



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 2

#### NOTIFICATION AND ORDERS

##### *General*

#### **[<sup>F1</sup>136ZE] Variation, renewal or discharge of sexual harm prevention order etc by court in Scotland**

- (1) This section applies where a relevant order has been made in respect of a person who now—
  - (a) is residing in Scotland, or
  - (b) is in or is intending to come to Scotland.
- (2) In this section “relevant order” means—
  - (a) a sexual harm prevention order,
  - (b) a sexual offences prevention order, or
  - (c) a foreign travel order.
- (3) An application may be made to the appropriate sheriff in Scotland—
  - (a) by the defendant, or
  - (b) by the chief constable,for an order varying, renewing or discharging the relevant order.
- (4) Subject to subsections (5) to (12), on the application the court, after hearing the person making the application and the other person mentioned in subsection (3) (if that person wishes to be heard), may make any order varying, renewing or discharging the relevant order that the appropriate sheriff considers appropriate.
- (5) In determining the application the court must have regard to—
  - (a) the time for which the defendant is likely to remain in Scotland, and
  - (b) whether—

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*Changes to legislation: Sexual Offences Act 2003, Section 136ZE is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (i) in the case of a sexual harm prevention order, the defendant is likely to return to, or to visit, England and Wales, or
  - (ii) in the case of a sexual offences prevention order or foreign travel order, the defendant is likely to return to, or to visit, Northern Ireland.
- (6) A sexual harm prevention order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of—
  - (a) protecting the public in Scotland, or any particular members of the public in Scotland, from sexual harm from the defendant, or
  - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (7) A sexual harm prevention order as renewed or varied under this section may contain only such prohibitions and requirements as are necessary for the purpose of—
  - (a) protecting the public or any particular members of the public from sexual harm from the defendant, or
  - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (8) A sexual offences prevention order may be renewed, or varied under this section so as to impose additional prohibitions or requirements on the defendant, only if it is necessary to do so for the purpose of protecting the public in Scotland, or any particular members of the public in Scotland, from serious sexual harm from the defendant.
- (9) A sexual offences prevention order as renewed or varied under this section may contain only such prohibitions and requirements as are necessary for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- (10) A foreign travel order may be renewed, or varied under this section so as to impose additional prohibitions on the defendant, only if it is necessary to do so for the purpose of protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom.
- (11) A foreign travel order as renewed or varied under this section may contain only such prohibitions as are necessary for the purpose mentioned in subsection (10).
- (12) The court must not discharge a sexual harm prevention order or a sexual offences prevention order before the end of 5 years beginning with the day on which the order was made without the consent of the defendant and the chief constable.
- (13) The defendant may appeal against the making of an order under this section, or the refusal to make such an order, as if it were a decision constituting final judgment in civil proceedings within the meaning of the Courts Reform (Scotland) Act 2014 ([asp 18](#)).
- (14) In this section—
  - “the appropriate sheriff” means—
    - (a) in any case, a sheriff in whose sheriffdom the defendant resides, or
    - (b) in a case where the application is made by the chief constable—

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- (i) a sheriff in whose sheriffdom the defendant is believed by the chief constable to be, or
- (ii) a sheriff to whose sheriffdom the defendant is believed by the chief constable to be intending to come;

“the chief constable” means the chief constable of the Police Service of Scotland;

“child” means a person under 18;

“serious sexual harm”, in relation to the renewal or variation of a sexual offences prevention order, means serious physical or psychological harm caused by the defendant committing one or more of the offences listed in Schedule 3;

“serious sexual harm”, in relation to the renewal or variation of a foreign travel order, means serious physical or psychological harm caused by the defendant doing, outside the United Kingdom, anything which would constitute an offence listed in Schedule 3 if done in any part of the United Kingdom;

“sexual harm” and “vulnerable adult”, in relation to the renewal or variation of a sexual harm prevention order, have the meanings given by section 103B(1).]

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#### **Textual Amendments**

- F1** Ss. 136ZE, 136ZF inserted (31.3.2023) by *Police, Crime, Sentencing and Courts Act 2022 (c. 32)*, s. 208(1), **Sch. 18 para. 4**; S.I. 2023/387, reg. 3(g)(ii)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60B(5)(i) substituted for s. 60B(5)(i)(ii) by [2015 c. 9 \(N.I.\) Sch. 1 para. 123\(1\)Sch. 9 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). S. 60B already repealed (N.I.) (14.1.2015) by [2015 c. 2 \(N.I.\)](#), s. 28(2), Sch. 5; and omitted (E.W.) (31.7.2015) by virtue of [2015 c. 30](#), Sch. 5 para. 5(2); S.I. 2015/1476, reg. 2(j))
- s. 103C(4B) inserted by [2022 c. 32 s. 178\(7\)\(b\)](#)
- s. 103E(5C)(5D) inserted by [2022 c. 32 s. 178\(8\)](#)
- s. 103F(3B) inserted by [2022 c. 32 s. 178\(9\)\(a\)](#)
- s. 103FA103FB inserted by [2022 c. 32 s. 178\(10\)](#)
- s. 108(9) inserted by [2011 c. 18 s. 17\(2\)](#)
- s. 122A(8A) inserted by [2022 c. 32 s. 178\(11\)\(a\)](#)
- s. 122A(9B) inserted by [2022 c. 32 s. 178\(11\)\(b\)](#)
- s. 122D(4C)(4D) inserted by [2022 c. 32 s. 178\(12\)](#)
- s. 122E(3B) inserted by [2022 c. 32 s. 178\(13\)\(a\)](#)
- s. 122EA122EB inserted by [2022 c. 32 s. 178\(14\)](#)
- s. 136ZA(3) inserted by [2022 c. 32 s. 178\(15\)](#)