

## Sexual Offences Prevention Orders

### Sexual Offences Act 2003

#### S.104 Sexual offences prevention orders: applications and grounds

- (1) A court may make an order under this section in respect of a person (“the defendant”) where any of subsections (2) to (4) applies to the defendant and—
  - (a) where subsection (4) applies, it is satisfied that the defendant’s behaviour since the appropriate date makes it necessary to make such an order, for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant;
  - (b) in any other case, it is satisfied that it is necessary to make such an order, for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- (2) This subsection applies to the defendant where the court deals with him in respect of an offence listed in Schedule 3 or 5.
- (3) This subsection applies to the defendant where the court deals with him in respect of a finding—
  - (a) that he is not guilty of an offence listed in Schedule 3 or 5 by reason of insanity, or
  - (b) that he is under a disability and has done the act charged against him in respect of such an offence.
- (4) This subsection applies to the defendant where—
  - (a) an application under subsection (5) has been made to the court in respect of him, and
  - (b) on the application, it is proved that he is a qualifying offender.
- (5) A chief officer of police may by complaint to a magistrates’ court apply for an order under this section in respect of a person who resides in his police area or who the chief officer believes is in, or is intending to come to, his police area if it appears to the chief officer that—
  - (a) the person is a qualifying offender, and
  - (b) the person has since the appropriate date acted in such a way as to give reasonable cause to believe that it is necessary for such an order to be made.
- (6) An application under subsection (5) may be made to any magistrates’ court whose commission area includes—
  - (a) any part of the applicant’s police area, or
  - (b) any place where it is alleged that the person acted in a way mentioned in subsection (5)(b).

## S. 106 Section 104: Supplemental

- (1) In this Part, “sexual offences prevention order” means an order under section 104 or 105.
- (2) Subsections (3) to (8) apply for the purposes of section 104.
- (3) “Protecting the public or any particular members of the public from serious sexual harm from the defendant” means protecting the public in the United Kingdom or any particular members of that public from serious physical or psychological harm, caused by the defendant committing one or more offences listed in Schedule 3.
- (4) Acts, behaviour, convictions and findings include those occurring before the commencement of this Part.
- (5) “Qualifying offender” means a person within subsection (6) or (7).
- (6) A person is within this subsection if, whether before or after the commencement of this Part, he—
  - (a) has been convicted of an offence listed in Schedule 3 (other than at paragraph 60) or in Schedule 5,
  - (b) has been found not guilty of such an offence by reason of insanity,
  - (c) has been found to be under a disability and to have done the act charged against him in respect of such an offence, or
  - (d) in England and Wales or Northern Ireland, has been cautioned in respect of such an offence.
- (7) A person is within this subsection if, under the law in force in a country outside the United Kingdom and whether before or after the commencement of this Part—
  - (a) he has been convicted of a relevant offence (whether or not he 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 he 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 he is under a disability and did the act charged against him in respect of the offence, or
  - (d) he has been cautioned in respect of a relevant offence.
- (8) “Appropriate date”, in relation to a qualifying offender, means the date or (as the case may be) the first date on which he was convicted, found or cautioned as mentioned in subsection (6) or (7).
- (9) In subsection (7), “relevant offence” means an act which—
  - (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) or in Schedule 5 if it had been done in any part of the United Kingdom.
- (10) An act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law for the purposes of subsection (9), however it is described in that law.
- (11) Subject to subsection (12), on an application under section 104(5) the condition in subsection (9)(b) (where relevant) is to be taken as met unless, not later than rules of court may provide, the defendant serves on the applicant a notice—
  - (a) stating that, on the facts as alleged with respect to the act concerned, the condition is not in his opinion met,
  - (b) showing his grounds for that opinion, and
  - (c) requiring the applicant to prove that the condition is met.
- (12) The court, if it thinks fit, may permit the defendant to require the applicant to prove that the condition is met without service of a notice under subsection (11).
- (13) Subsection (14) applies for the purposes of section 104 and this section in their application in relation to England and Wales or Northern Ireland.
- (14) In construing any reference to an offence listed in Schedule 3, any condition subject to which an offence is so listed that relates—
  - (a) to the way in which the defendant is dealt with in respect of an offence so listed or a relevant finding (as defined by section 132(9)), or
  - (b) to the age of any person,is to be disregarded.

#### S. 107 SOPOs: effect

- (1) A sexual offences prevention order—
  - (a) prohibits the defendant from doing anything described in the order or requires the defendant to do anything described in the order (or both), and
  - (b) has effect for a fixed period (not less than 5 years) specified in the order or until further order.
- (2) The only prohibitions or requirements that may be included in the order are those necessary for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- (3) Where—
  - (a) an order is made in respect of a defendant who was a relevant offender immediately before the making of the order, and

- (b) the defendant would (apart from this subsection and sections 88F and 88G) cease to be subject to the notification requirements of this Part while the order (as renewed from time to time) has effect,  
the defendant remains subject to the notification requirements.

(3A) Where—

- (a) a sexual offences prevention order is in effect in relation to a relevant sex offender (within the meaning of section 88A); and
- (b) by virtue of section 88F or 88G the relevant sex offender ceases to be subject to the notification requirements of this Part,  
the sexual offences prevention order ceases to have effect.

(3B) Subsection (3A) applies to the orders mentioned in section 108(8)(b) and (c) as it applies to sexual offences prevention orders.]

(4) Where an order is made in respect of a defendant who was not a relevant offender immediately before the making of the order—

- (a) the order causes the defendant to become subject to the notification requirements of this Part from the making of the order until the order (as renewed from time to time) ceases to have effect, and
- (b) this Part applies to the defendant, subject to the modification set out in subsection (5).

(5) The “relevant date” is the date of service of the order.

(6) Where a court makes a sexual offences prevention order in relation to a person already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

(7) Section 106(3) applies for the purposes of this section and section 108.