

Draft Regulations laid before Parliament under section 147(5)(f) of the Criminal Justice and Immigration Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Notification Requirements) Regulations 2009

<i>Made</i>	- - - -	2009
<i>Coming into force</i>	- -	2009

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 110(5)(a), 111 and 147(2) of the Criminal Justice and Immigration Act 2008(1).

In accordance with section 147(5)(f) of that Act, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Notification Requirements) Regulations 2009.

(2) These Regulations shall come into force on the fourteenth day after the day on which they are made.

Interpretation

2. In these Regulations—

- (a) a reference to a section is a reference to a section of the Criminal Justice and Immigration Act 2008; and
- (b) “relevant offender” means an offender subject to notification requirements.

Determination of proposed point of arrival

3.—(1) For the purposes of section 111(2)(b) and these Regulations, the proposed point of arrival in a country is to be determined in accordance with this regulation.

(2) In a case in which a relevant offender proposes to arrive in a country by rail, sea or air, the proposed point of arrival is the first station, port or airport at which the offender proposes to disembark.

(3) In any other case, the proposed point of arrival is the first place at which the offender proposes to enter the country.

Notification to be given before leaving the United Kingdom

4. A relevant offender is required to give a notification under section 111(2) if the relevant offender intends to leave the United Kingdom for a period of three days or longer.

Additional information to be disclosed under section 111(2)

5.—(1) In addition to the information required by section 111(2)(a) and (b), a notification under section 111(2) must also disclose the information mentioned in paragraph (2), where this is held by the relevant offender.

(2) That information is—

- (a) where the offender proposes to travel to more than one country outside the United Kingdom, the offender's proposed point of arrival in each such additional country;
- (b) the identity of any carrier or carriers the offender proposes to use for the purposes of the offender's departure from and return to the United Kingdom, and of travelling to any other point of arrival in a country;
- (c) details of the offender's accommodation arrangements for the offender's first night outside the United Kingdom;
- (d) where the offender proposes to return to the United Kingdom on a particular date, that date; and
- (e) where the offender proposes to return to the United Kingdom at a particular point of arrival, that point of arrival.

Timing of a notification under section 111(2)

6.—(1) This regulation applies where a relevant offender is required to give a notification under section 111(2).

(2) Where a relevant offender knows the information required to be disclosed by section 111(2)(a) and (b) more than seven days before the proposed departure date, the offender must give a notification which sets out that information and as much of the information required by regulation 5 as the offender holds—

- (a) not less than seven days before that date (the “seven day notification requirement”); or
- (b) if the relevant offender has a reasonable excuse for not complying with the seven day notification requirement, as soon as reasonably practicable but in any event not less than 24 hours before that date.

(3) Where the relevant offender does not know the information required to be disclosed by section 111(2)(a) and (b) more than seven days before the proposed departure date, the offender must, as soon as reasonably practicable but in any event before the offender's proposed departure from the United Kingdom, give a notification which sets out that information and as much of the information required by regulation 5 as the offender holds.

(4) Paragraph (5) applies where a person—

- (a) becomes a relevant offender not more than 24 hours before the time of his intended departure from the United Kingdom, and

(b) already intended to leave the United Kingdom at that time prior to becoming a relevant offender.

(5) Where this paragraph applies, the relevant offender must give a notification which sets out the information required to be disclosed by section 111(2)(a) and (b) and as much of the information required by regulation 5 as the offender holds before the offender's proposed departure from the United Kingdom.

Change to information disclosed in a notification under section 111(2)

7.—(1) Where—

- (a) a relevant offender has given a notification under section 111(2); and
- (b) at any time prior to the offender's proposed departure from the United Kingdom, the information disclosed in that notification becomes inaccurate or, as a statement of all the information mentioned in regulation 5 which the offender currently holds, incomplete,

he must give a further notification under section 111(2).

(2) Subject to paragraph (3), such further notification must be given not less than 24 hours before the offender's proposed departure from the United Kingdom.

(3) Where the requirement to give a further notification under paragraph (1) arises less than 24 hours before the offender's proposed departure from the United Kingdom, such further notification must be given before the offender's proposed departure from the United Kingdom.

Notification to be given on return to the United Kingdom

8.—(1) This regulation applies to a relevant offender who—

- (a) is required to give a notification under section 111(2),
- (b) has left the United Kingdom, and
- (c) subsequently returns to the United Kingdom.

(2) Subject to paragraph (3), a relevant offender must give a notification under section 111(3) within three days of the offender's return to the United Kingdom.

(3) An offender need not give a notification under section 111(3) in any case in which the offender gave a notification under section 111(2) which—

- (a) disclosed a date under regulation 5(2)(d); and
- (b) disclosed a point of arrival under regulation 5(2)(e),

provided the offender's return to the United Kingdom was on that date and at that point of arrival.

Information to be disclosed in a notification under section 111(3)

9. A notification under section 111(3) must disclose the relevant offender's—

- (a) date of return to the United Kingdom; and
- (b) point of arrival in the United Kingdom.

Giving a notification

10.—(1) A relevant offender gives a notification under section 111(2) or (3) by—

- (a) attending at any police station in the offender's local police area (within the meaning of section 112(5)), subject to paragraph (2); and

- (b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (2) A relevant offender may give a notification under section 111(2) as required by regulation 6(3) or (5) or 7 by attending at any police station.
- (3) When giving a notification under section 111(2) or (3), a relevant offender must also disclose—
 - (a) the offender’s name, or if the offender used two or more names, each of those names,
 - (b) the offender’s home address,
 - (c) the offender’s date of birth.
- (4) A relevant offender giving a further notification under section 111(2) as required by regulation 7 must inform the person to whom the notification is given of the police station at which the offender first gave a notification in respect of the journey in question under section 111(2).

Frequency of notification under section 110

11. For the purposes of section 110(5)(a) (definition of applicable period in any case where section 110(6) applies), the prescribed period is one week.

Home Office

Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the notification requirements for a person who is subject to a violent offender order (or an interim violent offender order) under Part 7 of the Criminal Justice and Immigration Act 2008 (the “2008 Act”) who wishes to travel outside the United Kingdom.

Under regulation 4, where such a person intends to leave the United Kingdom for a period of three days or more, that person must give a notification under section 111(2) of the 2008 Act in accordance with the Regulations.

Under regulation 8, such a person is also required to give a notification on return to the United Kingdom, unless the person has already notified the required information.

Regulation 10 sets out the means by which notifications are to be given.

These Regulations also prescribe the “applicable period” for the purposes of section 110(5)(a) of the 2008 Act as one week (see regulation 11). This means that a person subject to a violent offender order (or an interim violent offender order) who has no sole or main residence in the United Kingdom must give a notification under section 110 of the 2008 Act (notification requirements: periodic notification) once a week.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.