
STATUTORY INSTRUMENTS

2004 No. 1054

**MAGISTRATES' COURTS,
ENGLAND AND WALES**

PROCEDURE

**The Magistrates' Courts (Sexual
Offences Prevention 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' Court Act 1980(1), after consultation with the rule committee appointed under the said section 144, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Sexual Offences Prevention 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 the 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.

Revocation

3. These Rules hereby revoke—

- (a) the Magistrates' Courts (Sex Offender Orders) Rules 2002(3); and
- (b) Rules 85 to 87 of the Magistrates' Courts (Miscellaneous Amendments) Rules 2003(4).

(1) 1980 c. 43.
(2) 2003 c. 42.
(3) S.I.2002/2782.
(4) S.I. 2003/1286.

Sexual Offences Prevention Orders and Interim Sexual Offences Prevention Orders

4.—(1) An application for—

- (a) a sexual offences prevention order made under section 104(5); or
- (b) an interim sexual offences prevention order made under section 109(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.

(3) A sexual offences prevention order shall be in the form set out in Schedule 3.

(4) An interim sexual offences prevention order shall be in the form set out in Schedule 4.

(5) As soon as reasonably practicable after a sexual offences prevention order or an interim sexual offences prevention 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 106(11)

5. If the defendant wishes to serve on the applicant a notice under section 106(11)(5), he must do so no later than 3 days before the hearing date for the application for the sexual offences prevention order.

Date 5th April 2004

Falconer of Thoroton, C.

(5) section 106(11) provides for service of a notice disputing that the condition in section 106(9)(b) is met ie that an offence outside the United Kingdom would have constituted a relevant offence if committed in the United Kingdom.

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SCHEDULE 1

Rule 4(1)

FORM Application for [Sexual Offences Prevention Order] [and] [Interim Sexual Offences Prevention Order] (Sexual Offences Act 2003 [s.104] [and] [s.109])

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.....Magistrates' Court
(Code)

Date:

Defendant:

Address:

The defendant is a qualifying offender by virtue of the following facts:

Offence:

If committed abroad, the corresponding offence this would have constituted had the act been done in the United Kingdom:

.....

Date of [conviction] [finding] [caution]:

Court/Police Station:

[And it is alleged that the defendant has since the date (or the first date) of the above conviction, finding or caution, acted in such a way as to give reasonable cause to believe that a sexual offences prevention order under section 104(1) of the Sexual Offences Act 2003 is necessary to protect the public or any particular members of the public from serious sexual harm from him. Short description of acts, including date(s) and further comments:

.....

.....

.....

.....]

[Information relating to an application for an interim sexual offences prevention order:

.....

.....

[Where application is made for interim order only:

Date of application for sexual offences prevention order:

Accordingly application is made for

[a sexual offences prevention order]

[an interim sexual offences prevention order]

[a sexual offences prevention order and an interim sexual offences prevention order] containing the following prohibition(s):—

.....

.....

.....

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]

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SCHEDULE 2

Rule 4(2)

FORMS Summons on Application for [Sexual Offences Prevention Order] [and] [Interim Sexual Offences Prevention Order] (Sexual Offences Act 2003 [s.104] [and] [s.109])

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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 at

to answer to an application for [a sexual offences prevention order] [and] [an interim sexual offences prevention order], which application is attached to this summons.

Copied to the applicant:

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 sexual offences prevention order is made against you, you will be subject to the prohibitions made in it. You will also be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (commonly known as the 'sex offenders' register'). These include obligations on you to notify the police of:

- your name(s), home address, date of birth and national insurance number (within 3 days of service of the order);
- 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 7 days or more within a twelve month period (within 3 days)
- any plans you have to travel abroad for a period of 3 days or longer (if you know the details 7 days or more before you travel you must inform the police no less than 7 days in advance. Otherwise you must inform the police no less than 24 hours in advance).

If, without reasonable excuse, you do anything you are prohibited from doing by the order or 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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SCHEDULE 3

Rule 4(3)

FORM Sexual Offences Prevention Order (Sexual Offences Act 2003 s.104)

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Magistrates' Court
(Code)

Date:

Defendant:

Address:

.....

.....

On the complaint of—

Complainant:

Address:

.....

.....

It is adjudged that the defendant is a qualifying offender by reason of the following:

Offence:

If committed abroad, corresponding offence had the act been done in the UK:

.....

Date of [conviction] [finding] [caution]:

[Court] [Police station]:

And it is adjudged that the defendant's behaviour, since the date (or first date) of the above conviction, finding or caution, makes it necessary to make a sexual offences prevention order under section 104(1) of the Sexual Offences Act 2003 to protect the public or any particular members of the public from serious sexual harm from him.

Short description of acts (including date(s)) and further comments:

.....

.....

.....

It is ordered that the defendant is prohibited from:

.....

.....

until [date not less than 5 years from date of order]

or until further order.

And while this order (as renewed from time to time) has effect, the defendant shall be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 and the 'relevant date' within the meaning of that Part is the date of service of this order.

[OR where the defendant is already subject to the notification requirements on the making of this order:

And the defendant, who was a relevant offender within the meaning of Part 2 of the Sexual Offences Act 2003 immediately before the making of this order, but who would otherwise cease to be subject to the notification requirements of the said Part 2 while this order has effect, shall remain subject to the notification requirements for the duration of this order as renewed from time to time.]

Justice of the Peace
[Justices' Clerk]

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NOTE: One of the requirements of a sexual offences prevention order is that you (the defendant) will be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003. (Unless you are already subject to these requirements and have complied), these requirements 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 7 days or more within a twelve month period (within 3 days)
- any plans you have to travel abroad for a period of 3 days or longer (if you know the details 7 days or more before you travel you must inform the police no less than 7 days in advance. 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 do anything you are prohibited from doing by this order or 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 4(4)

FORM Interim Sexual Offences Prevention Order (Sexual Offences Act 2003 s.109)

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Magistrates' Court
(Code)

Date:

Defendant:

Address:

.....
.....

On the complaint of

Complainant:

Address:

An application for a sexual offences prevention order under section 104 of the Sexual Offences Act 2003 has been made and that application has not yet been determined.

The court considers it just to make an interim sexual offences prevention order.

Reasons:

.....
.....
.....

It is ordered that the defendant is prohibited from:

.....
.....
.....

This interim risk of sexual harm order will last until

.....[date]

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

And while this order has effect, the defendant shall be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 and the 'relevant date' within the meaning of that Part is the date of service of this order.

[OR where the defendant is already subject to the notification requirements on the making of this order:

And the defendant, who was a relevant offender within the meaning of Part 2 of the Sexual Offences Act 2003 immediately before the making of this order, but who would cease to be subject to the notification requirements of the said Part 2 while this order has effect, shall remain subject to the notification requirements for the duration of this order.]

Justice of the Peace

[Justices' Clerk]

NOTE: One of the requirements of an interim sexual offences prevention order is that you (the defendant) will be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003. (Unless you are already subject to these requirements and have complied), these requirements 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 7 days or more within a twelve month period (within 3 days)

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any plans you have to travel abroad for a period of 3 days or longer (if you know the details 7 days or more before you travel you must inform the police no less than 7 days in advance. 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 do anything you are prohibited from doing by this order or 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.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules revoke the Magistrates' Courts (Sex Offender Order) Rules 2002. Provisions relating to sex offender orders and interim sexual offender orders under sections 2 to 4 of the Crime and Disorder Act 1998 are repealed by the Sexual Offences Act 2003 (the 2003 Act). Such orders are replaced, with amendments, by sexual offences prevention orders and interim sexual offences prevention orders under sections 104 to 113 of the 2003 Act. These Rules set out the forms which may be used for making an application for a sexual offences prevention order under section 104(5) of the 2003 Act and for an interim sexual offences prevention order under section 109(2) of that Act, for the summons to be served on the defendant in relation to such applications and the form which should be used for the orders themselves. The Rules also provide that the time limit for the defendant to serve a notice on the applicant under section 106(11) of the 2003 Act is not later than 3 days before the date of the hearing of the application.