
NOTIFICATION OF SEXUAL OFFENCES ORDINANCE 2008

An Ordinance to provide for the notification of authorities in certain countries that persons have been convicted of certain sexual offences and for related matters.

R. H. LACEY
ADMINISTRATOR

10th October 2008.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

1. Short Title

This Ordinance may be cited as the Notification of Sexual Offences Ordinance 2008.

2. Interpretation

In this Ordinance—

“appropriate national authorities” means—

- (a) in the United Kingdom the Serious Organised Crime Agency and the Secretary of State for the Home Department; and
- (b) in any other country, the police or the government department responsible for the police in a country specified in an Order under section 3(8)(a)(ii);

“sexual offence” means the offences listed in the Schedule;

“transmission order” means the court order described in section 3(1).

3. Transmission of information to appropriate national authorities

- (1) Subject to subsection (2), if a person (the “offender”) is convicted of a sexual offence or is found not guilty of a sexual offence by reason of insanity the Chief Constable is to apply to the Court for a transmission order requiring any of the information specified in subsection (4) to be transmitted to the appropriate national authorities of a qualifying country with which the offender appears to have a connection.

- (2) Subsection (1) does not require the Chief Constable to apply for a transmission order to any qualifying country (other than the United Kingdom) if the public interest requires that a transmission order is not made.
- (3) An application for a transmission order is to be made as soon as it appears to the Chief Constable that the offender has a connection with a qualifying country.
- (4) The information referred to in subsection (1) is—
 - (a) the name of the offender;
 - (b) notification that the offender has been convicted or found not guilty by reason of insanity of a sexual offence in the Areas;
 - (c) details of the nature of that offence;
 - (d) details of the sentence imposed by the Court;
 - (e) details of the date on which the offender will be (or has been) released from custody; and
 - (f) any information that—
 - (i) the police have in their possession which would enable the appropriate national authorities to identify the likely whereabouts of the offender;
 - (ii) would assist in preventing the offender from committing offences or which would assist in detecting any offences committed by the offender; or
 - (iii) is specified in the application to the Court.
- (5) Subject to subsections (6) and (7) the Court is to make a transmission order unless it is satisfied that—
 - (a) the offender does not have a connection with the country specified in the application; or
 - (b) the making of such an order would result in unreasonable risk of harm to the offender.
- (6) The Court may order that information which is contained in an application made under sub-section (1) is transmitted subject to such conditions as it may direct so as to avoid an unreasonable risk of harm to the offender.
- (7) In relation to the United Kingdom—
 - (a) the Court may not refuse to make a transmission order on the ground specified in subsection (5)(b); or
 - (b) the Court may not impose conditions on a transmission order to the United Kingdom under subsection (6).
- (8) In this section—
 - (a) a “qualifying country” means—
 - (i) the United Kingdom; or
 - (ii) such other country as the Administrator may specify in an order published in the Gazette; and
 - (b) “Court” means the Court in which the offender was tried for the offences in question.
- (9) An order made under subsection (8)(a)(ii) may apply to an offender whether the offence in question was committed before or after the order was made.
- (10) The following additional provisions apply to transmission orders—
 - (a) the qualifying country must be specified in the transmission order;
 - (b) the detailed information referred to in subsection (4)(f) need not be specified in the transmission order but may be described in general terms;
 - (c) a transmission order may specify more than one qualifying country.

4. Disclosure of information

Nothing in this Ordinance entitles the offender to disclosure of material or information other than as prescribed in the Criminal Procedure (Disclosure) Ordinance 2007(a).

5. Savings

This Ordinance is in addition to, and not in derogation of, any other powers and duties conferred by any law or custom and, subject to any express provisions in this Ordinance, all such other powers and duties may be exercised and performed in the same manner as if this Ordinance had not been passed.

6. Commencement

This Ordinance comes into force on the day it is published in the Gazette.

SCHEDULE

(section 2)

List of Sexual Offences

The following offences under the Criminal Code**(b)**—

1. section 144 (rape);
2. section 146 (attempted rape);
3. section 147 (incest) if the victim was under 18;
4. section 147A (incest by a woman) if the victim was under 18;
5. section 148 (abduction);
6. section 151 (indecent assault on females) if—
 - (1) the victim was under 18; or
 - (2) the offender is or has been—
 - (a) sentenced to imprisonment for a term of at least 30 months; or
 - (b) ordered to be detained during the pleasure of the Administrator following a finding of not guilty by reason of insanity under section 70 of the Criminal Procedure Ordinance**(c)**;
7. section 152 (indecent assault on males) if—
 - (1) the victim was under 18; or
 - (2) the offender is or has been—
 - (a) sentenced to imprisonment for a term of at least 30 months; or
 - (b) ordered to be detained during the pleasure of the Administrator following a finding of not guilty by reason of insanity under section 70 of the Criminal Procedure Ordinance;
8. section 153 (defilement of girls under 13 years of age);
9. section 154 (defilement of girls between 13 and 17 years of age) if the offender—
 - (1) was 18 or over; or
 - (2) is or has been sentenced to a term of imprisonment of at least 12 months;
10. section 155 (defilement of idiots or imbeciles) if the offender in respect of that offence, is or has been—
 - (1) sentenced to a term of imprisonment; or
 - (2) ordered to be detained during the pleasure of the Administrator following a finding of not guilty by reason of insanity under section 70 of the Criminal Procedure Ordinance;
11. section 157 (procuration) if the victim is under 18;
12. section 159 (procuring defilement of a woman or a man by threats etc.);
13. section 160 (householder etc. permitting defilement of woman under 13 years on his premises) where the offender is sentenced to a term of imprisonment;

14. section 161 (householder etc. permitting defilement of woman under 16 years on his premises) where the offender is sentenced to a term of imprisonment;
15. section 162 (detention with intent or in brothel) where the offender is sentenced to a term of imprisonment;
16. section 171 (sexual intercourse between males);
17. section 172 (buggery with violence);
18. section 174 (sexual intercourse with male under 13 years);
19. section 175 (bestiality);
20. section 176 (indecenty)—
 - (1) if the offender was under 18 and is or has been sentenced to a imprisonment of at least 12 months;
 - (2) in any other case,
 - (a) the victim was under 18; or
 - (b) the offender is or has been—
 - (i) sentenced to imprisonment; or
 - (ii) ordered to be detained during the pleasure of the Administrator following a finding of not guilty by reason of insanity under section 70 of the Criminal Procedure Ordinance.

Notes

(a) Ordinance 16/07.

(b) Cap 154, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).

(c) Cap 155, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Notification of Sexual Offences Ordinance 2008. It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.

2. This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

Particular points

3. The Ordinance provides for the transmission of information relating to persons convicted of sexual offences in the Areas to appropriate national authorities outside the Areas. Appropriate national authorities are the police or the government department responsible for the police in a qualifying.

4. “Sexual offences” are those offences listed in the Schedule to the Ordinance.

5. The Chief Constable must apply for a court order (a “transmission order”) if an offender who has been convicted of an offence specified in the Schedule (or found not guilty by reason of insanity) and that offender appears to have a connection with a qualifying country. The Chief Constable does not have to apply for a transmission order if it is not in the public interest to do so.

6. A transmission order requires the Chief Constable to transmit information to the appropriate national authorities in a country with which the offender appears to have a connection. Such a transmission order can only be made where the information is to be transmitted to a “qualifying country”, namely, the United Kingdom or such other country as the Administrator may specify in an order.

