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11 August 1997  
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Dear Colleague

**SEX OFFENDERS ACT 1997: GUIDANCE ON IMPLEMENTATION**

**Summary**

1. This circular offers advice on the provisions of the Sex Offenders Act 1997, which will be brought into force simultaneously in England & Wales, Scotland and Northern Ireland on 1 September 1997.

2. Offenders who have committed any relevant offence and are detained in hospital when the Act comes into force or are detained after commencement are required to register with the police within 14 days of their discharge or release on leave of absence from hospital.

**Action**

3. In general the Act does not place statutory requirements on anyone other than the offender. However, hospital managers are expected to support effective implementation of the Act. This note sets out the areas where action will be needed.

Yours sincerely

**KEVIN J WOODS**  
Director of Strategy  
and Performance Management

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## **SEX OFFENDERS ACT 1997: GUIDANCE ON IMPLEMENTATION**

### Summary

1. This circular offers advice on the provisions of the Sex Offenders Act 1997, which will be brought into force simultaneously in England & Wales, Scotland and Northern Ireland on 1 September 1997.
2. HD Circular No 12/1997 (attached) provides details of the Act and in particular sets out the Scottish sexual offences to which Part I of the 1997 Act applies and the persons who commit, or have committed, such offences who will become subject to the notification requirements.

### Mentally disordered offenders

3. Part I of the Act applies equally to mentally disordered offenders who, at commencement, are detained in a hospital and to offenders dealt with following a conviction after commencement or offenders dealt with after commencement where the conviction occurred before commencement. For these purposes, conviction includes a finding of not guilty by reason of insanity or by virtue of a finding of having done the act charged in respect of a relevant offence but where they were unfit for trial (and in the case of persons detained under the Criminal Procedure (Scotland) Act 1975 includes cases where a person was found to be unfit for trial even although there was no examination of facts). Parts A and B of this guidance set out in greater detail the mentally disordered persons to whom the 1997 Act applies.
4. There will be offenders who have committed a relevant offence and are already detained in hospital when the Act comes into force. In these cases, neither the offender nor the responsible authorities will have had notification that the offender is required to register. Hospital Managers are, therefore, asked to ensure that all such patients detained are informed of the provisions of the 1997 Act and are strongly advised to seek legal advice as to whether the requirements apply to them. [Hospitals do not routinely disclose information about the discharge of these offenders to the police; however, the Scottish Office will continue to notify the police about the discharge of restricted patients].
5. Hospital managers are expected to support effective implementation of the Act. This note sets out the areas where action will be needed.
  - Part A covers offenders who are admitted to hospital following conviction for a relevant offence on or after 1 September 1997.
  - Part B covers patients who are detained in hospital at the beginning of 1 September 1997.

## **PART A**

**Action to be taken in respect of offenders who are detained in hospital having been convicted, etc., of a relevant offence on or after 1 September 1997 (or are dealt with by the Court on or after that date having been convicted, etc., before it).**

1. This part is concerned with the following “offenders”, that is to say -
  - 1.1 a person who is convicted of a guilty of a relevant sexual offence where the court has made an order under section 58(1) of the Criminal Procedure (Scotland) Act 1995 authorising his or her admission to and detention in hospital;
  - 1.2 a person who is found not guilty of a relevant sexual offence by reason of insanity in terms of section 54(6) or 55(4) of the Criminal Procedure (Scotland) Act 1995 where the Court has made a hospital order under section 57(2) of that Act;
  - 1.3 a person who is found to be unfit to be tried and to have done the act or made the omission charged against him in terms of sections 54(1) and 55(2) of the Criminal Procedure (Scotland) Act 1995 where the Court has also made a hospital order under section 57(2) of that Act;
  - 1.4 a person who has been charged with a relevant offence in a summary proceedings who is not convicted but is found to have done the act or made the omission charged and who is, under section 58(3) of the Criminal Procedure (Scotland) Act 1995, subject to an order authorising his admission to and detention in a hospital;
  - 1.5 a person who has been convicted of a relevant offence in respect of which a sentence of imprisonment was imposed and who is subsequently detained in a hospital by virtue of a transfer direction made under section 71 of the Mental Health (Scotland) Act 1984; or
  - 1.6 a person detained in hospital under section 69 of the Mental Health (Scotland) Act 1984.
2. Offenders convicted of a relevant offence after the 1997 Act comes into force on 1 September 1997 will be given a notice of requirement by the Court at the time of sentencing.
3. The notice informs the offender of their requirement to register with the police within 14 days, or in the case of people sentenced to imprisonment or detained in hospital, within 14 days of release or discharge. It should be noted that if a detained sex offender is given leave of absence from hospital he or she should register if the leave is expected to last for 14 days or more.

4. In addition, hospital managers should receive formal notification whenever a patient subject to the requirements of the 1997 Act is admitted to hospital under the Criminal Procedure (Scotland) Act 1995 following sentencing for a relevant offence. In the case of patients transferred to hospital from prison or guardianship a copy of the original court notification will be passed on by the prison or social work department. A copy of this notification form is at Annex D1 to circular HD 12/1997. On receipt of notification hospital managers should ensure that the patient's records are endorsed so that action can be taken as necessary:

- a) to inform the new hospital managers, prison, or social work department if the patient is transferred to another hospital, back to prison, or guardianship; and
- b) to remind the patient of the registration requirements when they leave hospital on discharge or long-term leave in the community.

5. It will not be necessary to take any further special action at the time of admission. But, as a matter of good practice, hospital managers may wish to ensure that any patient who has been served with a notice under the 1997 Act is given the opportunity to discuss the requirements with a member of the hospital staff.

6. Offenders are not required to register while they are detained in prison or hospital but must do so within 14 days of their release from detention. If a detained sex offender is given leave of absence from hospital he or she should register if the leave is expected to last for 14 days or more.

7. Patients who are subject to the provisions of the 1997 Act should be reminded before they leave hospital about the requirement to register with the police. It is for local decision when and how this should be done. It is important that clinical teams are able to take account in planning discharge or leave in the community of what, if any, impact the need to comply with registration requirements may have on the patient. If the patient has severe learning disabilities the clinical team should consider what help the patient may need to assist him or her in complying with the registration requirements.

8. When a patient subject to the provisions of the 1997 Act leaves hospital managers should give serious consideration to notifying the local police that the patient is no longer detained. This should be explained to the patient and he or she should be asked to consent to the disclosure. If the patient refuses consent, managers should consider whether the public interest justifies overriding the refusal. In reaching a decision, all relevant circumstances should be taken into account including the advice from the multi-disciplinary team, the need to protect the public and any rights of the patient to have confidentiality of personal information about him or her protected (information in the public domain or a matter of public record is not of course subject to the duty of confidence). While it is essential for each case to be considered in the light of its own facts and no automatic decision made to notify, it is anticipated that the need to protect the public means that the balance will generally

come down in favour of notification. Where a decision is made to notify managers should, nevertheless, ensure that they divulge only the minimum information necessary to protect the public interest [see example notification attached at Appendix 1]. In cases of particular difficulty managers should consider taking legal advice.

## **Part B**

### **Action to be taken in respect of offenders who are subject to detention in hospital at the beginning of 1 September 1997**

1. This part is concerned with the following “offenders”, that is to say -
  - 1.1 a person who, following conviction for a relevant sexual offence, is detained in hospital under -
    - 1.1.1 Part VI of the Criminal Procedure (Scotland) Act 1995; or
    - 1.1.2 section 175(1) or 376(1) of the Criminal Procedure (Scotland) Act 1975; or
    - 1.1.3 section 71 of the Mental Health (Scotland) Act 1984; or
    - 1.1.4 section 69 of the Mental Health (Scotland) Act 1984;
  - 1.2 a person who, having been found not guilty of a relevant sexual offence by reason of insanity, is detained in hospital under -
    - 1.2.1 section 174(3) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 174(2) of that Act; or
    - 1.2.2 section 57(2) of the Criminal Procedure (Scotland) Act 1995 following a finding in terms of section 54(6) or 55(3) and (4); or
    - 1.2.3 section 69 of the Mental Health (Scotland) Act 1984;
  - 1.3 a person who, having been found to be insane so that his trial for a relevant sexual offence could not proceed or could not continue and to have done the act or made the omission charged, is detained in hospital under -
    - 1.3.1 section 57(2) of the Criminal Procedure (Scotland) Act 1995 following a finding in terms of section 54(1) and 55(2) of that Act; or
    - 1.3.2 section 69 of the Mental Health (Scotland) Act 1984;
  - 1.4 a person who having been found to be insane so that his trial for a relevant sexual offence could not proceed or could not continue, is detained in hospital under;
    - 1.4.1 section 174(3) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 174(1) of that Act; or
    - 1.4.2 section 376(2) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 375(2) of that Act.
2. Some patients who have committed offences which bring them under the provisions of the 1997 Act will be detained in hospital when it comes into force on 1 September 1997. In these cases neither the offender nor the responsible authorities will have had notification that the offender is required to register.

3. Hospital managers will therefore be expected to ensure that all patients who were detained in hospital under any of the provisions mentioned above at the beginning of 1 September 1997 when the 1997 Act comes into force are made aware of its provisions.

4. In many cases it may not be possible to tell from the information held on patient records whether or not the requirements of the 1997 Act apply to a particular individual. For instance, the fact that a patient is detained under a hospital order having been convicted of a relevant sexual offence does not necessarily mean that the 1997 Act applies to him or her since one of the exceptions specified in paragraph 2 of Schedule 1 to the Act may have meant that the offence did not apply in the circumstances of that person's case. It is vital to note that some of the relevant sexual offences in paragraph 2 of Schedule 1 to the 1997 Act are disappplied if committed in certain circumstances, for instance, by virtue of the age of the victim or of the offender or depending upon the consent of other persons involved in the offence.

5. It is therefore important that the issue is handled sensitively and it will be for local managers to decide when and how this is done. The summary information about the Act at Annex B of HD Circular 12/1997 may be reproduced or adapted for use locally and a sample notification form is enclosed at Appendix 2. As a matter of good practice, managers should offer to assist patients who wish to seek legal advice to find out whether or not the requirements of the Act apply to them.

6. The records of patients in the relevant groups (as defined at paragraph 1) should be endorsed to show what action has been taken. A copy of the record of action taken should be passed to the receiving authorities if the patient is subsequently transferred to another hospital or back to prison.

**INFORMATION FOR THE POLICE WHEN A PATIENT SUBJECT TO THE REQUIREMENTS OF THE SEX OFFENDERS ACT 1997 IS DISCHARGED FROM DETENTION IN HOSPITAL**

1. Part A paragraph 7 of MEL48(1997) provides guidance on the circumstances under which information may be passed to the police.

2. Information supplied to the police on this form does not affect the legal requirement for the offender to comply with the provisions of the 1997 Act.

Name: .....

[also known as: .....]

Date of Birth: .....

was issued with a notice of requirement to register with the Police under Part 1 of the Sex Offenders Act 1997 on .....[date]

and has been detained under Section [57][58] of the Criminal Procedure (Scotland) Act 1995 or Section [69] [71] of the Mental Health (Scotland) Act 1984 (delete as appropriate)

[will be] [was] discharged from hospital on .....[date]

and is expected to live at [address if known]:

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

Signed: .....

Name: .....

Date: .....

Position in organisation: .....

Address: .....

.....  
.....

(1) To be sent to the Chief Constable for the Police Area where the patient will be living (if known) otherwise to the Chief Constable for the Police Area in which the hospital is situated

(2) Copies to be retained on the patient's file and given to the patient



**SEX OFFENDERS WHO NEED TO REGISTER WITH THE POLICE UNDER THE SEX OFFENDERS ACT 1997 PART I**

*This notice summarises the notification requirements under the Sex Offenders Act 1997 as they apply to offenders who at the beginning of 1 September 1997 are in prison or detained in hospital following sentence. It is not a complete statement of the law. If you need more help in understanding what is required you should obtain legal advice.*

Offenders who come within the provisions of this Act must **by law** within 14 days of their date of release or discharge from detention in hospital or release on leave of absence:

- **notify the police** of their name, any other names they use, their date of birth and their home address (if they have no home address, they must give address of any premises they regularly visit);
- **notify the police** of any change of name or home address within 14 days of the date of any change;
- **notify the police** of any address where they reside or stay for 14 days or longer. This means either 14 days at a time, or a total of 14 days in any 12 month period.

Offenders can notify the police either by going, or writing, to a police station in the area in which their home is situated.

The police will provide the offender with a written acknowledgement when this has been done.

***It is a criminal offence, punishable with up to six months' imprisonment and/or a fine, to fail to comply with the notification requirements, or to give the police false information.***

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In the course of notifying all patients who were detained in hospital under Section 69 or 71 of the Mental Health (Scotland) Act 1984 or sections 57 or 58 of the Criminal Procedure (Scotland) Act 1995 (or their statutory predecessors) of the Sex Offenders Act 1997, I have today given a copy of this notice to:

Name of patient: ..... Date of birth: ..... who was detained in  
.....[name of hospital] on .....[date] under  
Section ..... of the Criminal Procedure (Scotland) Act 19..... or Section 69 or 71 of the Mental  
Health (Scotland) Act 1984 (complete as appropriate)

Signed: .....

Name: .....

Date: .....

**copies to: patient, patient's medical record**

APPLICATION OF PART I OF THE SEX OFFENDERS ACT 1997

(1) SEXUAL OFFENCES IN SCOTLAND TO WHICH PART I APPLIES OR APPLIES SUBJECT TO EXCEPTIONS BY VIRTUE OF PARAGRAPH 2(1) OF SCHEDULE 1

<i>Offence</i>	<i>Application and exceptions</i>
2(1)(a)(i): Rape	All offenders regardless of their age have to notify - there are no exceptions
2(1)(a)(ii): Clandestine injury to women	All offenders regardless of their age have to notify - there are no exceptions
2(1)(a)(iii): Abduction of a woman or girl with intent to rape	All offenders regardless of their age have to notify <u>except</u> where -  (a) every person involved in the offence other than the offender was 18 or over; <u>and</u>  (b) the offender was <u>not</u> given a custodial sentence of 30 months or over or was <u>not</u> admitted to hospital subject to a restriction order.
2(1)(a)(iv): Assault with intent to rape or ravish	All offenders regardless of their age have to notify <u>except</u> where -  (a) every person involved in the offence other than the offender was 18 or over; <u>and</u>  (b) the offender was <u>not</u> given a custodial sentence of 30 months or over or was <u>not</u> admitted to hospital subject to a restriction order.
2(1)(a)(v): Indecent assault	All offenders regardless of their age have to notify <u>except</u> where -  (a) every person involved in the offence other than the offender was 18 or over; <u>and</u>  (b) the offender was <u>not</u> given a custodial sentence of 30 months or over or was <u>not</u> admitted to hospital subject to a restriction order.
2(1)(a)(vi): Lewd, indecent or libidinous behaviour or practices	All offenders regardless of their age have to notify - there are no exceptions.
2(1)(a)(vii): Shameless indecency	All offenders regardless of their age have to

	notify <u>except</u> where every person involved in the offence other than the offender was 18 or over.
2(1)(a)(viii): Sodomy (common law)	<p>1. All offenders <u>under 20</u> have to notify <u>except</u> where every person involved in the offence (regardless of their age) was a willing participant.</p> <p>2. All offenders <u>aged 20 or over</u> have to notify <u>except</u> where every other person involved in the offence, other than the offender, was -</p> <p style="text-align: center;">(a) aged 18 or over; <u>and</u></p> <p style="text-align: center;">(b) a willing participant.</p>
2(1)(b): Section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) where the offence relates to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions)	All offenders regardless of their age have to notify <u>but</u> only where the goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 included indecent photographs of persons who were under the age of 16.
2(1)(c)(i): Section 52 of the Civic Government (Scotland) Act 1982 (taking and distribution of indecent images of children)	All offenders regardless of their age have to notify - there are no exceptions.
2(1)(c)(ii): Section 52A of the Civic Government (Scotland) Act 1982 (possession of indecent images of children)	All offenders regardless of their age have to notify - there are no exceptions.
2(1)(d)(i): Section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest)	All offenders regardless of their age have to notify <u>except</u> where every other person involved in the offence, other than the offender, was 18 or over.
2(1)(d)(ii): Section 2 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with a step child)	All offenders regardless of their age have to notify <u>except</u> where every other person involved in the offence, other than the offender, was 18 or over.
2(1)(d)(iii): Section 3 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with a child under 16 by person in position of trust)	All offenders regardless of their age (but this can only mean a person aged 16 or over) have to notify - there are no exceptions.
2(1)(d)(iv): Section 5 of the Criminal Law (Consolidation) (Scotland) Act 1995 (unlawful intercourse with a girl under 16):-	
(a) section 5(1)	All offenders regardless of their age have to

<p>(b) section 5(2)</p> <p>(c) section 5(3)</p>	<p>notify - there are no exceptions.</p> <p>All offenders regardless of their age have to notify - there are no exceptions</p> <p>Only offenders aged 20 or over have to notify</p>
<p>2(1)(d)(v): Section 6 of the Criminal Law (Consolidation) (Scotland) Act 1995 (indecent behaviour towards girl between 12 and 16)</p>	<p>All offenders regardless of their age have to notify - there are no exceptions.</p>
<p>2(1)(d)(vi): Section 8 of the Criminal Law (Consolidation) (Scotland) Act 1995 (abduction of girl under 18 for purposes of unlawful intercourse)</p>	<p>All offenders regardless of their age have to notify - there are no exceptions.</p>
<p>2(1)(d)(vii): Section 10 of the Criminal Law (Consolidation) (Scotland) Act 1995 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16)</p>	<p>All offenders regardless of their age have to notify - there are no exceptions.</p>
<p>2(1)(d)(viii): Section 13(5) of the Criminal Law (Consolidation) (Scotland) Act 1995 (homosexual offences)</p>	<p>1. All offenders <u>aged 20 or over</u> have to notify <u>except</u> where every person involved in the offence, other than the offender, was -</p> <p>(a) 18 or over; <u>and</u></p> <p>(b) a willing participant.</p> <p>2. All offenders <u>under 20</u> have to notify except where -</p> <p>(a) the homosexual act constituted an act of sodomy and the other person involved (regardless of their age) was a willing participant; <u>or</u></p> <p>(b) the homosexual act constituted an act of gross indecency or shameless indecency, whether or not every other person involved was a willing participant.</p>

NOTE : the reference to an "offender" means a person to whom the notification requirements apply as set out in part (2) of this annex.

## (2) APPLICATION OF NOTIFICATION REQUIREMENTS WHERE A SPECIFIED SEXUAL OFFENCE WAS COMMITTED IN SCOTLAND

Application to offenders convicted of a sexual offence under Scots law specified in paragraph 2(1) of Schedule 1 to the Act after the commencement of Part I of the Act or subject to a finding, after that commencement, that they did the act charged in respect of such an offence (section 1(1) of the Act)

1. A person is subject to the notification requirements if, after the commencement of Part I, he or she-

- (a) is convicted of a specified offence;
- (b) having been charged with a specified offence in summary proceedings, is not convicted but is, by virtue of section 58(3) of the Criminal Procedure (Scotland) Act 1995, subject to an Order for admission to hospital or placing under guardianship on the court finding that he did the act or omission charged;
- (c) is subject to a finding in summary proceedings that he or she committed the specified offence charged but is discharged absolutely under section 246(3) of the Criminal Procedure (Scotland) Act 1995;
- (d) is found not guilty of the specified offence by reason of insanity in terms of section 54(6) or 55(4) of the Criminal Procedure (Scotland) Act 1995; or
- (e) is found to be unfit to be tried for a specified offence and to have done the act charged against him in terms of sections 54(1) and 55(2) of the Criminal Procedure (Scotland) Act 1995.

Application to offenders who, at the commencement of Part I have been convicted of a sexual offence under Scots law specified in paragraph 2(1) of Schedule 1 to the Act or subject to a finding of not guilty of such an offence by reason of insanity, to be under a disability and to have done the act charged (section 1(2) of the Act)

2. A person is subject to the notification requirements if, at the commencement of Part I, he is a person as mentioned in any of sub-paragraphs (a) to (e) of paragraph 1 above but has not been dealt with in respect of the offence or finding at the commencement.

Application to offenders who, at the commencement of Part I have been convicted of a sexual offence under Scots law specified in paragraph 2(1) of Schedule 1 to the Act, or found to be not guilty of such an offence by reason of insanity, or found to be unfit to be tried for such an offence and to have done the act charged and have been dealt with (section 1(3) of the Act)

3. A person subject to the notification requirements if, at the commencement of Part I -

- (a) he or she is in respect of a specified offence -
  - (i) serving a sentence of imprisonment or a term of detention (or other period of custody specified in section 4(1) of the Act); or
  - (ii) subject to a community order being -
    - (aa) a probation order under section 228 of the Criminal Procedure (Scotland) Act 1995 (or its statutory predecessors section 183(1) or 384(1) of the Criminal Procedure (Scotland) Act 1975);
    - (bb) a community service order under section 238 of the Criminal Procedure (Scotland) Act 1995 (or its statutory predecessor section 1 of the Community Service by Offenders (Scotland) Act 1978 insofar as an order is still extant); or
    - (cc) a supervised attendance order under section 235 of the Criminal Procedure (Scotland) Act 1995;
- (b) he or she is subject to supervision, having been released from prison after serving the whole or part of a sentence of imprisonment (or other period of detention or custody as specified in section 4(1) of the Act) in respect of a specified offence; and in this context, "supervision" means supervision -
  - (i) in pursuance of an order made for the purpose; or
  - (ii) in the case of a person released from prison on licence, in pursuance of a condition contained in his licence;
- (c) he or she is, following conviction for a specified offence, -
  - (i) detained in a hospital under-
    - (aa) Part VI of the Criminal Procedure (Scotland) Act 1995; or
    - (bb) section 175(1) or 376(1) of the Criminal Procedure (Scotland) Act 1975; or
    - (cc) section 71 of the Mental Health (Scotland) Act 1984; or
    - (dd) section 69 of the Mental Health (Scotland) Act 1984; or
  - (ii) subject to a guardianship order under-
    - (aa) section 58 of the Criminal Procedure (Scotland) Act 1995; or

- (bb) section 175(1) or 376(1) of the Criminal Procedure (Scotland) Act 1975; or
- (d) he or she is a person who, having been found not guilty of a specified offence by reason of insanity, is detained in hospital under-
  - (i) section 174(3) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 174(2) of that Act; or
  - (ii) section 57(2) of the Criminal Procedure (Scotland) Act 1995 following a finding in terms of section 54(6) or 55(3) and (4) of that Act; or
  - (iii) section 69 of the Mental Health (Scotland) Act 1984; or
- (e) he or she is a person who, having been found to be insane so that his or her trial for a specified offence could not proceed or could not continue and also having been found to have done the act or made the omission charged, is detained in hospital under-
  - (i) section 57(2) of the Criminal Procedure (Scotland) Act 1995 following a finding in terms of sections 54(1) and 55(2) of that Act; or
  - (ii) section 69 of the Mental Health (Scotland) Act 1984; or
- (f) he or she is a person who, having been found to be insane so that his trial for a specified offence could not proceed or could not continue, is detained in hospital under-
  - (i) section 174(3) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 174(1) of that Act; or
  - (ii) section 376(2) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 375(2) of that Act.

4. In the cases mentioned in sub-paragraphs (a)(i), (c)(i), (d), (e) or (f) it is irrelevant whether the person was not actually in detention if, at commencement, he was not in detention by reason of being unlawfully at large or absent without leave, on temporary release or leave of absence, or on bail pending an appeal.



# THE SCOTTISH OFFICE

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Police Division

Saughton House  
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Edinburgh EH11 3XD

**HD Circular No12/1997**

2154

Chief Constables  
Chief Executives of  
Dumfries & Galloway Council  
and Fife Council  
Clerks to the Joint Police Boards

Telephone 0131-244  
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8 August 1997

*Dear Colleague,*

## **SEX OFFENDERS ACT 1997: GUIDANCE ON IMPLEMENTATION**

### Summary

1. This circular offers advice on the provisions of the Sex Offenders Act 1997, which will be brought into force simultaneously in England & Wales, Scotland and Northern Ireland on 1 September 1997.
2. The Act is divided into two parts, which are explained in more detail below. Part I of the Act will impose a requirement on certain sex offenders during a specified period (which may be for life) to notify the police of their name(s), home address and date of birth, and any subsequent changes to these details. This will ensure that the information on sex offenders held by the police will be fully up to date. In Part II of the Act, section 8, by amending the Criminal Law (Consolidation) (Scotland) Act 1995, will also give United Kingdom jurisdiction to deal with those who commit certain sexual acts against children abroad. Management of the information collected under Part I of the Act will be the subject of a separate circular.

### **PART I**

3. Section 1 of, and paragraph 2 of Schedule 1 to the Act specify offences in Scotland which Part I applies and those who are subject to the notification requirements.

The Scottish offences are specified in paragraph 2 of Schedule 1 (a copy of Schedule 1 is attached at Annex A). A further note detailing the qualifications which will apply to each of the Scottish offences is also attached for ease of reference at Part 1 of Annex B.



Those who become subject to the notification requirements fall into three categories:-

- (a) offenders who commit relevant offences after commencement;
- (b) offenders who have committed offences before commencement but who, at commencement, have not been dealt with by the Court; and
- (c) past offenders who, at commencement, are still subject to the disposal made by the Court.

Part 2 of Annex B defines more precisely the persons falling within these categories.

4. The duration of the notification requirements as prescribed in section 1(4) as read with section 1(5), (6) and (8) will depend on the length of sentence or disposal, as set out below:-

SENTENCE	NOTIFICATION PERIOD
Life imprisonment	Indefinite
Admitted to a hospital subject to a restriction order	Indefinite
30 months or more imprisonment	Indefinite
Imprisonment for less than 30 months but more than 6 months	10 years
6 months or less imprisonment	7 years
Admitted to a hospital not subject to a restriction order	7 years
Non-custodial sentence (including guardianship under the Criminal Procedure (Scotland) Act 1995	5 years

These notification periods apply to offenders over the age of 18. Paragraph 10 sets out the provisions for offenders under the age of 18.

5. Notification periods start from the date of conviction or the date of finding, in cases of mentally disordered persons, that the person did the act charged. The police will be notified on conviction that an offender is subject to the notification requirement (separate guidance will be issued to the courts on this). This will allow for rapid updating of the police computer. When sentencing is adjourned or deferred, the police should still be notified on conviction, even though the exact registration period will not be known. The minimum 5 year period will be taken as applying until sentence is passed, when the police will be notified (by issue of a further form of notice/certification by the court) of any increase in the period.

6. There will be instances where a person will be required to notify the police where he is resident in Scotland, having committed a relevant offence in England, Wales or Northern Ireland or under service law (as specified in paragraphs 1, 3 or 4 of Schedule 1 of the Act

(Annex A refers). Paragraphs 1(2) and (3) provide an explanation of exceptions/qualifications relating to these offences). The procedure in respect of the notification requirements under these circumstances should be the same as if the offence had been committed in Scotland.

7. Section 1(6) of the Act explains the method of calculating the registration period in respect of consecutive or concurrent sentences. In the case of consecutive terms for two or more qualifying offences, the term shall be the aggregate of those terms. In the case of concurrent qualifying terms it shall be the aggregate of these terms less any deduction necessary to ensure that no period is counted more than once.

8. Section 2 sets out the details which the offenders must notify to the police. These are his name, any other names used, and his home address. Should these details change (for example, by moving address or assuming an alias), the offender must notify the police of the new details. Section 2(7) defines what is meant by "home address". He must also, in order to assist in identification, provide his date of birth, and his name and address at the time of his conviction. He must notify the police in his home area of any premises where he stays for a period of 14 days or more, or two or more periods, in any period of twelve months which, taken together, amount to 14 days or more. Not included for the purposes of determining this period are times when the offender is: remanded in or committed to custody by an order of court; serving a sentence of imprisonment or a form of service detention; detained in hospital; or outside the United Kingdom. Notification can either be made in person or in writing to a police station in the local police area in which his home address is situated. All notifications must be acknowledged in writing by the police.

9. Section 3 makes failure to notify (or false notification) an offence punishable on summary conviction by a fine not exceeding Level 5 on the standard scale and/or imprisonment for up to six months.

10. Section 4 contains provisions for young offenders. For those under 18 when convicted, the notification periods of 10, 7 and 5 years are halved. So, for example, an offender under 18 who is sentenced to 6 months detention in a young offender institution would be subject to the notification requirements for 3½ years. Offenders under 18 years of age cannot be imprisoned for failure to notify the police. Section 4(3) of the Act states that, for offenders under 18, the court may impose the requirement to notify the police under the Act on the person having parental responsibilities for him or her.

11. Section 5(2) makes provision for the issue by a court of a certificate where a person is convicted of a Schedule 1 offence or is found not guilty by reason of insanity or unfit to plead to such an offence but to have done the act as charged against him. The certificate will be evidence that an offender was convicted etc. of a relevant offence on that date. A certificate and notice of requirement to notify the police will be issued by the courts to offenders. Section 5(3) to (5) does not apply to Scotland.

12. Section 6 Section 6 defines the terms used in Part I of the Act. It should be noted that the definition of conviction also covers an offender who, although found guilty in summary

proceedings of having committed a specified offence, has received an absolute discharge under section 246(3) of the Criminal Procedure (Scotland) Act 1995, and where the court has determined that the offender has committed the act or omission with which he has been charged, but he is subject to a hospital or guardianship Order.

### Further Information

13. Specific information and guidance will be issued in due course to the agencies affected as follows:

CIRCULAR	SUBJECT	CONTACT
Home Department/Police	Implication of the Act for the police. Advice on the management of the information collected under the Act.	Liz Lewis (0131-244 2142)
Home Department/Social Work Services Inspection Team	Implications for the Probation Service.	Stella Perrott (0131-244 3775)
Scottish Prisons Service	Implications for the Prison Service.	Sue Brookes (0131-244 8770)
Scottish Courts Service	Procedures for giving notice to offenders of notification requirement, and intimating offences on the SCRO computer.	Eric Cumming (0131-221 6822)
Social Services Department	Implication for local authority Social Services Departments.	Jackie McRae (0131-244 5495)
Department of Health	Implications for hospital managers.	Fiona Tyrrell (0131-244 2543)

## PART II

14. Section 7 makes specific provision for England and Wales and Northern Ireland, on which a separate circular will be issued by the Home Office.

15. Section 8 inserts a new section 16B in the Criminal Law (Consolidation) (Scotland) Act 1995. The effect of this is to provide that a person who does an act which is an offence under the law in force in a country or territory outside the United Kingdom (however that act is described in that law) and which is also a listed sexual offence as defined in subsections 8(7) and (8) of section 16B shall constitute that sexual offence under the law of

Scotland. These provisions only apply to persons who are on the date of commencement, or have subsequently become, British citizens or resident in the United Kingdom.

16. In any prosecution under the Act, it will be deemed that the "dual criminality" test (that is to say, the fact that the act is an offence both in the United Kingdom and in the country where it occurs) is satisfied unless the accused serves on the prosecutor a notice showing grounds for his opinion that it is not, in which case it will be for the prosecutor to prove that it is satisfied. The court has discretion to permit the defence to require the prosecutor to prove that the condition is satisfied without the prior service of a notice. In proceedings on indictment, it will be for the judge to decide whether the dual criminality test is satisfied.

### PART III

17. Section 9 provides for the extension of Part I of the Act to the Channel Islands.

18. Section 10 provides that nothing in sections 7 or 8 applies to any act done before the coming into force of that section.

*Yours sincerely,*

*Duncan Macniven.*

DUNCAN MACNIVEN

## SCHEDULES

Section 1(9).

## SCHEDULE 1

## SEXUAL OFFENCES TO WHICH PART I APPLIES

*Offences in England and Wales*

1.—(1) This Part of this Act applies to the following sexual offences under the law of England and Wales, namely—

- 1956 c.69. (a) offences under the following provisions of the Sexual Offences Act 1956—
- e (i) section 1 (rape);
  - (ii) section 5 (intercourse with a girl under 13);
  - (iii) section 6 (intercourse with a girl between 13 and 16);
  - (iv) section 10 (incest by a man);
  - (v) section 12 (buggery);
  - (vi) section 13 (indecenty between men);
  - (vii) section 14 (indecent assault on a woman);
  - (viii) section 15 (indecent assault on a man);
  - (ix) section 16 (assault with intent to commit buggery);
  - (x) section 28 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under 16);
- 1960 c.33 (b) an offence under section 1(1) of the Indecency with Children Act 1960 (indecent conduct towards young child);
- 1977 c.45 (c) an offence under section 54 of the Criminal Law Act 1977 (inciting girl under 16 to have incestuous sexual intercourse);
- 1978 c.37 (d) an offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children);
- 1979 c.2. (e) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions); and
- 1876 c.36. (f) an offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photographs of children).
- 1988 c.33. (2) In sub-paragraph (1) above—
- (a) paragraph (a)(iii), (v) and (vi) does not apply where the offender was under 20;
  - (b) subject to sub-paragraph (3) below, paragraph (a)(iv) to (ix) does not apply where the victim of or, as the case may be, the other party to the offence was 18 or over; and
  - (c) paragraph (e) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16.
- (3) Sub-paragraph (2)(b) above does not prevent the application of sub-paragraph (1)(a)(vii) or (viii) above in any case where, in respect of the offence or finding, the offender—
- (a) is or has been sentenced to imprisonment for a term of 30 months or more; or
  - (b) is or has been admitted to a hospital subject to a restriction order.
- (4) For the purposes of sub-paragraph (2)(c) above—
- 1978 c. 37. (a) section 7 of the Protection of Children Act 1978 (interpretation) shall apply as it applies for the purposes of that Act; and

- (b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

*Offences in Scotland*

2.—(1) This Part of this Act applies to the following sexual offences under the law of Scotland, namely—

- (a) the following offences—
- (i) rape;
  - (ii) clandestine injury to women;
  - (iii) abduction of a woman or girl with intent to rape;
  - (iv) assault with intent to rape or ravish;
  - (v) indecent assault;
  - (vi) lewd, indecent or libidinous behaviour or practices;
  - (vii) shameless indecency; and
  - (viii) sodomy;
- (b) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions); 1978 c.2. 1876 c.36.
- (c) offences under—
- (i) section 52 of the Civic Government (Scotland) Act 1982 (taking and distribution of indecent images of children); and 1982 c.45.
  - (ii) section 52A of that Act (possession of indecent images of children);
- (d) offences under the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995— 1995 c.39.
- (i) section 1 (incest);
  - (ii) section 2 (intercourse with a step-child);
  - (iii) section 3 (intercourse with child under 16 by person in position of trust);
  - (iv) section 5 (unlawful intercourse with girl under 16);
  - (v) section 6 (indecent behaviour towards girl between 12 and 16);
  - (vi) section 8 (abduction of girl under 18 for purposes of unlawful intercourse);
  - (vii) section 10 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16); and
  - (viii) subsection (5) of section 13 (homosexual offences).
- (2) In sub-paragraph (1) above—
- (a) subject to sub-paragraph (3) below, paragraphs (a)(iii) to (v) and (vii) and (d)(i) and (ii) do not apply where every person involved in the offence other than the offender was 18 or over;
  - (b) paragraphs (a)(viii) and (d)(viii) above do not apply where every person involved in the offence, other than the offender, was 18 or over and was a willing participant;
  - (c) paragraph (b) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16;
  - (d) paragraph (a)(viii) does not apply where the offender was under 20 and every other person involved in the offence was a willing participant;

## SCH. 1

- (e) paragraph (d)(iv) does not apply in the case of an offence in contravention of subsection (3) of section 5 (unlawful sexual intercourse with a girl over 13 but under 16) where the offender was under 20; and
- (f) paragraph (d)(viii) does not apply where the offender was under 20 and—
- (i) where the offence involved an act of sodomy contrary to subsection (5) of section 13, every other person involved in the offence was a willing participant; or
  - (ii) the offence involved an act of gross indecency or shameless indecency contrary to the said subsection (5).
- (3) Sub-paragraph (2)(a) above does not prevent the application of sub-paragraph (1)(a)(iii) to (v) above in any case where, in respect of the offence or finding, the offender—
- (a) is or has been sentenced to imprisonment for a term of 30 months or more; or
  - (b) is or has been admitted to a hospital subject to a restriction order.
- (4) For the purposes of sub-paragraph (2)(c) above—
- 1982 c.45. (a) subsections (2) to (2C) and (8) of section 52 of the Civic Government (Scotland) Act 1982 shall apply as they apply for the purposes of that section; and
- (b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.
- Offences in Northern Ireland*
- 3.—(1) This Part of this Act applies to the following sexual offences under the law of Northern Ireland, namely—
- (a) an offence of rape;
  - (b) offences under—
- 1861 c.100. (i) section 52 of the Offences against the Person Act 1861 (indecent assault upon a female person);
- (ii) section 61 of that Act (buggery); and
- (iii) section 62 of that Act (assault with intent to commit buggery or indecent assault upon a male person);
- (c) offences under—
- 1885 c.69. (i) section 4 of the Criminal Law Amendment Act 1885 of unlawful carnal knowledge of a girl under 14; and
- (ii) section 5 of that Act of unlawful carnal knowledge of a girl under 17;
- (d) an offence under section 11 of that Act (committing, or being party to the commission of, or procuring or attempting to procure the commission of, any act of gross indecency with another male);
- 1908 c.45. (e) an offence under section 1 of the Punishment of Incest Act 1908 (incest by males);
- (f) offences under—
- 1968 c.34 (N.I.). (i) section 21 of the Children and Young Persons Act (Northern Ireland) 1968 (causing or encouraging seduction or prostitution of a girl under 17); and
- (ii) section 22 of that Act (indecent conduct towards a child);
- S.I. 1978/1047 (N.I.17). (g) an offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children);

- SCH. 1
- (h) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions); 1979 c.2. 1876 c.36.
- (i) an offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (inciting girl under 16 to have incestuous sexual intercourse); and S.I. 1980/704 (N.I.6).
- (j) an offence under Article 15 of the Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children). S.I. 1988/1847 (N.I.17).
- (2) In sub-paragraph (1) above—
- (a) paragraphs (b)(ii), (c)(ii) and (d) do not apply where the offender was under 20;
- (b) subject to sub-paragraph (3) below, paragraphs (b), (d) and (e) do not apply where the victim of or, as the case may be, the other party to the offence was 18 or over; and
- (c) paragraph (h) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16.
- (3) Sub-paragraph (2)(b) above does not prevent the application of sub-paragraph (1)(b)(i), or sub-paragraph (b)(iii) above so far as relating to indecent assault on a male person, in any case where, in respect of the offence or finding, the offender—
- (a) is or has been sentenced to imprisonment for a term of 30 months or more; or
- (b) is or has been admitted to a hospital subject to a restriction order.
- (4) For the purposes of sub-paragraph (2)(c) above—
- (a) Article 2(2) and (3)(b) of the Protection of Children (Northern Ireland) Order 1978 (interpretation) shall apply as it applies for the purposes of that Act; and N.I. 1978/1047 (N.I.17).
- (b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

*Offences under service law*

4. This Part of this Act applies to an offence under—
- (a) section 70 of the Army Act 1955;
- (b) section 70 of the Air Force Act 1955; or
- (c) section 42 of the Naval Discipline Act 1957,
- of which the corresponding civil offence (within the meaning of that Act) is a sexual offence to which this Part of this Act applies by virtue of paragraph 1 above.

*General*

- 5.—(1) Any reference in paragraph 1(1), 2(1), 3(1) or 4 above to an offence includes—
- (a) a reference to any attempt, conspiracy or incitement to commit that offence; and



## APPLICATION OF PART I OF THE SEX OFFENDERS ACT 1997

## (1) SEXUAL OFFENCES IN SCOTLAND TO WHICH PART I APPLIES OR APPLIES SUBJECT TO EXCEPTIONS BY VIRTUE OF PARAGRAPH 2(1) OF SCHEDULE 1

<i>Offence</i>	<i>Application and exceptions</i>
2(1)(a)(i): Rape	All offenders regardless of their age have to notify - there are no exceptions
2(1)(a)(ii): Clandestine injury to women	All offenders regardless of their age have to notify - there are no exceptions
2(1)(a)(iii): Abduction of a woman or girl with intent to rape	All offenders regardless of their age have to notify <u>except</u> where - <p>(a) every person involved in the offence other than the offender was 18 or over; <u>and</u></p> <p>(b) the offender was <u>not</u> given a custodial sentence of 30 months or over or was <u>not</u> admitted to hospital subject to a restriction order.</p>
2(1)(a)(iv): Assault with intent to rape or ravish	All offenders regardless of their age have to notify <u>except</u> where - <p>(a) every person involved in the offence other than the offender was 18 or over; <u>and</u></p> <p>(b) the offender was <u>not</u> given a custodial sentence of 30 months or over or was <u>not</u> admitted to hospital subject to a restriction order.</p>
2(1)(a)(v): Indecent assault	All offenders regardless of their age have to notify <u>except</u> where - <p>(a) every person involved in the offence other than the offender was 18 or over; <u>and</u></p> <p>(b) the offender was <u>not</u> given a custodial sentence of 30 months or over or was <u>not</u> admitted to hospital subject to a restriction order.</p>
2(1)(a)(vi): Lewd, indecent or libidinous behaviour or practices	All offenders regardless of their age have to notify - there are no exceptions.
2(1)(a)(vii): Shameless indecency	All offenders regardless of their age have to

	notify <u>except</u> where every person involved in the offence other than the offender was 18 or over.
2(1)(a)(viii): Sodomy (common law)	<p>1. All offenders <u>under 20</u> have to notify <u>except</u> where every person involved in the offence (regardless of their age) was a willing participant.</p> <p>2. All offenders <u>aged 20 or over</u> have to notify <u>except</u> where every other person involved in the offence, other than the offender, was -</p> <p style="padding-left: 40px;">(a) aged 18 or over; <u>and</u></p> <p style="padding-left: 40px;">(b) a willing participant.</p>
2(1)(b): Section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) where the offence relates to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions)	All offenders regardless of their age have to notify <u>but</u> only where the goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 included indecent photographs of persons who were under the age of 16.
2(1)(c)(i): Section 52 of the Civic Government (Scotland) Act 1982 (taking and distribution of indecent images of children)	All offenders regardless of their age have to notify - there are no exceptions.
2(1)(c)(ii): Section 52A of the Civic Government (Scotland) Act 1982 (possession of indecent images of children)	All offenders regardless of their age have to notify - there are no exceptions.
2(1)(d)(i): Section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest)	All offenders regardless of their age have to notify <u>except</u> where every other person involved in the offence, other than the offender, was 18 or over.
2(1)(d)(ii): Section 2 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with a step child)	All offenders regardless of their age have to notify <u>except</u> where every other person involved in the offence, other than the offender, was 18 or over.
2(1)(d)(iii): Section 3 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with a child under 16 by person in position of trust)	All offenders regardless of their age (but this can only mean a person aged 16 or over) have to notify - there are no exceptions.
2(1)(d)(iv): Section 5 of the Criminal Law (Consolidation) (Scotland) Act 1995 (unlawful intercourse with a girl under 16):-	
(a) section 5(1)	All offenders regardless of their age have to

<p>(b) section 5(2)</p> <p>(c) section 5(3)</p>	<p>notify - there are no exceptions.</p> <p>All offenders regardless of their age have to notify - there are no exceptions</p> <p>Only offenders aged 20 or over have to notify</p>
<p>2(1)(d)(v): Section 6 of the Criminal Law (Consolidation) (Scotland) Act 1995 (indecent behaviour towards girl between 12 and 16)</p>	<p>All offenders regardless of their age have to notify - there are no exceptions.</p>
<p>2(1)(d)(vi): Section 8 of the Criminal Law (Consolidation) (Scotland) Act 1995 (abduction of girl under 18 for purposes of unlawful intercourse)</p>	<p>All offenders regardless of their age have to notify - there are no exceptions.</p>
<p>2(1)(d)(vii): Section 10 of the Criminal Law (Consolidation) (Scotland) Act 1995 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16)</p>	<p>All offenders regardless of their age have to notify - there are no exceptions.</p>
<p>2(1)(d)(viii): Section 13(5) of the Criminal Law (Consolidation) (Scotland) Act 1995 (homosexual offences)</p>	<p>1. All offenders <u>aged 20 or over</u> have to notify <u>except</u> where every person involved in the offence, other than the offender, was -</p> <p>(a) 18 or over; <u>and</u></p> <p>(b) a willing participant.</p> <p>2. All offenders <u>under 20</u> have to notify except where -</p> <p>(a) the homosexual act constituted an act of sodomy and the other person involved (regardless of their age) was a willing participant; <u>or</u></p> <p>(b) the homosexual act constituted an act of gross indecency or shameless indecency, whether or not every other person involved was a willing participant.</p>

NOTE : the reference to an "offender" means a person to whom the notification requirements apply as set out in part (2) of this annex.

**(2) APPLICATION OF NOTIFICATION REQUIREMENTS WHERE A SPECIFIED SEXUAL OFFENCE WAS COMMITTED IN SCOTLAND**

**Application to offenders convicted of a sexual offence under Scots law specified in paragraph 2(1) of Schedule 1 to the Act after the commencement of Part I of the Act or subject to a finding, after that commencement, that they did the act charged in respect of such an offence (section 1(1) of the Act)**

1. A person is subject to the notification requirements if, after the commencement of Part I, he or she-

- <sup>e</sup>(a) is convicted of a specified offence;
- (b) having been charged with a specified offence in summary proceedings, is not convicted but is, by virtue of section 58(3) of the Criminal Procedure (Scotland) Act 1995, subject to an Order for admission to hospital or placing under guardianship on the court finding that he did the act or omission charged;
- (c) is subject to a finding in summary proceedings that he or she committed the specified offence charged but is discharged absolutely under section 246(3) of the Criminal Procedure (Scotland) Act 1995;
- (d) is found not guilty of the specified offence by reason of insanity in terms of section 54(6) or 55(4) of the Criminal Procedure (Scotland) Act 1995; or
- (e) is found to be unfit to be tried for a specified offence and to have done the act charged against him in terms of sections 54(1) and 55(2) of the Criminal Procedure (Scotland) Act 1995.

**Application to offenders who, at the commencement of Part I have been convicted of a sexual offence under Scots law specified in paragraph 2(1) of Schedule 1 to the Act or subject to a finding of not guilty of such an offence by reason of insanity, to be under a disability and to have done the act charged (section 1(2) of the Act)**

2. A person is subject to the notification requirements if, at the commencement of Part I, he is a person as mentioned in any of sub-paragraphs (a) to (e) of paragraph 1 above but has not been dealt with in respect of the offence or finding at the commencement.

**Application to offenders who, at the commencement of Part I have been convicted of a sexual offence under Scots law specified in paragraph 2(1) of Schedule 1 to the Act, or found to be not guilty of such an offence by reason of insanity, or found to be unfit to be tried for such an offence and to have done the act charged and have been dealt with (section 1(3) of the Act)**

3. A person subject to the notification requirements if, at the commencement of Part I -

- (a) he or she is in respect of a specified offence -
  - (i) serving a sentence of imprisonment or a term of detention (or other period of custody specified in section 4(1) of the Act); or
  - (ii) subject to a community order being -
    - (aa) a probation order under section 228 of the Criminal Procedure (Scotland) Act 1995 (or its statutory predecessors section 183(1) or 384(1) of the Criminal Procedure (Scotland) Act 1975);
    - (bb) a community service order under section 238 of the Criminal Procedure (Scotland) Act 1995 (or its statutory predecessor section 1 of the Community Service by Offenders (Scotland) Act 1978 insofar as an order is still extant); or
    - (cc) a supervised attendance order under section 235 of the Criminal Procedure (Scotland) Act 1995;
- (b) he or she is subject to supervision, having been released from prison after serving the whole or part of a sentence of imprisonment (or other period of detention or custody as specified in section 4(1) of the Act) in respect of a specified offence; and in this context, "supervision" means supervision -
  - (i) in pursuance of an order made for the purpose; or
  - (ii) in the case of a person released from prison on licence, in pursuance of a condition contained in his licence;
- (c) he or she is, following conviction for a specified offence, -
  - (i) detained in a hospital under-
    - (aa) Part VI of the Criminal Procedure (Scotland) Act 1995; or
    - (bb) section 175(1) or 376(1) of the Criminal Procedure (Scotland) Act 1975; or
    - (cc) section 71 of the Mental Health (Scotland) Act 1984; or
    - (dd) section 69 of the Mental Health (Scotland) Act 1984; or
  - (ii) subject to a guardianship order under-
    - (aa) section 58 of the Criminal Procedure (Scotland) Act 1995; or

- (bb) section 175(1) or 376(1) of the Criminal Procedure (Scotland) Act 1975; or
- (d) he or she is a person who, having been found not guilty of a specified offence by reason of insanity, is detained in hospital under-
  - (i) section 174(3) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 174(2) of that Act; or
  - (ii) section 57(2) of the Criminal Procedure (Scotland) Act 1995 following a finding in terms of section 54(6) or 55(3) and (4) of that Act; or
  - (iii) section 69 of the Mental Health (Scotland) Act 1984; or
- (e) he or she is a person who, having been found to be insane so that his or her trial for a specified offence could not proceed or could not continue and also having been found to have done the act or made the omission charged, is detained in hospital under-
  - (i) section 57(2) of the Criminal Procedure (Scotland) Act 1995 following a finding in terms of sections 54(1) and 55(2) of that Act; or
  - (ii) section 69 of the Mental Health (Scotland) Act 1984; or
- (f) he or she is a person who, having been found to be insane so that his trial for a specified offence could not proceed or could not continue, is detained in hospital under-
  - (i) section 174(3) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 174(1) of that Act; or
  - (ii) section 376(2) of the Criminal Procedure (Scotland) Act 1975 following a finding in terms of section 375(2) of that Act.

4. In the cases mentioned in sub-paragraphs (a)(i), (c)(i), (d), (e) or (f) it is irrelevant whether the person was not actually in detention if, at commencement, he was not in detention by reason of being unlawfully at large or absent without leave, on temporary release or leave of absence, or on bail pending an appeal.

**SEX OFFENDERS REGISTRATION FORM - SEX OFFENDERS ACT 1997**

This form should be completed by a police officer or other authorised person at a police station when a sex offender who has been convicted of an offence provides information to fulfil their obligations under the Act. When completed, a copy of this form should be given to the offender as an acknowledgement of their notification, as required by the Act.

**Registration Details**

Force: _____	CRO/SCRO Number: _____
Name: _____ (on conviction or other finding in cases of insanity)	
Home Address: (including postcode) _____ (on conviction or other finding in cases of insanity)	
Date of Birth: _____	
Offence: _____	
Court: _____	
Date of Conviction or other finding in cases of insanity _____	

**New Name - *include aliases*- and Home Address or address of other premises in the UK (if different from above)**

New Name: _____	
New Home Address: (including postcode) _____ (Permanent/Temporary - delete) _____	
Address of other premises at which offender has stayed or resided for a qualifying period: _____ _____	
Date effective from: _____	

I hereby acknowledge notification under section 2 of the Act of the information set out above including any such changes in the offender's name, home address or premises in the UK at which the offender has resided or stayed for a qualifying period as are specified above.		
Signature of officer _____	Date _____	Station _____
OIC (if different from above) _____		

Has the offender registered within 14 days of requiring to do so?	YES/NO
Reported for offence?	YES/NO

*Instructions for completion are shown overleaf*

**Instructions for completion**

This form should be completed by a police officer or other authorised person at a police station when a sex offender who has been convicted of an offence, or found not guilty by reason of insanity or to be under a disability and to have committed the act with which he is charged, provides information to fulfil their obligations under the Act. When completed, a copy of this form should be given to the offender as an acknowledgement of their notification, as required by the Act.

A sex offender to whom the Act applies is required by law to:-

- (i) Notify the police within 14 days (or, if they are in custody, 14 days from their release) of their name, their date of birth and their home address at time of conviction or other relevant finding. In addition, they are required to notify the police of their current name, including any aliases they use, and their sole or main residence in the UK or, if they have no such residence, any premises in the UK which they regularly visit, if either are different from the name and address at the time of conviction or other relevant finding.
- (ii) Notify the police of any change of name or home address within 14 days of the date of any change.
- (iii) Notify the police of the address of any premises in the UK (the address of which has not been notified to the police under section 2 of the Act) where they resided or stayed for 14 days or longer. This means either 14 days at a time, or a total of 14 days or more in any 12 month period.

An offender can give this notification either by going to a police station in the police area in which their home address is situated and giving notice in person or by sending to any such police station a notice in writing.

*A person failing to comply with the requirements without reasonable excuse, or who provides false information, could be fined or sent to prison for up to six months or both.*

*References in this form to "conviction" include in Scotland cases where in summary proceedings the court made an order under section 58(3) of the Criminal Procedure (Scotland) Act 1995 (or its predecessor section 376(3) of the Criminal Procedure (Scotland) Act 1975) that the accused did the act charged or where the court found that the accused committed the offence but made an order under section 246(3) of the Criminal Procedure (Scotland) Act 1995 (or its predecessor section 383 of the Criminal Procedure (Scotland) Act 1975) discharging the accused absolutely.*