
 - (a) has effect for a fixed period (not less than 2 years) specified in the order or until further order, and
 - (b) may specify different periods for different prohibitions or requirements.”,
 - (c) in subsection (9), after “prohibitions” insert “or requirements”, and
 - (d) after subsection (9) insert—

“(9A) The prohibitions or requirements which are imposed on the defendant by a sexual risk order must, so far as practicable, be such as to avoid—

 - (a) any conflict with the defendant’s religious beliefs,
 - (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
 - (c) any conflict with any other court order or injunction to which the defendant may be subject (but see subsection (10)).”
- (3) After section 122B insert—

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

“122BA Sexual risk orders: requirements included in order etc.

- (1) A sexual risk order that imposes a requirement to do something on a defendant must specify a person who is to be responsible for supervising compliance with the requirement.

The person may be an individual or an organisation.

- (2) Before including such a requirement in a sexual risk order, the court must receive evidence about its suitability and enforceability from—

- (a) the individual to be specified under subsection (1), if an individual is to be specified;
- (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.

- (3) Subsections (1) and (2) do not apply in relation to electronic monitoring requirements (see instead section 122EA(5) and (6)).

- (4) It is the duty of a person specified under subsection (1)—

- (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (“the relevant requirements”);
- (b) to promote the defendant’s compliance with the relevant requirements;
- (c) if the person considers that—
 - (i) the defendant has complied with all the relevant requirements, or
 - (ii) the defendant has failed to comply with a relevant requirement,

to inform the appropriate chief officer of police.

- (5) In subsection (4)(c) the “appropriate chief officer of police means—

- (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the defendant resides, or
- (b) if it appears to that person that the defendant resides in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.

- (6) A defendant subject to a requirement imposed by a sexual risk order must—

- (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
- (b) notify that person of any change of the defendant’s home address.

These obligations have effect as requirements of the order.”

- (4) In section 122D (sexual risk orders: variations, renewals and discharges)—

- (a) in subsection (4)—
 - (i) in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
 - (ii) in the words after paragraph (b), after “prohibitions” insert “and requirements”, and

(b) after that subsection, insert—

“(4A) Any additional prohibitions or requirements that are imposed on the defendant must, so far as practicable, be such as to avoid—

- (a) any conflict with the defendant’s religious beliefs,
- (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
- (c) any conflict with any other court order or injunction to which the defendant may be subject.”

(5) In section 122E(3) (interim sexual risk orders), for the words from “, prohibiting the defendant” to the end of the subsection substitute “—

- (a) prohibiting the defendant from doing anything described in the order;
- (b) requiring the defendant to do anything described in the order.”

(6) In section 122H (offence: breach of sexual risk order or interim sexual risk order etc)—

(a) before subsection (1) insert—

“(A1) A person who, without reasonable excuse—

- (a) does anything that the person is prohibited from doing by a sexual risk order or an interim sexual risk order, or
- (b) fails to do something that the person is required to do by a sexual risk order or an interim sexual risk order,

commits an offence.”,

- (b) in subsection (1), omit paragraphs (a) and (b), and
- (c) omit subsection (2).

177 Positive requirements: further amendments

(1) In section 351 of the Sentencing Code (variation of sexual harm prevention order by court in Northern Ireland)—

- (a) in subsection (6), in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
- (b) in subsection (7), in the words before paragraph (a), after “prohibitions” insert “and requirements”.

(2) In section 113 of the Sexual Offences Act 2003 (offence: breach of SOPO or interim SOPO etc), for subsection (1ZA) substitute—

“(1ZA) A person commits an offence if, without reasonable excuse, the person—

- (a) contravenes a prohibition imposed by—
 - (i) a sexual harm prevention order,
 - (ii) an order under Chapter 2 of Part 11 of the Sentencing Code (sexual harm prevention order on conviction), or
 - (iii) an interim sexual harm prevention order,
 other than a prohibition on foreign travel, or
- (b) fails to comply with a requirement imposed by—
 - (i) a sexual harm prevention order,
 - (ii) an order under Chapter 2 of Part 11 of the Sentencing Code (sexual harm prevention order on conviction), or
 - (iii) an interim sexual harm prevention order.”

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

- (3) In section 128 of the Sexual Offences Act 2003 (offence: breach of RSHO or interim RSHO etc)—
- (a) in subsection (1) omit paragraphs (c) and (d), and
 - (b) after subsection (1) insert—

“(1A) A person who, without reasonable excuse—

 - (a) does anything that the person is prohibited from doing by a sexual risk order or an interim sexual risk order, or
 - (b) fails to do something that the person is required to do by a sexual risk order or an interim sexual risk order,

commits an offence.”
- (4) In section 136ZA(2) of the Sexual Offences Act 2003 (application of orders throughout the United Kingdom), after “prohibitions” insert “or requirements”.
- (5) In section 136ZC of the Sexual Offences Act 2003 (variation of sexual harm prevention order by court in Northern Ireland)—
- (a) in subsection (5), in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
 - (b) in subsection (6), in the words before paragraph (a), after “prohibitions” insert “and requirements”.
- (6) In section 136ZD of the Sexual Offences Act 2003 (variation of sexual risk order by court in Northern Ireland)—
- (a) in subsection (4), in the words before paragraph (a), after “prohibitions” insert “or requirements”, and
 - (b) in subsection (5), in the words before paragraph (a), after “prohibitions” insert “and requirements”.
- (7) In section 37 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ([asp 22](#)) (breach of orders equivalent to orders in Chapters 3 and 4: offence)—
- (a) after subsection (1) insert—

“(1A) A person commits an offence if, without reasonable excuse, the person fails to do something which the person is required to do by an equivalent order from elsewhere in the United Kingdom.”,
 - (b) in each of subsections (2) and (3), after “subsection (1)” insert “or (1A)”, and
 - (c) in subsection (4), after “prohibitions” insert “or requirements”.

178 Electronic monitoring requirements

- (1) The Sentencing Code is amended in accordance with subsections (2) to (5).
- (2) In section 343 (sexual harm prevention order), after subsection (3) (inserted by section 175 of this Act) insert—

“(4) A sexual harm prevention order may require the offender to submit to electronic monitoring of the offender’s compliance with the prohibitions and requirements imposed by the order (see section 348A for further provision about such a requirement).”
- (3) In section 347 (sexual harm prevention orders: matters to be specified)—

- (a) in subsection (1), in the words after paragraph (b), after “United Kingdom” insert “and section 348A for further matters to be included in the case of an electronic monitoring requirement”, and
 - (b) in subsection (2), in the words after paragraph (b), after “travel)” insert “and section 348A(8) (electronic monitoring requirements)”.
- (4) After section 348 insert—

“348A Sexual harm prevention orders: electronic monitoring requirements

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 343(4), an electronic monitoring requirement on the offender in a sexual harm prevention order.
- (2) If there is a person (other than the offender) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (3) The court may impose the requirement only if—
 - (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
 - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
 - (a) the local justice area in which it appears to the court that the offender resides or will reside, and
 - (b) in a case where it is proposed to include in the order—
 - (i) a requirement that the offender must remain, for specified periods, at a specified place, or
 - (ii) a provision prohibiting the offender from entering a specified place or area,the local justice area in which the place or area proposed to be specified is situated.

“Specified” means specified in the sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (5) A sexual harm prevention order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual harm prevention order imposes an electronic monitoring requirement on the offender, the offender must (among other things)—
 - (a) submit, as required from time to time by the responsible person, to—
 - (i) being fitted with, or the installation of, any necessary apparatus, and
 - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,

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- (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
- (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (8) A sexual harm prevention order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 350.

348B Data from electronic monitoring: code of practice

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of offenders under electronic monitoring requirements imposed by sexual harm prevention orders.
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”
- (5) In section 350 (sexual harm prevention orders: variations, renewals, discharges), after subsection (6B) (inserted by section 173 of this Act) insert—
 - “(6C) Section 348A (electronic monitoring requirements) applies in relation to—
 - (a) the variation of an order to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order, or
 - (b) the renewal of an order to continue such a requirement,
 as it applies in relation to the making of a sexual harm prevention order, subject to subsection (6D).
 - (6D) In its application to the variation or renewal of an order, section 348A(4)(b) has effect as if—
 - (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and
 - (b) the reference to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated.”
- (6) The Sexual Offences Act 2003 is amended in accordance with subsections (7) to (16).
- (7) In section 103C (sexual harm prevention orders: effect)—
 - (a) in subsection (2), for “section 103D(1)” substitute “sections 103D(1) and 103FA(8)”, and
 - (b) after subsection (4A) (inserted by section 175 of this Act) insert—

“(4B) A sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).”

(8) In section 103E (sexual harm prevention orders: variations, renewals and discharges) after subsection (5B) (inserted by section 173 of this Act) insert—

“(5C) Section 103FA (electronic monitoring requirements) applies in relation to—

- (a) the variation of an order to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order, or
- (b) the renewal of an order to continue such a requirement,

as it applies in relation to the making of a sexual harm prevention order, subject to subsection (5D).

(5D) In its application to the variation or renewal of an order, section 103FA(4)(b) has effect as if—

- (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and
- (b) the reference to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated.”

(9) In section 103F (interim sexual harm prevention orders)—

(a) after subsection (3A) (inserted by section 173 of this Act) insert—

“(3B) An interim sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).”, and

(b) in subsection (4) for “Such an order” substitute “An interim sexual harm prevention order”.

(10) After section 103F insert—

“103FA SHPOs and interim SHPOs: electronic monitoring requirements

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 103C(4B) or section 103F(3B), an electronic monitoring requirement on the defendant in a sexual harm prevention order or interim sexual harm prevention order.
- (2) If there is a person (other than the defendant) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (3) The court may impose the requirement only if—
 - (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and

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- (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
- (a) the local justice area in which it appears to the court that the defendant resides or will reside, and
 - (b) in a case where it is proposed to include in the order—
 - (i) a requirement that the defendant must remain, for specified periods, at a specified place, or
 - (ii) a provision prohibiting the defendant from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.

“Specified” means specified in the sexual harm prevention order or interim sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (5) A sexual harm prevention order or interim sexual harm prevention order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual harm prevention order or interim sexual harm prevention order imposes an electronic monitoring requirement on the defendant, the defendant must (among other things)—
 - (a) submit, as required from time to time by the responsible person, to—
 - (i) being fitted with, or the installation of, any necessary apparatus, and
 - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
 - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
 - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual harm prevention order or interim sexual harm prevention order under which the electronic monitoring requirement is imposed.

- (8) A sexual harm prevention order or an interim sexual harm prevention order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 103E.

103FB Data from electronic monitoring: code of practice

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of defendants under electronic monitoring requirements imposed by—
- (a) sexual harm prevention orders,
 - (b) relevant Scottish orders within the meaning of section 136ZG that have been renewed or varied as mentioned in subsection (11) of that section (variation etc by court in England and Wales to impose electronic monitoring requirement), and
 - (c) sexual offences prevention orders that have been renewed or varied as mentioned in section 136ZH(10) (variation etc by court in England and Wales to impose electronic monitoring requirement).
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”
- (11) In section 122A (sexual risk orders: applications, grounds and effect)—
- (a) after subsection (8) insert—

“(8A) Subsection (8) is subject to section 122C(1) (duration of prohibitions on foreign travel) and section 122EA(8) (duration of electronic monitoring requirements).”, and
 - (b) after subsection (9A) (as inserted by section 176 of this Act) insert—

“(9B) A sexual risk order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).”
- (12) In section 122D (sexual risk orders: variations, renewals and discharges) after subsection (4B) (inserted by section 173 of this Act) insert—
- “(4C) Section 122EA (electronic monitoring requirements) applies in relation to—
- (a) the variation of an order to require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order, or
 - (b) the renewal of an order to continue such a requirement,
- as it applies in relation to the making of a sexual risk order, subject to subsection (4D).
- (4D) In its application to the variation or renewal of an order, section 122EA(4)(b) has effect as if—
- (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and
 - (b) the reference to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated.”

(13) In section 122E (interim sexual risk orders)—

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

- (a) after subsection (3A) (inserted by section 173 of this Act) insert—

“(3B) An interim sexual risk order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).”, and

- (b) in subsection (4) for “Such an order” substitute “An interim sexual risk order”.

- (14) After section 122E insert—

“122EA Sexual risk orders and interim sexual risk orders: electronic monitoring requirements

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose, under section 122A(9B) or section 122E(3B), an electronic monitoring requirement on the defendant in a sexual risk order or interim sexual risk order.
- (2) If there is a person (other than the defendant) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (3) The court may impose the requirement only if—
- (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
 - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (4) In subsection (3)(a) “the relevant area” means—
- (a) the local justice area in which it appears to the court that the defendant resides or will reside, and
 - (b) in a case where it is proposed to include in the order—
 - (i) a requirement that the defendant must remain, for specified periods, at a specified place, or
 - (ii) a provision prohibiting the defendant from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated.
- “Specified” means specified in the sexual risk order or interim sexual risk order under which the electronic monitoring requirement is imposed.
- (5) A sexual risk order or interim sexual risk order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (6) The person specified under subsection (5) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State.
- (7) Where a sexual risk order or interim sexual risk order imposes an electronic monitoring requirement on the defendant, the defendant must (among other things)—
- (a) submit, as required from time to time by the responsible person, to—

- (i) being fitted with, or the installation of, any necessary apparatus, and
- (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
- (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
- (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purpose of the monitoring.

These obligations have effect as requirements of the sexual risk order or interim sexual risk order under which the electronic monitoring requirement is imposed.

- (8) A sexual risk order or an interim sexual risk order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (9) Subsection (8) does not prevent an electronic monitoring requirement from being extended for a further period (of no more than 12 months each time) under section 122D.

122EB Data from electronic monitoring: code of practice

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of defendants under electronic monitoring requirements imposed by—
 - (a) sexual risk orders,
 - (b) relevant Scottish orders within the meaning of section 136ZI that have been renewed or varied as mentioned in subsection (11) of that section (variation etc by court in England and Wales to impose electronic monitoring requirement), and
 - (c) risk of sexual harm orders that have been renewed or varied as mentioned in section 136ZJ(7) (variation etc by court in England and Wales to impose electronic monitoring requirement).
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”

(15) In section 136ZA, after subsection (2) insert—

“(3) A requirement that is imposed by a relevant order and that relates to the electronic monitoring of a person’s compliance with the prohibitions or requirements imposed by the order is to be treated for the purposes of subsection (2) as a requirement that is expressly confined to a particular locality.”

(16) In section 138(3), after “containing” insert “only regulations under section 103FA(6) or section 122EA(6) or”.

179 Positive requirements and electronic monitoring requirements: service courts

In section 137(3) of the Sexual Offences Act 2003 (service courts: sexual harm prevention orders)—

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

- (a) in paragraph (a)—
 - (i) after “103A(3)” insert “and (4)”, and
 - (ii) for the words from “and 103J” to “Sentencing Code” substitute “, 103FA(3)(a), (4) and (6) and 103J of this Act, and sections 348A(3) (a), (4) and (6) and 355 to 357 of the Sentencing Code”,
- (b) in paragraph (b), in the words before sub-paragraph (i)—
 - (i) for “103A(1) and (2)” substitute “103A(1), (2) and (3A), and
 - (ii) for the words from “and 103G” to “Sentencing Code” substitute “, 103FA(1), (2), (3)(b) and (5) to (9), 103FB and 103G to 103I of this Act, and sections 343 to 348, 348A(1), (2), (3)(b) and (5) to (9), 348B to 354 and 358 of the Sentencing Code”,
- (c) in paragraph (b)(i), after “paragraphs” insert “(ba), (bb)”,
- (d) after paragraph (b) insert—
 - “(ba) if section 103CA applies to the defendant at a time when the defendant is a person subject to service law or a civilian subject to service discipline, the reference in section 103CA(4)(c) (requirements included in order: report on compliance) to the appropriate chief officer of police is to be read as a reference to a Provost Marshal;
 - (bb) if section 347A applies to the defendant at a time when the defendant is a person subject to service law or a civilian subject to service discipline, the reference in section 347A(4) (c) of the Sentencing Code (requirements included in order: report on compliance) to the appropriate chief office of police is to be read as a reference to a Provost Marshal.”,
- (e) in paragraph (c), for “Provost Martial”, in both places it occurs, substitute “Provost Marshal”, and
- (f) in paragraph (c), after sub-paragraph (i) insert—
 - “(ia) the reference in section 103E(2A) to a person mentioned in subsection (2)(b) to (d) is to be read as a reference to a Provost Marshal;
 - (ib) the reference in section 350(3A) of the Sentencing Code to a person mentioned in subsection (2)(b) or (c) is to be read as a reference to a Provost Marshal.”.

Orders made in different parts of the United Kingdom

180 Enforcement of requirements of orders made in Scotland or Northern Ireland

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 103I (offence: breach of SHPO or interim SHPO etc), after subsection (1) insert—
 - “(1A) A person who, without reasonable excuse, fails to do something that the person is required to do by a sexual offences prevention order or an interim sexual offences prevention order commits an offence.
 - (1B) A person who, without reasonable excuse—
 - (a) does anything that the person is prohibited from doing by a relevant Scottish order, or

- (b) fails to do something that the person is required to do by a relevant Scottish order,
commits an offence.
- (1C) In subsection (1B) “relevant Scottish order” means—
- (a) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or
 - (b) an interim sexual harm prevention order made under section 21 of that Act.”
- (3) In section 113 (offence: breach of SOPO or interim SOPO etc), after subsection (1ZA) insert—
- “(1ZB) A person commits an offence if, without reasonable excuse, the person—
- (a) contravenes a prohibition imposed by a relevant Scottish order other than a prohibition on foreign travel, or
 - (b) fails to comply with a requirement imposed by a relevant Scottish order.
- (1ZC) In subsection (1ZB)—
- “prohibition on foreign travel” has the meaning given by section 17(2) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22);
- “relevant Scottish order” means—
- (a) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, or
 - (b) an interim sexual harm prevention order made under section 21 of that Act.”
- (4) In section 122(1) (offence: breach of foreign travel order)—
- (a) omit the “or” at the end of paragraph (a), and
 - (b) at the end of paragraph (b) insert “, or
 - (c) he contravenes a prohibition on foreign travel imposed by a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).”
- (5) In section 122H (offence: breach of sexual risk order or interim sexual risk order etc)—
- (a) in subsection (1) omit paragraphs (e) and (f), and
 - (b) after subsection (1) insert—
- “(1A) A person who, without reasonable excuse, does anything that the person is required to do by a risk of sexual harm order that has been renewed or varied as mentioned in section 136ZJ(7) commits an offence.
- (1B) A person who, without reasonable excuse—
- (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
 - (b) fails to do something that the person is required to do by a relevant Scottish order,

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commits an offence.

(1C) In subsection (1B) “relevant Scottish order” means—

- (a) a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or
- (b) an interim sexual risk order made under section 31 of that Act.”

(6) In section 128 (offence: breach of risk of sexual harm order or interim risk of sexual harm order etc)—

- (a) in subsection (1) omit paragraphs (e) and (f), and
- (b) after subsection (1A) (inserted by section 177) insert—

“(1B) A person who, without reasonable excuse—

- (a) does anything that the person is prohibited from doing by a relevant Scottish order, or
- (b) fails to do something that the person is required to do by a relevant Scottish order,

commits an offence.

(1C) In subsection (1B) “relevant Scottish order” means—

- (a) a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or
- (b) an interim sexual risk order made under section 31 of that Act.”

(7) In section 136ZA (application of orders throughout the United Kingdom) in subsection (1)—

(a) after paragraph (i) insert—

- “(ia) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22);
- (ib) an interim sexual harm prevention order made under section 21 of that Act;
- (ic) a sexual risk order made under section 27 of that Act;
- (id) an interim sexual risk order made under section 31 of that Act.”, and

(b) omit paragraphs (j) and (k).

181 Effect of conviction for breach of Scottish order etc

(1) In section 122I of the Sexual Offences Act 2003 (effect of conviction etc of an offence under section 122H etc)—

- (a) in subsection (2), omit paragraph (b),
- (b) after subsection (2) insert—

“(2A) This section also applies to a person (“the defendant”) who—

- (a) is convicted of an offence mentioned in subsection (2B),
- (b) is acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995, or

- (c) is found, in respect of such an offence, to be unfit for trial under section 53F of that Act in a case where the court determines that the defendant has done the act constituting the offence.
- (2B) Those offences are—
- (a) an offence under section 34 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22) (breach of sexual risk order or interim sexual risk order in Scotland);
 - (b) an offence under section 37 of that Act (breach of equivalent orders) in respect of a breach of an order made under section 122A, 122E, 123 or 126 of this Act.”
- (c) in subsection (6)—
- (i) in paragraph (a), for “or caution” substitute “, caution or acquittal”,
 - (ii) in that paragraph, after “subsection (1)” insert “or (2A)”,
 - (iii) in paragraph (b), for “or caution” substitute “, caution or acquittal”, and
 - (iv) in that paragraph, after “subsection (1)” insert “or (2A)”,
- (d) after subsection (6) insert—
- “(6A) In subsection (6) “sexual risk order” and “interim sexual risk order” include orders under sections 27 and 31 (respectively) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and
- (e) omit subsection (7).
- (2) In section 129 of the Sexual Offences Act 2003 (effect of conviction etc of an offence under section 128 etc)—
- (a) in subsection (1A), omit paragraph (b),
 - (b) after subsection (1A) insert—
- “(1B) This section also applies to a person (“the defendant”) who—
- (a) is convicted of an offence mentioned in subsection (1C),
 - (b) is acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995, or
 - (c) is found, in respect of such an offence, to be unfit for trial under section 53F of that Act in a case where the court determines that the defendant has done the act constituting the offence.
- (1C) Those offences are—
- (a) an offence under section 34 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22) (breach of sexual risk order or interim sexual risk order in Scotland);
 - (b) an offence under section 37 of that Act (breach of equivalent orders) in respect of a breach of an order made under section 122A, 122E, 123 or 126 of this Act.”
- (c) in subsection (5)—
- (i) in paragraph (a), for “or caution” substitute “, caution or acquittal”,
 - (ii) in that paragraph, after “subsection (1)” insert “or (1B)”,

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

- (iii) in paragraph (b), for “or caution” substitute “, caution or acquittal”, and
- (iv) in that paragraph, after “subsection (1)” insert “or (1B)”,
- (d) after subsection (5) insert—
 - “(5A) In subsection (5) “sexual risk order” and “interim sexual risk order” include orders under sections 27 and 31 (respectively) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and
- (e) omit subsection (6).

182 Orders superseding, or superseded by, Scottish orders

- (1) In section 349(2) of the Sentencing Code (making of sexual harm prevention order: effect on other orders)—
 - (a) omit the “or” at the end of paragraph (a), and
 - (b) at the end of paragraph (b) insert “, or
 - (c) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).”.
- (2) Section 136ZB of the Sexual Offences Act 2003 (order ceases to have effect when new order made) is amended as follows.
- (3) In subsection (1), in the table—
 - (a) in the entry relating to a sexual harm prevention order, in the second column, after “—foreign travel order” insert—

 — “sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).”, and

 - (b) in the entry relating to a sexual risk order, in the second column, after “—foreign travel order” insert—

 — “sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”

- (4) In subsection (2)—
 - (a) in the words before the table—
 - (i) omit “or Scotland”, and
 - (ii) after “England and Wales” insert “or Scotland”, and
 - (b) in the table—
 - (i) in the entry relating to a sexual offences prevention order, in the second column, after “—in the case of a sexual harm prevention order containing a prohibition on foreign travel, each of its other prohibitions” insert—

 — “sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 not containing a prohibition on foreign travel;

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

— in the case of a sexual harm prevention order made under section 11 or 12 of that Act containing a prohibition on foreign travel, each of its other prohibitions.”,

(ii) in the entry relating to a foreign travel order, in the second column, after “—prohibition on foreign travel contained in a sexual harm prevention order” insert—

— “prohibition on foreign travel contained in a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”, and

(iii) in the entry relating to a risk of sexual harm order, in the second column, after “—in the case of a sexual risk order containing a prohibition on foreign travel, each of its other prohibitions” insert—

— “sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 not containing a prohibition on foreign travel;

— in the case of a sexual risk order made under section 27 of that Act containing a prohibition on foreign travel, each of its other prohibitions.”

(5) After subsection (2) insert—

“(2ZA) Where a court in Scotland makes an order listed in the first column of the following Table in relation to a person who is already subject to an order or prohibition listed opposite it in the second column, the earlier order or prohibition ceases to have effect (even though it was made or imposed by a court in England and Wales or Northern Ireland) unless the court orders otherwise.

<i>New order</i>	<i>Earlier order or prohibition</i>
Sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016	— sexual harm prevention order; — sexual offences prevention order; — foreign travel order.
Sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016	— sexual risk order; — risk of sexual harm order; — foreign travel order.”

(6) In subsection (2A), after “subsection (2)” insert “or subsection (2ZA)”.

(7) In subsection (3), omit paragraph (b).

183 Variation etc of order by court in another part of the United Kingdom

(1) Schedule 18 contains amendments enabling a court in one part of the United Kingdom to vary, renew or discharge an order made in another.

(2) In that Schedule—

(a) Part 1 enables a court in Northern Ireland to renew or discharge orders made in England and Wales and to vary, renew or discharge orders made in Scotland;

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

- (b) Part 2 enables a court in Scotland to vary, renew or discharge orders made in England and Wales or Northern Ireland;
- (c) Part 3 enables a court in England and Wales to vary, renew or discharge orders made in Scotland or Northern Ireland.

CHAPTER 4

MANAGEMENT OF TERRORIST OFFENDERS

184 Terrorist offenders released on licence: arrest without warrant pending recall decision

- (1) After section 43A of the Terrorism Act 2000 insert—

“Offenders released on licence: powers in connection with protecting public from risk of terrorism

43B Terrorist offenders released on licence: arrest without warrant pending recall decision

- (1) Subject to subsection (2), a constable may arrest without warrant a terrorist offender who has been released on licence if the constable—
- (a) has reasonable grounds for suspecting that the offender has breached a condition of their licence, and
 - (b) reasonably considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, to detain the offender until a recall decision is made.
- (2) A terrorist offender who is detained under this section must (unless recalled or otherwise detained under any other power) be released—
- (a) if a recall decision is made not to revoke the offender’s licence (and accordingly the offender is not recalled to prison), as soon as practicable after that decision is made, or
 - (b) if a recall decision has not been made by the end of the relevant period, at the end of that period.
- (3) Part 1 of Schedule 8 makes provision that applies where a terrorist offender is arrested under this section.
- (4) In this section “terrorist offender” means—
- (a) an offender to whom a restricted release provision applies or would apply but for the fact that the offender has been released on licence;
 - (b) a life prisoner within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34 of that Act) who is serving a sentence for an offence within section 247A(2) of the Criminal Justice Act 2003;
 - (c) a life prisoner within the meaning of Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (see section 27 of that Act) who is serving a sentence, or is subject to an order for lifelong restriction, for an offence within section 1AB(2) of that Act;

- (d) a life prisoner within the meaning of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (see Article 2 of that Order) who is serving a sentence for an offence within Article 20A(2) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)).
- (5) For the purposes of this section—
- (a) a reference to an offender who has been released on licence includes an offender who —
- (i) has been released temporarily pursuant to rules made under section 47(5) of the Prison Act 1952 or section 13(1)(c) of the Prison Act (Northern Ireland) 1953 (c. 18 (N.I.)), or
- (ii) has been released temporarily on licence pursuant to rules made under section 39(6) of the Prisons (Scotland) Act 1989;
- (b) a reference to a condition of an offender’s licence includes a condition to which an offender’s temporary release is subject;
- (c) a reference to revocation of an offender’s licence includes recall of an offender from temporary release.
- (6) In this section—
- “prison” includes any place where a person is liable to be detained;
- “recall decision”, in relation to a terrorist offender who has been released on licence, means a decision by any person with the power to revoke the offender’s licence and recall the offender to prison whether or not to exercise that power;
- the “relevant period” means—
- (a) in relation to a terrorist offender who has been released on licence under the law of England and Wales, the period of 6 hours beginning with the time of the arrest under this section;
- (b) in relation to a terrorist offender who has been released on licence under the law of Scotland or Northern Ireland, the period of 12 hours beginning with the time of the arrest under this section;
- “restricted release provision” means—
- (a) section 247A of the Criminal Justice Act 2003;
- (b) section 1AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993;
- (c) Article 20A of the Criminal Justice (Northern Ireland) Order 2008.
- (7) A person who has the powers of a constable in one part of the United Kingdom may exercise the power under subsection (1) in any part of the United Kingdom.”
- (2) In Schedule 8 to the Terrorism Act 2000 (detention)—
- (a) in the shoulder reference, for “Section 41” substitute “Sections 41 and 43B”;
- (b) in the heading for Part 1, after “41” insert “or 43B”;
- (c) in paragraph 1, in sub-paragraphs (1), (2) and (4), after “41” insert “or 43B”;
- (d) in paragraph 2, before sub-paragraph (1) insert—

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

- “(A1) This paragraph applies in the case of a person detained under Schedule 7 or section 41.”;
- (e) in paragraph 6—
- (i) in sub-paragraph (1), for the words from “Subject to” to “section 41” substitute “A person detained under Schedule 7 or section 41 or 43B”;
- (ii) after sub-paragraph (1) insert—
- “(1A) In the case of a person detained under Schedule 7 or section 41, sub-paragraph (1) is subject to paragraph 8.”;
- (f) in paragraph 7—
- (i) in sub-paragraph (1), for the words from “Subject to” to “section 41” substitute “A person detained under Schedule 7 or section 41 or 43B”;
- (ii) after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1) is subject—
- (a) in the case of a person detained under Schedule 7 or section 41, to paragraphs 8 and 9, and
- (b) in the case of a person detained under section 43B, to paragraph 9.”;
- (g) in paragraph 8, before sub-paragraph (1) insert—
- “(A1) This paragraph does not apply in the case of a person detained under section 43B (except for the purposes of paragraph 9(3)(a)).”;
- (h) after paragraph 13 insert—
- “13A No fingerprint, intimate sample or non-intimate sample may be taken from a person detained under section 43B.”;
- (i) in paragraph 16—
- (i) in sub-paragraph (1), after “41” insert “or 43B”;
- (ii) in sub-paragraphs (4) and (7), at the beginning insert “Where a person is detained under Schedule 7 or section 41,”;
- (j) in paragraph 18, in sub-paragraphs (1) and (2), after “41” insert “or 43B”.

185 Power to search terrorist offenders released on licence

After section 43B of the Terrorism Act 2000 insert—

“43C Power to search terrorist offenders released on licence

- (1) A constable may stop and search a terrorist offender who is within subsection (2) if the constable is satisfied that it is necessary to do so for purposes connected with protecting members of the public from a risk of terrorism.
- (2) A terrorist offender is within this subsection if—
- (a) the offender has been released on licence (and not recalled), and
- (b) the offender’s licence includes a search condition.
- (3) The power in subsection (1) may be exercised in any place to which the constable lawfully has access (whether or not it is a place to which the public has access).

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

- (4) Subsection (5) applies if a constable, in exercising the power in subsection (1) to stop a terrorist offender, stops a vehicle (see section 116(2)).
- (5) The constable may search the vehicle and anything in or on it for purposes connected with protecting members of the public from a risk of terrorism.
- (6) Nothing in subsection (5) confers a power to search any person, but the power to search in that subsection is in addition to the power in subsection (1) to search a terrorist offender.
- (7) The power in subsection (1) to search a terrorist offender includes power to search anything carried by the offender.
- (8) Subsection (5) of section 43B applies for the purposes of this section as it applies for the purposes of that section.
- (9) In this section—
 - “search condition” means a condition requiring the offender to submit to a search of their person under this section;
 - “terrorist offender” has the same meaning as in section 43B.
- (10) A person who has the powers of a constable in one part of the United Kingdom may exercise a power under this section in any part of the United Kingdom.”

186 Search of premises of offender released on licence for purposes connected with protection from risk of terrorism

After section 43C of the Terrorism Act 2000 insert—

“43D Search of premises of offender released on licence for purposes connected with protection from risk of terrorism

- (1) A justice may issue a warrant under this section if, on the application of a senior police officer of the relevant force, the justice is satisfied that the requirements in subsection (2) are met.
- (2) The requirements are—
 - (a) that the person specified in the application is a relevant offender who has been released on licence (and not recalled),
 - (b) that there are reasonable grounds for believing that the person resides, or may regularly be found, at premises (whether residential or otherwise) specified in the application,
 - (c) that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, for a constable to enter and search premises specified in the application, and
 - (d) the occupier of the premises is unlikely to consent to a constable entering or searching the premises specified in the application.
- (3) A warrant under this section must specify each set of premises to which it relates (which are to be premises in relation to which the requirements in subsection (2)(b) to (d) are met).
- (4) A warrant under this section is a warrant that authorises a constable of the relevant force, for the purposes referred to in subsection (2)(c)—

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

- (a) to enter the premises to which it relates, and
 - (b) to search the premises or, if the premises are multiple occupancy premises, the relevant parts of the premises.
- (5) A warrant under this section may—
- (a) authorise the constable executing it to use reasonable force if necessary to enter and search the premises;
 - (b) authorise entry to, and search of, the premises on more than one occasion (whether on a certain number of occasions or without limit), so far as the justice who issues the warrant is satisfied that such authorisation is necessary for the purposes referred to in subsection (2)
 - (c).
- (6) For the purposes of subsection (4)—
- (a) “multiple occupancy premises” are premises at which two or more individuals who are not members of the same household reside;
 - (b) the reference to the “relevant parts” of multiple occupancy premises is to those parts of the premises to which the constable has reasonable grounds for believing that the person to whom the warrant relates has access.
- (7) Subsection (5) of section 43B applies for the purposes of this section as it applies for the purposes of that section.
- (8) In this section “relevant offender” means—
- (a) a prisoner to whom Chapter 6 of Part 12 of the Criminal Justice Act 2003 applies (release of fixed-term prisoners);
 - (b) a life prisoner within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34 of that Act);
 - (c) a short-term prisoner, long-term prisoner or life prisoner within the meaning of Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (see section 27 of that Act);
 - (d) a fixed-term prisoner within the meaning of Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (see Article 16 of that Order);
 - (e) a life prisoner within the meaning of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (see Article 2 of that Order).
- (9) In this section—
- “justice” means—
- (a) a justice of the peace in England and Wales,
 - (b) a sheriff or summary sheriff in Scotland, or
 - (c) a lay magistrate in Northern Ireland;
- “relevant force” means—
- (a) if the premises specified in the application for the warrant are in England or Wales, the police force maintained for the police area in which those premises are situated,
 - (b) if those premises are in Scotland, the Police Service of Scotland,
- or

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

(c) if those premises are in Northern Ireland, the Police Service of Northern Ireland;

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

187 Powers of seizure and retention

After section 43D of the Terrorism Act 2000 insert—

“43E Seizure and retention of items found in search under section 43C or 43D

- (1) This section applies where a constable carries out—
 - (a) a search of a terrorist offender under section 43C(1),
 - (b) a search of a vehicle, or anything in or on a vehicle, under section 43C(5), or
 - (c) a search of premises further to a warrant issued under section 43D.
- (2) A constable may seize anything that the constable finds in the course of the search if—
 - (a) the constable reasonably suspects that—
 - (i) the thing is or contains evidence in relation to an offence, and
 - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed, or
 - (b) the constable reasonably believes that it is necessary to do so for the purpose of ascertaining—
 - (i) whether the offender has breached a condition of the offender’s licence, and
 - (ii) if so, whether the breach affects the risk of terrorism to which members of the public are exposed.
- (3) Anything seized under subsection (2) may be—
 - (a) subjected to tests;
 - (b) retained for as long as is necessary in all the circumstances (but see subsection (5)).
- (4) In particular (and regardless of the ground on which the thing was seized)—
 - (a) if a constable has reasonable grounds for believing that the thing is or contains evidence in relation to an offence, it may be retained—
 - (i) for use as evidence at a trial for an offence, or
 - (ii) for forensic examination or for investigation in connection with an offence;
 - (b) if a constable has reasonable grounds for believing that the thing has been obtained in consequence of the commission of an offence, it may be retained in order to establish its lawful owner.
- (5) Anything seized under subsection (2)(b) that is not retained as mentioned in subsection (4)(a) or (b) may be retained for a maximum period of 7 days beginning with the day after the day on which the thing is seized.

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

- (6) Nothing may be retained for either of the purposes mentioned in subsection (4)
 - (a) if a photograph or copy would be sufficient for that purpose.
- (7) In this section “offender” means—
 - (a) in relation to a search under section 43C, the terrorist offender to whom the search relates;
 - (b) in relation to a search under section 43D, the relevant offender in relation to whom the warrant authorising the search was issued.
- (8) Nothing in this section affects any power of a court to make an order under section 1 of the Police (Property) Act 1897.”

188 Sections 184 to 187: consequential provision

Schedule 19 makes provision that is consequential on sections 184 to 187.

189 Arrangements for assessing etc risks posed by certain offenders

- (1) Section 325 of the Criminal Justice Act 2003 (arrangements for assessing etc risks posed by certain offenders) is amended in accordance with subsections (2) to (6).
- (2) In subsection (1), in the definition of “relevant sexual or violent offender”, for “has the meaning” substitute “and “relevant terrorist offender” have the meanings”.
- (3) In subsection (2)—
 - (a) for the “and” at the end of paragraph (a) substitute—
 - “(aa) relevant terrorist offenders,”
 - (b) at the end of paragraph (b) insert “, and
 - (c) other persons who have committed offences (wherever committed) and are considered by the responsible authority to be persons who may be at risk of involvement in terrorism-related activity.”
- (4) For subsection (4) substitute—
 - “(4) A person to whom subsection (4A) applies may, for the purpose described in subsection (2), disclose information to another person to whom subsection (4A) applies.
 - (4A) This subsection applies to—
 - (a) the responsible authority,
 - (b) a person specified in subsection (6), and
 - (c) a person who the responsible authority considers may contribute to the achievement of the purpose described in subsection (2).
 - (4B) A disclosure under subsection (4) does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
 - (4C) But subsection (4) does not authorise a disclosure of information that—

- (a) would contravene the data protection legislation (but in determining whether it would do so, the power in that subsection is to be taken into account), or
 - (b) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (4D) Subsection (4E) applies if a person who may disclose or receive information by virtue of subsection (4) would not otherwise be a competent authority for the purposes of Part 3 of the Data Protection Act 2018 (law enforcement processing) in relation to the processing by that person of personal data by virtue of that subsection.
- (4E) The person is to be treated as a competent authority for the purposes of that Part in relation to the processing by that person of personal data by virtue of subsection (4).
- (4F) But subsection (4E) does not apply to an intelligence service within the meaning of Part 4 of the Data Protection Act 2018 (see section 82(2) of that Act).
- (4G) Subsections (4) to (4F) do not affect any power to disclose information apart from that conferred by subsection (4).”
- (5) In subsection (6), in the opening words, after “(3)” insert “, (4A)(b)”.
- (6) In subsection (9), at the appropriate places insert—
- ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;
 - ““involvement in terrorism-related activity” has the same meaning as in the Terrorism Prevention and Investigation Measures Act 2011 (see section 4 of that Act);”;
 - ““personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act);”;
 - ““processing” has the same meaning as in the Data Protection Act 2018 (see section 3(4) of that Act);”.
- (7) Section 327 of the Criminal Justice Act 2003 (interpretation of section 325) is amended in accordance with subsections (8) to (10).
- (8) In subsection (3)—
- (a) in paragraph (a)—
 - (i) for “is” substitute “has been”, and
 - (ii) after “specified in” insert “Part 1 or 2 of”, and
 - (b) in paragraph (b)—
 - (i) in the words before sub-paragraph (i), for “is” substitute “was”,
 - (ii) in sub-paragraph (i), for “for a term of 12 months or more” substitute “that is not for a term of less than 12 months”, and
 - (iii) after sub-paragraph (v) insert—
 - “(va) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 or under section 272 or 275 of the Sentencing Code,”.

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

- (9) In subsection (4)(a), after “specified in” insert “Part 1 or 2 of”.
- (10) After subsection (4A) insert—
- “(4B) For the purposes of section 325, a person is a relevant terrorist offender if the person falls within one or both of subsections (4C) and (4D).
- (4C) A person falls within this subsection if the person is subject to the notification requirements of Part 4 of the Counter-Terrorism Act 2008.
- (4D) A person falls within this subsection if the person has been convicted of and sentenced for a relevant terrorist offence, or otherwise dealt within in relation to such an offence, as described in—
- (a) paragraph (a) or (b) of section 45(1) of the Counter-Terrorism Act 2008,
 - (b) paragraph (a) or (b) of section 45(2) of that Act,
 - (c) paragraph (a) or (b) of section 45(3) of that Act, or
 - (d) paragraph (a) or (b) of paragraph 5(1) of Schedule 6 to that Act.
- (4E) For the purposes of subsection (4D)—
- (a) any reference in the Counter-Terrorism Act 2008 to an offence to which Part 4 of that Act applies is to be read as if it were a reference to a relevant terrorist offence, and
 - (b) any reference in that Act to a hospital order is to be read as if it included a guardianship order within the meaning of the Mental Health Act 1983 or the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (4F) In subsections (4D) and (4E) “relevant terrorist offence” means—
- (a) an offence specified in Part 1 or 2 of Schedule 19ZA (terrorism offences punishable with imprisonment for life or for more than two years),
 - (b) a service offence as respects which the corresponding civil offence is so specified, or
 - (c) an offence which was determined to have a terrorist connection (see subsection (4G));
- and in paragraph (b) “service offence” and “corresponding civil offence” have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).
- (4G) For the purposes of subsection (4F)(c), an offence was determined to have a terrorist connection if it was—
- (a) determined to have a terrorist connection under—
 - (i) section 69 of the Sentencing Code (including as applied by section 238(6) of the Armed Forces Act 2006),
 - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in England and Wales before the Sentencing Code applied, or an offender sentenced in Northern Ireland but now capable of posing a risk in an area in England and Wales), or
 - (iii) section 32 of that Act (in the case of a person sentenced for a service offence before the Sentencing Code applied), or

- (b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now capable of posing a risk in an area in England and Wales).”

CHAPTER 5

FOOTBALL BANNING ORDERS

190 Football banning orders: relevant offences

- (1) The Football Spectators Act 1989 is amended as follows.
- (2) Schedule 1 (football banning orders: relevant offences) is amended in accordance with subsections (3) to (7).
- (3) In paragraph 1(c) (certain offences under the Public Order Act 1986 committed at premises)—
 - (a) after “any offence under section” insert “4,” and
 - (b) before “harassment” insert “fear or provocation of violence, or”.
- (4) In paragraph 1(k) (certain offences under the Public Order Act 1986 committed on a journey to or from a football match)—
 - (a) after “any offence under section” insert “4,” and
 - (b) before “harassment” insert “fear or provocation of violence, or”.
- (5) In paragraph 1(q) (certain offences under the Public Order Act 1986 which the court declares to be related to a football match)—
 - (a) after “any offence under section” insert “4,”
 - (b) before “harassment” insert “fear or provocation of violence, or”, and
 - (c) omit “or any provision of Part 3 or 3A of that Act (hatred by reference to race etc)”.
- (6) In paragraph 1, after paragraph (u) insert—
 - “(v) any offence under any provision of Part 3 or 3A of the Public Order Act 1986 (hatred by reference to race etc)—
 - (i) which does not fall within paragraph (c) or (k), and
 - (ii) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,
 - (w) any offence under section 31 of the Crime and Disorder Act 1998 (racially or religiously aggravated public order offences) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,
 - (x) any offence under section 1 of the Malicious Communications Act 1988 (offence of sending letter, electronic communication or article with intent to cause distress or anxiety)—

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

- (i) which does not fall within paragraph (d), (e), (m), (n), (r) or (s),
 - (ii) as respects which the court has stated that the offence is aggravated by hostility of any of the types mentioned in section 66(1) of the Sentencing Code (racial hostility etc), and
 - (iii) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,
 - (y) any offence under section 127(1) of the Communications Act 2003 (improper use of public telecommunications network)—
 - (i) which does not fall within paragraph (d), (e), (m), (n), (r) or (s),
 - (ii) as respects which the court has stated that the offence is aggravated by hostility of any of the types mentioned in section 66(1) of the Sentencing Code (racial hostility etc), and
 - (iii) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation.”
- (7) In paragraph 4—
- (a) the words from “In this Schedule” to “Part II of this Act.” become sub-paragraph (1),
 - (b) after sub-paragraph (1) insert—

“(1A) In this Schedule “football organisation” means an organisation which is a regulated football organisation for the purposes of Part 2 of this Act.”, and
 - (c) after sub-paragraph (2) insert—

“(3) The provision that may be made by an order made by the Secretary of State for the purposes of this Schedule includes provision that a person has a prescribed connection with a football organisation where—

 - (a) the person has had a connection of a prescribed kind with a football organisation in the past, or
 - (b) the person will or may have a connection of a prescribed kind with a football organisation in the future.”
- (8) In section 14 (main definitions), after subsection (2) insert—
- “(2A) “Regulated football organisation” means an organisation (whether in the United Kingdom or elsewhere) which—
- (a) relates to association football, and
 - (b) is a prescribed organisation or an organisation of a prescribed description.”
- (9) Section 23 (further provision about, and appeals against, declarations of relevance) is amended in accordance with subsections (10) and (11).
- (10) In subsection (1), for the words from “related to football matches” to the end of the subsection substitute “—

- (a) related to football matches,
- (b) related to a particular football match or to particular football matches,
- (c) related to a football organisation, or
- (d) related to a person whom the defendant knew or believed to have a prescribed connection with a football organisation,

as the case may be.”

- (11) In subsection (5), for the words from “related to football matches” to the end of the subsection substitute “—
- (a) related to football matches,
 - (b) related to one or more particular football matches,
 - (c) related to a football organisation, or
 - (d) related to a person whom the defendant knew or believed to have a prescribed connection with a football organisation.”
- (12) This section does not apply in relation to an offence committed before the day appointed by regulations under section 208(1) for its coming into force (so far as it has not previously been commenced by section 208(4)(y)).

191 Football banning orders: power to amend list of relevant offences

- (1) In section 14 of the Football Spectators Act 1989 (main definitions), after subsection (8) insert—
- “(9) The Secretary of State may by regulations amend paragraph 1 of Schedule 1 so as to add, modify or remove a reference to an offence or a description of offence.
- (10) Regulations under subsection (9) may make consequential amendments to this Act.
- (11) A statutory instrument containing regulations under subsection (9) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (2) Section 22A of that Act (other interpretation, etc) is amended in accordance with subsections (3) and (4).
- (3) In subsection (3), after “order” insert “or regulations”.
- (4) After subsection (3) insert—
- “(3A) An order or regulations under this Part—
- (a) may make different provision for different purposes;
 - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.”

192 Football banning orders: requirement to make order on conviction etc

- (1) In section 14A of the Football Spectators Act 1989 (banning order made on conviction of an offence), for subsections (2) and (3) substitute—

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

- “(2) The court must make a banning order in respect of the offender unless the court considers that there are particular circumstances relating to the offence or to the offender which would make it unjust in all the circumstances to do so.
- (3) Where the court does not make a banning order it must state in open court the reasons for not doing so.”
- (2) Section 22 of that Act (banning orders arising out of offences outside England and Wales) is amended in accordance with subsections (3) and (4).
- (3) In subsection (4), for the words following paragraph (b) substitute—
- “must make a banning order in relation to the person, unless subsection (5) applies.”
- (4) For subsections (5) and (5A) substitute—
- “(5) This subsection applies if—
- (a) it appears to the court that the conviction of the corresponding offence in a country outside England and Wales is the subject of proceedings in a court of law in that country questioning the conviction, or
- (b) the court considers that there are particular circumstances relating to the corresponding offence or to the person which would make it unjust in all the circumstances to make a banning order.
- (5A) Where the court does not make a banning order on the ground mentioned in subsection (5)(b) it must state in open court the reasons for not doing so.”
- (5) This section does not apply in relation to an offence committed before the day appointed by regulations under section 208(1) for its coming into force.