
STATUTORY INSTRUMENTS

2004 No. 1052

**MAGISTRATES' COURTS,
ENGLAND AND WALES**

PROCEDURE

The Magistrates' Courts (Notification Orders) Rules 2004

<i>Made</i>	- - - -	<i>5th April 2004</i>
<i>Laid before Parliament</i>		<i>6th April 2004</i>
<i>Coming into force</i>	- -	<i>1st May 2004</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the rule committee appointed under the said section 144, hereby makes the following Rules:

Citation, commencement, interpretation

1. These Rules may be cited as the Magistrates' Courts (Notification Orders) Rules 2004 and shall come into force on 1 May 2004.

2. In these Rules—

- (a) a reference to a numbered section is a reference to a section so numbered in the Sexual Offences Act 2003(2); and
- (b) a reference to a Schedule is a reference to a Schedule to these Rules except where it is made clear that it refers to a Schedule to the Sexual Offences Act 2003.

Notification orders and interim notification orders

3.—(1) An application for—

- (a) a notification order made under section 97(1), or
- (b) an interim notification order made under section 100(2)

may be in the form set out in Schedule 1.

(2) A summons directed to the defendant requiring him to appear before a magistrates' court to answer an application referred to in paragraph (1) may be in the form set out in Schedule 2.

(1) 1980 c. 43.
(2) 2003 c. 42.

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(3) A notification order shall be in the form set out in Schedule 3.

(4) An interim notification order shall be in the form set out in Schedule 4.

(5) As soon as reasonably practicable after a notification order or an interim notification order has been made, the Justices' Chief Executive shall serve a copy of that order on the defendant. Any copy of an order required to be sent under these Rules to the defendant shall be either given to him in person or sent by post to his last known address and, if so given or sent, shall be deemed to have been received by him, unless the defendant proves that it was not received by him.

Time limit for service of a notice under section 99(3)

4. If a defendant wishes to serve on the applicant a notice under section 99(3)(3), he must do so no later than 3 days before the hearing date for the application for the notification order.

Date 5th April 2004

Falconer of Thoroton, C.

(3) section 99(3) provides for notice to be served disputing that the condition in section 99(1)(b) is met ie that an offence committed outside the United Kingdom would have constituted a relevant offence if committed in the United Kingdom.

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SCHEDULE 1

Rule 3(1)

FORM Application for [Notification Order [and] Interim Notification Order] Sexual Offences Act 2003 (SOA 2003) section[s] [97] [and] [100]

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.....Magistrates' Court
[Code]

Date
Defendant
Address
.....

It appears that the defendant

[resides in the police area]
[is in or is intending to come to the police area because

.....

It appears that the defendant on [date(s)]
at [court/police station]
in [country outside the United Kingdom]

and under the law in force in that country outside the United Kingdom,
[was convicted of a relevant offence (as defined in section 99 of the SOA 2003)]
[in respect of a relevant offence, was made subject to a finding equivalent to a finding that he was not guilty by reason of insanity]
[in respect of a relevant offence, was made subject to a finding equivalent to a finding that he was under a disability and did the act charged]
[was cautioned in respect of a relevant offence].

The offence as described in the law in force in the country outside the United Kingdom:

.....

The offence, listed in Schedule 3 to the SOA 2003, that this would have constituted had the act been done in any part of the United Kingdom:

.....

Where the above conviction, finding or caution above occurred before 1st September 1997, it appears that [the defendant was dealt with in relation to the offence or finding on or after that date or has yet to be dealt with]
[the defendant, in respect of that offence or finding, was, under the law in force in the country concerned, subject to detention, supervision or any other disposal as referred to in section 97(3)(c) of the SOA 2003.]

It further appears that the notification period that would have applied under section 82 of the SOA 2003 had the conviction, finding or caution taken place in the United Kingdom has not expired.

[Additional information relating to an application for an interim notification order:
.....]

Accordingly application is made for
[a notification order]
[an interim notification order]
[a notification order and an interim notification order]

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which will make the defendant subject to the notification requirements in Part 2 of the SOA 2003.

The complaint of

Address

Who [upon oath] states that the facts given in this form are true to the best of his knowledge and belief.

Taken [and sworn] before me

Justice of the Peace

[Justices' Clerk]

SCHEDULE 2

Rule 3(2)

FORMSSummons on Application for [a Notification Order [and] an Interim Notification Order]
(Sexual Offences Act 2003) [s 97] [and] [s 100])

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.....Magistrates' Court
[Code]

Date:

To the defendant:

Address:

.....

.....

You are hereby summonsed to appear on [date]

at..... [time] before the Magistrates' Court to answer an application for a [notification order] [interim notification order], which application is attached to this summons.

Justice of the Peace
[Justices' Clerk]

NOTE:

Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing, it may issue a warrant for your arrest or proceed in your absence.

If a notification order is made against you, you will be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, which include obligations on you to notify the police of:

- your name, home address, date of birth and national insurance number within 3 days;
- any changes to your name or home address (within 3 days of the change);
- any address you stay at or plan to stay at in addition to your home address for a period of longer than 7 days within a twelve month period (within 3 days);
- any plans you have to travel abroad for a period of 3 days or longer (if details are known to you 7 days before you travel you must inform the police 7 days before you travel. Otherwise you must inform the police no less than 24 hours in advance).

If, without reasonable excuse, you fail to comply with the notification requirements of Part 2 of the Sexual Offences Act 2003 you shall be liable on conviction to imprisonment for a term not exceeding five years.

SCHEDULE 3

Rule 3(3)

FORMNotification Order (Sexual Offences Act 2003, s 97)

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.....Magistrates' Court
[Code]

Date:

Defendant:

Address:

.....

On the complaint of

Complainant:

Address:

.....

It is adjudged that the following facts have been made out and therefore the conditions are met for a notification order to be made against the above defendant.

1. On [date(s)]
at [court/police station]
in [country outside the United Kingdom]

and under the law in force in that country outside the United Kingdom, the defendant

[was convicted of a relevant offence (as defined in section 99 of the SOA 2003)]
[in respect of a relevant offence, was made subject to a finding equivalent to a finding that he was not guilty by reason of insanity]
[in respect of a relevant offence, was made subject to a finding equivalent to a finding that he was under a disability and did the act charged]
[was cautioned in respect of a relevant offence].

The offence as described in the law in force in the country outside the United Kingdom:

.....

The offence, listed in Schedule 3 to the SOA 2003, that this would have constituted had the act been done in any part of the United Kingdom:

.....

2. [The above conviction, finding or caution occurred on or after 1st September 1997]
[Where the above conviction or finding took place before 1st September 1997,]
[the defendant was dealt with in relation to the offence or finding on or after that date or has yet to be dealt with]
[the defendant, in respect of that offence or finding, was, under the law in force in the country concerned, subject to [details of detention, supervision or other disposal as referred to in section 97(3)(c) of the SOA 2003.]]

3. The notification period that would have applied under section 82 of the SOA 2003 had the conviction, finding or caution taken place in the United Kingdom has not expired.

It is ordered that the defendant must comply with the notification requirements of Part 2 of the Sexual Offences Act 2003 subject to the modifications set out in section 98 of that Act. In particular, the defendant's initial notification to the police must be made within 3 days of the service of this order.

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The defendant must comply with the notification requirements for the period set out in section 82 of the Sexual Offences Act 2003. That is for [the period of his conditional discharge or equivalent][two years][five years][seven years][ten years][an indefinite period] starting from:

..... [the date of conviction, finding or caution in the country outside the United Kingdom]

Justice of the Peace

[Justices' Clerk]

NOTE:

The requirement of a notification order is that you (the defendant) will be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 as modified in section 98 of that Act. The requirements of that Act include an obligation on you to report to a prescribed police station within 3 days of the service of this order and to notify the police of your name(s), home address, date of birth and national insurance number. Thereafter you are obliged to notify the police of:

- any changes to your name or home address (within 3 days of the change);
- any address you stay at or plan to stay at in addition to your home address for a period of longer than 7 days within a twelve month period (within 3 days);
- any plans you have to travel abroad for a period of 3 days or longer (if details are known to you 7 days before you travel you must inform the police 7 days before you travel. Otherwise you must inform the police no less than 24 hours in advance).

Your local Police Service Headquarters will be able to explain these conditions in more detail—in particular, the information you must bring with you when you make your initial notification—and tell you at which local police station you should attend.

The restrictions in this order apply throughout the United Kingdom (England and Wales, Scotland and Northern Ireland).

If, without reasonable excuse, you fail to comply with the notification requirements of Part 2 of the Sexual Offences Act 2003 you shall be liable on conviction to imprisonment for a term not exceeding 5 years.

SCHEDULE 4

Rule 3(4)

FORM Interim Notification Order (Sexual Offences Act 2003 s 100)

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.....Magistrates' Court
[Code]

Date:

Defendant:

Address:

.....

On the complaint of

Complainant:

Address:

.....

An application for a notification order has been made by the complainant and that application has not yet been determined.

The court considers it is just to make an interim notification order.

It is ordered that the defendant is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, subject to the modification that the relevant date (within the meaning of that Part) means the date of service of this order.

This interim notification order will last until

.....[date]

and will cease to have effect, if it has not already done so, on determination of the main application.

Justice of the Peace

[Justices' Clerk]

NOTE:

The requirement of an interim notification order is that you (the defendant) will be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 as modified in section 100(6) of that Act, namely that the "relevant date" means the date of service of the order. The requirements of that Act include an obligation on you to report to a prescribed police station within 3 days of the service of this order and to notify the police of your name(s), home address, date of birth and national insurance number. Thereafter you are obliged to notify the police of:

- any changes to your name or home address (within 3 days of the change);
- any address you stay at or plan to stay at in addition to your home address for a period of longer than 7 days within a twelve month period (within 3 days);
- any plans you have to travel abroad for a period of 3 days or longer (if details are known to you 7 days before you travel you must inform the police 7 days before you travel. Otherwise you must inform the police no less than 24 hours in advance).

Your local Police Service Headquarters will be able to explain these conditions in more detail—in particular the information you must bring with you when you make your initial notification—and tell you at which local police station you should attend.

The restrictions in this order apply throughout the United Kingdom (England and Wales, Scotland and Northern Ireland).

If, without reasonable excuse, you fail to comply with the notification requirements of Part 2 of the Sexual Offences Act 2003 you shall be liable on conviction to imprisonment for a term not exceeding 5 years.

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules provide forms which may be used for applications for notification orders and interim notification orders under sections 97 and 100 of the Sexual Offences Act 2003. They also provide forms for the summons to be served on the defendant in relation to such applications and the forms which should be used for the orders themselves. The Rules also provide for service of the orders and provide that a notice requiring proof that the condition in section 99(1)(b) is met should be served not later than 3 days before the date of the hearing of the application.