
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend to Scotland only. Under Part 2 of the Sexual Offences Act 2003 (“the 2003 Act”) a sex offender who is subject to the notification requirements of Part 2 of the 2003 Act (“a relevant offender”) is required to notify their personal details to the police. A list of all information that a relevant offender must provide is contained in section 83(5) of the 2003 Act. Section 84 of the 2003 Act requires a relevant offender to notify any changes in the information set out in subsection (2) of that provision to the police within 3 days of the change having taken place. Section 85 of the 2003 Act places an obligation on a relevant offender to notify the information specified in section 83(5) to the police once a year, unless that offender has notified a change in their details under section 84 of the 2003 Act within a year of their last notification.

The notification requirements of Part 2 of the 2003 Act were amended by section 78 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the 2006 Act”). Section 83 of the 2003 Act was amended to give the Scottish Ministers the power to prescribe in regulations subject to affirmative procedure what other information a relevant offender is required to notify to the police about themselves or their personal affairs. Section 84 of the 2003 Act was amended to allow the Scottish Ministers to prescribe in regulations events where a relevant offender must notify to the police any changes in the information notified in accordance with regulations made under section 83(5)(i).

Regulation 3(1) requires a relevant offender to notify the police whether that offender has an account with a bank, building society or any other institution providing banking services (which includes any joint bank accounts or any account relating to a self employed unincorporated business of that offender), whether the relevant offender holds a debit card in relation to such an account and whether that offender holds a credit card account (which includes any joint credit card accounts or any account relating to a self employed unincorporated business of that offender) and a credit card. If a relevant offender holds an account with a bank, building society or any other institution providing banking services, regulation 3(2) and (3) provide that that offender is required to notify the police of the name and address of the account provider, the number and sort code in relation to each account which is held and the name of any self employed unincorporated business accounts. Regulation 3(1) and (4) provide that if a relevant offender holds a debit card in relation to such an account, that offender will be required to notify the police of the card number (which is stated on the face of a debit card), the expiry and validation dates of each debit card which they hold, and the name of the business in whose name the card is held. Regulation 3(1), (5), (6) and (7) require a relevant offender to provide the name and address of the credit card provider, the number of each credit card account, the credit card number stated on the face of the credit card (where this is different to the credit card account number) and the expiry and validation dates of each credit card.

Regulation 4(1) and (5) provide that where a relevant offender (on someone on behalf of that offender) opens an account with a bank, building society or any other institution providing banking services specified in regulation 3(1) (which includes any joint bank accounts or any account relating to a self employed unincorporated business of that offender), or an offender obtains a debit card or credit card, which has not been previously notified to the police, that offender must notify the police that such an account has been opened or such a card has been obtained, together with the information in relation to that account, debit card or credit card which is required by regulation 3(2) to (7). Regulation 4(2) and (5) requires a relevant offender to notify the police if they cease to hold any account or a debit card or a credit card, as specified in regulation 3(1), which has been previously notified to the police. Regulation 4(3) and (4) requires a relevant offender to notify the police of

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any changes to the financial information which they have previously notified under regulation 3 or 4(1). In accordance with section 84(1) of the 2003 Act (as amended by section 78 of the 2006 Act) a relevant offender must notify any changes to their financial information to the police within 3 days of the date on which any such change took place.

In terms of section 91 of the 2003 Act (as amended by section 78 of the 2006 Act), where a relevant offender, without reasonable excuse, fails to give a notification in accordance with these Regulations or notifies to the police information which that offender knows to be false, that offender will be guilty of an offence and be liable in the case of conviction on indictment to imprisonment for up to 5 years, and in the case of summary conviction to imprisonment for up to six months, or a fine not exceeding the statutory maximum, or both.