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**Changes to legislation:** There are currently no known outstanding effects for the Police,  
Crime, Sentencing and Courts Act 2022, PART 1. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 18

#### VARIATION ETC OF ORDER BY COURT IN ANOTHER PART OF THE UNITED KINGDOM

##### PART 1

#### VARIATION ETC OF ORDER MADE IN ENGLAND AND WALES OR SCOTLAND BY COURT IN NORTHERN IRELAND

##### *Amendments of the Sexual Offences Act 2003 (c. 42)*

- 1 (1) Section 136ZC of the Sexual Offences Act 2003 (variation of sexual harm prevention order by court in Northern Ireland) is amended as follows.
  - (2) In the heading, after “Variation” insert “, renewal or discharge”.
  - (3) In subsection (2), in the words after paragraph (b), after “varying” insert “, renewing or discharging”.
  - (4) In subsection (4)—
    - (a) for “subsections (5) and (6)” substitute “subsections (4A) to (6B)”, and
    - (b) after “varying” insert “, renewing or discharging”.
  - (5) After subsection (4) insert—

“(4A) In determining the application the court must have regard to—

    - (a) the time for which the defendant is likely to remain in Northern Ireland, and
    - (b) whether—
      - (i) in the case of a sexual harm prevention order made by a court in England and Wales, the defendant is likely to return to, or to visit, England and Wales, or
      - (ii) in the case of a sexual harm prevention order made by a court in Scotland, the defendant is likely to return to, or to visit, Scotland.”
  - (6) In subsection (5), in the words before paragraph (a)—
    - (a) after “An order may be” insert “renewed, or”, and
    - (b) for “only” substitute “, only”.
  - (7) In subsection (6), in the words before paragraph (a), after “An order as” insert “renewed or”.
  - (8) After subsection (6) insert—

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“(6A) The court must not discharge a sexual harm prevention order made by a court in England and Wales 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.

(6B) The court must not discharge a sexual harm prevention order made by a court in Scotland, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer 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.”

(9) In subsection (9)—

(a) in the definition of “the appropriate court”, for paragraphs (a) and (b) substitute—

“(a) where the sexual harm prevention order was made—

- (i) in England and Wales, by the Crown Court, otherwise than on appeal from a magistrates’ court, or by the Court of Appeal, or
- (ii) in Scotland, by the High Court of Justiciary otherwise than on appeal,

the Crown Court (in Northern Ireland);

(b) where the defendant is aged 18 or over and the sexual harm prevention order was made—

- (i) in England and Wales, by a magistrates’ court or by the Crown Court on appeal from a magistrates’ court, or
- (ii) in Scotland, by the High Court of Justiciary on appeal, by the Court of Session, by the Sheriff Appeal Court or by a sheriff,

any court of summary jurisdiction in Northern Ireland;”, and

(b) at the appropriate place insert—

““the defendant”, in relation to a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), means the person against whom the order has effect;”;

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

#### **Commencement Information**

**11** Sch. 18 para. 1 not in force at Royal Assent, see [s. 208\(1\)](#)

**12** Sch. 18 para. 1 in force at 31.3.2023 by [S.I. 2023/387](#), [reg. 3\(g\)\(i\)](#)

2 (1) Section 136ZD of the Sexual Offences Act 2003 (variation of sexual risk order by court in Northern Ireland) is amended as follows.

(2) In the heading, after “Variation” insert “, renewal or discharge”.

*Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, PART 1. (See end of Document for details)*

- (3) In subsection (2), in the words after paragraph (b), after “varying” insert “, renewing or discharging”.
- (4) In subsection (3)—
- (a) for “subsections (4) and (5)” substitute “subsections (3A) to (5B)”, and
  - (b) after “varying” insert “, renewing or discharging”.
- (5) After subsection (3) insert—
- “(3A) In determining the application the court must have regard to—
- (a) the time for which the defendant is likely to remain in Northern Ireland, and
  - (b) whether—
    - (i) in the case of a sexual risk order made by a court in England and Wales, the defendant is likely to return to, or to visit, England and Wales, or
    - (ii) in the case of a sexual risk order made by a court in Scotland, the defendant is likely to return to, or to visit, Scotland.”
- (6) In subsection (4), in the words before paragraph (a)—
- (a) after “An order may be” insert “renewed, or”, and
  - (b) for “only” substitute “, only”.
- (7) In subsection (5), in the words before paragraph (a), after “An order as” insert “renewed or”.
- (8) After subsection (5) insert—
- “(5A) The court must not discharge a sexual risk order made by a court in England and Wales before the end of 2 years beginning with the day on which the order was made without the consent of the defendant and the Chief Constable.
- (5B) The court must not discharge a sexual risk order made by a court in Scotland, or vary such an order so as to remove a prohibition or requirement, unless the order or, as the case may be, the prohibition or requirement is no longer necessary for the purpose of—
- (a) protecting the public, or any particular members of the public, from harm from the defendant, or
  - (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.”
- (9) In subsection (8), at the appropriate place insert—
- ““the defendant”, in relation to a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), means the person against whom the order has effect;”;
- ““sexual risk order” includes a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.”

#### Commencement Information

**12** Sch. 18 para. 1 in force at 31.3.2023 by S.I. 2023/387, reg. 3(g)(i)

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- I3** Sch. 18 para. 2 not in force at Royal Assent, see **s. 208(1)**  
**I4** Sch. 18 para. 2 in force at 31.3.2023 by S.I. 2023/387, **reg. 3(g)(i)**

#### Commencement Information

- I1** Sch. 18 para. 1 not in force at Royal Assent, see **s. 208(1)**  
**I2** Sch. 18 para. 1 in force at 31.3.2023 by S.I. 2023/387, **reg. 3(g)(i)**  
**I3** Sch. 18 para. 2 not in force at Royal Assent, see **s. 208(1)**  
**I4** Sch. 18 para. 2 in force at 31.3.2023 by S.I. 2023/387, **reg. 3(g)(i)**

#### *Amendments of the Sentencing Code*

- 3 (1) Section 351 of the Sentencing Code (variation of sexual harm prevention order by court in Northern Ireland) is amended as follows.
- (2) In the heading, after “Variation” insert “, renewal or discharge”.
- (3) In subsection (2), in the words after paragraph (b), after “varying” insert “, renewing or discharging”.
- (4) In subsection (5), in the words after paragraph (b)—
- (a) after “varying” insert “, renewing or discharging”, and
  - (b) for “subsections (6) and (7)” substitute “subsections (5A) to (7A)”.
- (5) After subsection (5) insert—
- “(5A) In determining the application the court must have regard to—
- (a) the time for which the defendant is likely to remain in Northern Ireland, and
  - (b) whether the defendant is likely to return to, or to visit, England and Wales.”
- (6) In subsection (6), in the words before paragraph (a)—
- (a) after “An order may be” insert “renewed, or”, and
  - (b) for “only” substitute “, only”.
- (7) In subsection (7), in the words before paragraph (a), after “An order as” insert “renewed or”.
- (8) After subsection (7) insert—
- “(7A) The court must not discharge an order before the end of the period of 5 years beginning with the day on which the order was made without the consent of the defendant and the Chief Constable of the Police Service of Northern Ireland.”

#### Commencement Information

- I5** Sch. 18 para. 3 not in force at Royal Assent, see **s. 208(1)**  
**I6** Sch. 18 para. 3 in force at 31.3.2023 by S.I. 2023/387, **reg. 3(g)(i)**

**Changes to legislation:**

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