



# House of Commons

## NOTICES OF AMENDMENTS

given on

**Tuesday 10 September 2013**

*For other Amendment(s) see the following page(s) of Supplement to Votes:  
585, 587 and 589-90*

### CONSIDERATION OF BILL

#### ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING BILL, AS AMENDED

*Child sexual abuse prevention orders*

Nicola Blackwood  
Mr William Cash  
Keith Vaz  
Jackie Doyle-Price  
Kris Hopkins  
Dan Byles

Ann Coffey  
Penny Mordaunt  
Jason McCartney  
Andrea Leadsom  
Priti Patel  
Richard Harrington  
Charlie Elphicke  
Chris Heaton-Harris  
Harriet Baldwin  
Pauline Latham  
Mr Jonathan Djanogly  
Mr James Clappison  
Stephen Barclay  
Andrew Stephenson  
Charlotte Leslie

Sarah Newton  
Mark Garnier  
Valerie Vaz  
Dr Philip Lee  
Richard Fuller  
Mr Brian Binley  
Mr Robert Buckland  
Julian Sturdy  
Sir John Stanley  
Philip Davies  
Mr Jim Cunningham  
Tim Loughton  
Bill Wiggin  
Sarah Champion  
Jim Shannon

Robert Halfon  
Jacob Rees-Mogg  
Mr Frank Field  
Mr Peter Bone  
Robin Walker  
Simon Kirby  
Gordon Henderson  
Mr Julian Brazier  
George Freeman  
Mr Richard Bacon  
Mr Stewart Jackson  
Fiona MacTaggart  
Mr Mark Spencer  
Craig Whittaker

NC5

To move the following Clause:—

- ‘(1) The Sexual Offences Act 2003 is amended as follows.
- (2) For sections 123 (Risk of sexual harm orders: applications, grounds and effect) to 129 (Effect of conviction etc. of an offence under section 128) substitute—

**“123 Child Sexual Abuse Prevention Orders: Applications and grounds**

- (1) On the application of a qualifying person, or on conviction of a qualifying offence, a magistrates’ court may make a ‘child sexual abuse prevention

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order' if it is satisfied that it is necessary to make such an order for the purposes of protecting children generally or any particular child from serious sexual harm from the defendant.

- (2) A qualifying person under subsection (1) shall be a chief officer of police or an officer, of superintendant rank or above, in the NCA or other relevant agency to be decided by the Home Secretary.
- (3) In subsection (1) a defendant shall be considered to be convicted of a qualifying offence who—
  - (a) is convicted of an offence listed in schedules 3 and 5;
  - (b) is found not guilty of such an offence by reason of insanity;
  - (c) is found to be under a disability and to have done the act charged against him in respect of such an offence;
  - (d) is cautioned in respect of such an offence;
- (4) A chief officer of police may 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.
- (5) An application under subsection (1) may be made to a magistrates' court whose commission area includes—
  - (a) any part of the police area, or
  - (b) any place where it is alleged that the defendant committed one or more offences listed in schedules 3 and 5.

**124 Section 123: supplemental**

- (1) In this Part, 'Child Sexual Abuse Prevention Order' means an order under section 123.
- (2) Subsections (3) and (4) apply for the purposes of Section 1.
- (3) 'Protecting children generally or any particular child from serious sexual harm from the defendant' means protecting persons under 18 or any person under 18, in or outside the United Kingdom, 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) In subsection (1)(1), a person shall also be considered to have been convicted of a qualifying offence if, under 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 cautioned in respect of a relevant offence.
- (6) In subsection (5), a 'relevant offence' means an act which—

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- (a) constituted an offence under the law in force in the country concerned, and
  - (b) would have constituted an offence within schedules 3 and 5 if it had been done in any part of the United Kingdom.
- (7) 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 (6), however it is described in that law.
- (8) Subject to subsection (9), on an application under section 1 the condition in subsection (6)(b) above (where relevant) is to be taken as met unless, not later than rules of the 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.
- (9) The court, if it thinks fit, may permit the defendant to require the applicant to prove that the condition is met without the service of a notice under subsection (8).

**125 Child-SAPOs: effect**

- (1) A Child Sexual Abuse Prevention Order—
- (a) prohibits the defendant from doing anything described in the order, and
  - (b) has effect for a fixed period (not less than five years) specified in the order or until further order.
- (2) The only prohibitions that may be included in the order are those necessary for the purpose of protecting children generally or any particular child from serious sexual harm from the defendant.
- (3) Where a court makes a child sexual abuse 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.
- (4) Section 3(3) applies for the purposes of this section and section 5.

**126 Child-SAPOs: variations, renewals and discharges**

- (1) A person within subsections (2) may apply to the appropriate court for an order varying, renewing or discharging a child sexual abuse prevention order.
- (2) The persons are—
- (a) the defendant;
  - (b) the chief officer of police for the area in which the defendant resides;
  - (c) a chief officer of police who believes that the defendant is in, or is intending to come on to, his police area;
  - (d) where an order was made on an application under section 1(1), the chief officer or other qualifying person who made the application.
- (3) An application under subsection (1) may be made—

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- (a) where the appropriate court is the Crown Court, in accordance with rules of the court;
  - (b) in any other case, by complaint.
- (4) Subject to subsections (5) and (6), on the application of the court, after hearing the person making the application and (if they wish to be heard) the other persons mentioned in subsection (2), may make any order, varying, renewing or discharging the child sexual abuse prevention order, that the court considers appropriate.
- (5) An order may be renewed, or varied so as to impose additional prohibitions on or to lift prohibitions from the defendant, only if it is necessary to do so for the purposes of protecting children generally or any particular child from serious sexual harm from the defendant (and any renewed or varied order may contain only such prohibitions as are necessary for this purpose).
- (6) The court must not discharge an order before the end of five years beginning with the day on which the order was made, without the consent of the defendant and—
- (a) where the application is made by a chief officer of police, that chief officer, or other qualifying person or
  - (b) in any other case, the chief officer of police for the area in which the defendant resides.
- (7) In this section ‘the appropriate court’ means—
- (a) where the Crown Court or the Court of Appeal made the child sexual abuse prevention order, the Crown Court;
  - (b) where a magistrates’ court made the order, that court, a magistrates’ court for the area in which the defendant resides, or where the application is made by a chief officer of police, any magistrates’ court whose commission area includes any part of the chief officers’ police area or any area where the alleged offences occurred.
  - (c) where a youth court made the order, that court, the youth court for the area in which the defendant resides or, where the application is made, any youth court whose commission area includes any part of a chief officer’s police area or any place where the alleged offences occurred.
- (8) This section applies to orders under—
- (a) Section 5A of the Sex Offenders Act 1997 (c.51) (restraining orders),
  - (b) Section 2 or 20 of the Crime and Disorder Act 1998 (c.37) (sex offender orders made in England and Wales and Scotland),
  - (c) Article 6 of the Criminal Justice (Northern Ireland) Order 1998 (S.I., 1998/2839 (N.I. 20)) (sex offender orders made in Northern Ireland), and
  - (d) as it applies to child sexual abuse prevention orders.

**127 Interim Child-SAPOs**

- (1) This section applies where an application under section 123(1) (‘the main application’) has not been determined.
- (2) An application for an order under this section (‘an interim child sexual abuse prevention order’)—

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- (a) may be made by the complaint by which the main application is made, or
  - (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.
- (3) The Court may, if it considers it just to do so, make an interim child sexual abuse prevention order, prohibiting the defendant from doing anything described in the order.
- (4) Such an order—
- (a) has effect only for a fixed period, specified in the order;
  - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
- (5) The applicant or the defendant may by complaint apply to the court that made the interim child sexual abuse prevention order for the order to be varied, renewed or discharged.
- (6) Subsection (5) applies to orders under—
- (a) Sections 2A or 20(4)(a) of the Crime and Disorder Act 1998 (c.37) (interim orders made in England and Wales Scotland), and
  - (b) Article 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I., 1998/2839 (N.I. 20)) (interim orders made in Northern Ireland),
- as it applies to interim child sexual abuse prevention orders.

**128 Child-SAPO and interim Child-SAPO appeals**

- (1) A defendant may appeal to the Crown Court against the making of a child sexual abuse prevention order under section 123(1).
- (2) A defendant may appeal to the Crown Court against the making of an interim child sexual abuse prevention order under section 127(3).
- (3) A defendant may appeal against the making of an order under section 127(3), or the refusal to make such an order—
  - (a) where the application for such an order was made to the Crown Court, to the Court of Appeal;
  - (b) in any other case, to the Crown Court.
- (4) On an appeal under section (1), (2) or subsection (3)(b), the Crown Court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.
- (5) Any order made by the Crown Court on an appeal under sections (1) or (2) (other than an order directing that an application be re-heard by a magistrates' court) is for the purpose of subsections 126(7) and 127(6) (respectively) to be treated as if it were an order of the court from which the appeal was brought (and not an order of the Crown Court).

**129 Offence: breach of a Child-SAPO or interim Child-SAPO**

- (1) A person commits an offence if, without reasonable excuse, he does anything which he is prohibited from doing by—
  - (a) a child sexual abuse prevention order;
  - (b) an interim child sexual abuse prevention order,

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- (c) an order under section 5A of the Sex Offenders Act 1997 (c.51) (restraining orders);
  - (d) an offender under sections 2, 2A or 20 of the Crime and Disorder Act 1998 (c.37) (sex offenders orders and interim orders made in England and Wales and in Scotland);
  - (e) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I., 1998/2839 (N.I. 20)) (sex offender orders and interim orders made in Northern Ireland).
- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years.
  - (c) where a person is convicted of an offence under this section, it is not open to the court by or before which he is convicted to make, in respect of the offence, an order for conditional discharge or, in Scotland, a probation order.
- (3) The Home Secretary shall issue guidance on the use of child sexual abuse prevention orders and interim child sexual abuse prevention orders within six months of this section coming into force.”’.
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