

2012 No. 1876

CRIMINAL LAW, ENGLAND AND WALES

**The Sexual Offences Act 2003 (Notification Requirements)
(England and Wales) Regulations 2012**

Made - - - - *16th July 2012*

Coming into force in accordance with regulation 1(2)

The Secretary of State, in exercise of the powers conferred by sections 83(5) and (5A), 84(1) and (5A), 85(5), 86 and 138(4) of the Sexual Offences Act 2003(a), makes the following Regulations.

In accordance with section 138(2) of that Act, a draft of these Regulations was laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Sexual Offences Act 2003 (Notification Requirements) (England and Wales) Regulations 2012.

(2) These Regulations come into force 28 days after the day on which they are made.

(3) These Regulations extend to England and Wales only.

Interpretation

2. In these Regulations—

“the 2003 Act” means the Sexual Offences Act 2003;

“the 2004 Regulations” means the Sexual Offences Act 2003 (Travel Notification Requirements) Regulations 2004(b);

“banking institution” means a bank, building society or other institution which provides banking services;

“business” includes any trade, profession or vocation;

“child” means a person aged under 18 years;

(a) 2003 c.42. Section 83 was amended by section 142(1) of, and paragraph 54(1) of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c.4). Section 84 was amended by section 142(2) to (5) of the Criminal Justice and Immigration Act 2008. Section 85 was amended by section 142(6) to (9) of the Criminal Justice and Immigration Act 2008. Section 86 was amended by Part 4 of Schedule 28 to the Criminal Justice and Immigration Act 2008. Section 138(2) was amended by section 142(10) of the Criminal Justice and Immigration Act 2008. Section 138(4) was amended by paragraph 57 of Schedule 26 to the Criminal Justice and Immigration Act 2008 and paragraph 2 of Schedule 2 to the Policing and Crime Act 2009 (c. 26). Sections 83(5A), 84(5A), 86 and 138(4) were amended by article 12 of, and paragraph 77 of Schedule 14 to, the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), by virtue of which functions conferred on the Secretary of State in these sections in relation to Northern Ireland were transferred to the Department of Justice (Northern Ireland).

(b) S.I. 2004/1220.

“credit card” means a card which is a credit-token within the meaning of section 14(1)(b) of the Consumer Credit Act 1974(a);

“credit card provider” means a bank, building society or other institution which provides a credit card;

“debit card” means a card the use of which by its holder to make a payment results in a current account of the holder at a banking institution being debited with the payment;

“identity document” has the same meaning as in the Identity Documents Act 2010(b) but does not include a stamp or label; and

“relevant household” means a household or other place—

(a) where a child resides or stays, and

(b) to which the public do not have access (whether for payment or not).

Transitional provision: travel notification requirements

3. A relevant offender who intends to leave the United Kingdom for a period of less than three days is not required to give notification in accordance with regulation 5(1) of the 2004 Regulations if his intended date of departure is on or before the date 14 days after these Regulations come into force.

Amendment of the Sexual Offences Act 2003 (Travel Notification Requirements) Regulations 2004

4. The 2004 Regulations are amended in accordance with regulations 5 to 8 of these Regulations.

5. In regulation 5 of the 2004 Regulations—

(a) in paragraph (1) omit “for a period of three days or longer”;

(b) in paragraph (3) for “24 hours” substitute “12 hours”.

6. For regulation 6 of the 2004 Regulations substitute—

“Information to be disclosed in a notification under section 86(2)

6. In addition to the information required by section 86(2)(a) and (b), a relevant offender to whom these Regulations apply must disclose, where he holds such information—

(a) where he intends to travel to more than one country outside the United Kingdom, his intended point of arrival in each such additional country,

(b) the dates on which he intends to stay in any country to which he intends to travel,

(c) details of his accommodation arrangements in any country to which he intends to travel,

(d) the identity of any carrier or carriers he intends to use for the purposes of his departure from and return to the United Kingdom, and of travelling to any other point of arrival,

(e) in a case in which he intends to return to the United Kingdom on a particular date, that date, and

(f) in a case in which he intends to return to the United Kingdom at a particular point of arrival, that point of arrival.”.

7. In regulation 7 of the 2004 Regulations—

(a) in paragraph (2) for “24 hours” substitute “12 hours”;

(a) 1974 c.39.

(b) 2010 c.40.

(b) after paragraph (2) add—

“(3) The relevant offender may not give notification under paragraph (2) less than 24 hours before the date of his intended departure unless he has a reasonable excuse for being unable to give such notification before that time.”.

8. In regulation 8 of the 2004 Regulations—

- (a) in paragraph (3)(a) for “6(d)” substitute “6(e)”;
- (b) in paragraph (3)(b) for “6(e)” substitute “6(f)”.

Periodic notification of address where there is no sole or main residence

9. For the purposes of section 85(5)(a) of the 2003 Act, the applicable period means the period of seven days.

Notification to be given by relevant offender residing or staying at a relevant household

10.—(1) The information set out in paragraph (2) is prescribed for the purposes of section 83(5)(h) of the 2003 Act in a case where a relevant offender (R) resides, or stays for a period of at least 12 hours, at a relevant household.

(2) The information which R must notify is—

- (a) the date on which R begins to reside or stay at a relevant household,
- (b) the address of the relevant household, and
- (c) where R holds such information, the period or periods for which R intends to reside or stay at the relevant household.

11.—(1) The changes in circumstances set out in paragraph (2) are prescribed for the purposes of section 84(1)(ca) of the 2003 Act.

(2) The changes of circumstance are where the relevant offender (R)—

- (a) resides, or stays for a period of at least 12 hours, at a relevant household in relation to which there has been no notification under section 83(1);
- (b) ceases to reside or stay at a relevant household in relation to which there has been a notification under section 83(1).

(3) A notification given under section 84(1) of the 2003 Act must disclose the date from which R resides or stays, or the date on which R ceases to reside or stay, at a relevant household.

Notification of information about bank accounts and credit cards

12.—(1) The information set out in paragraphs (2) to (7) is prescribed for the purposes of section 83(5)(h) of the 2003 Act in a case where a relevant offender (R) holds—

- (a) an account with a banking institution in R’s name, or in R’s name and the name of another person, and in relation to each such account, the information specified in paragraph (2);
- (b) an account with a banking institution in the name of an unincorporated business which is run by R, or run by R and another person, and in relation to each such account, the information specified in paragraph (3);
- (c) a debit card in relation to any account of which notification is given in accordance with sub-paragraph (a) or (b), and in relation to each such debit card, the information specified in paragraph (4);
- (d) an account with a credit card provider in R’s name, or in R’s name and the name of another person, and in relation to each such account, the information specified in paragraph (5);

- (e) an account with a credit card provider in the name of an unincorporated business which is run by R, or run by R and another person, and in relation to each such account, the information specified in paragraph (6); or
 - (f) a credit card in relation to any account of which notification is given in accordance with sub-paragraph (d) or (e), and in relation to each such credit card, the information specified in paragraph (7).
- (2) The information specified for the purposes of paragraph (1)(a) is—
- (a) the name of each banking institution with which R holds an account;
 - (b) the address of the office at which each account is held and, if that office is outside the United Kingdom, the address of the principal office in the United Kingdom (if any) of the banking institution;
 - (c) the number of each account; and
 - (d) the sort code in relation to each account.
- (3) The information specified for the purposes of paragraph (1)(b) is—
- (a) the information specified in paragraph (2); and
 - (b) the name of the business in whose name the account is held.
- (4) The information specified for the purposes of paragraph (1)(c) is—
- (a) the card number in relation to each debit card;
 - (b) the validation date of each debit card;
 - (c) the expiry date of each debit card; and
 - (d) the name of the business (if any) in whose name the card is held.
- (5) The information specified for the purposes of paragraph (1)(d) is—
- (a) the name of each credit card provider with which R holds an account;
 - (b) the address of the office at which each account is held and, if that office is outside the United Kingdom, the address of the principal office in the United Kingdom (if any) of the credit card provider; and
 - (c) the number of each account.
- (6) The information specified for the purposes of paragraph (1)(e) is—
- (a) the information specified in paragraph (5); and
 - (b) the name of the business in whose name the card is held.
- (7) The information specified for the purposes of paragraph (1)(f) is—
- (a) the card number in relation to each credit card;
 - (b) the validation date of each credit card;
 - (c) the expiry date of each credit card; and
 - (d) the name of the business (if any) in whose name the card is held.

13.—(1) The changes in circumstances set out in paragraph (2) are prescribed for the purposes of section 84(1)(ca) of the 2003 Act.

- (2) The changes of circumstance are where—
- (a) an account which a relevant offender (R) holds with a banking institution, as specified in regulation 12(1)(a) or (b), has been—
 - (i) opened, or
 - (ii) closed;
 - (b) a debit card R holds in relation to any account specified in regulation 12(1)(a) or (b)—
 - (i) has been obtained by R, or
 - (ii) is no longer held by R;

- (c) an account R holds with a credit card provider, as specified in regulation 12(1)(d) or (e), has been—
 - (i) opened, or
 - (ii) closed;
- (d) a credit card R holds in relation to any account specified in regulation 12(1)(d) or (e)—
 - (i) has been obtained by R, or
 - (ii) is no longer held by R;
- (e) any information previously notified by R under regulation 12(1) has—
 - (i) altered, or
 - (ii) become inaccurate or incomplete.

(3) A notification given under section 84(1) of the 2003 Act must include the information specified in regulation 12(2) to (7) in relation to that account, or debit or credit card.

Notification of information about passport or other form of identification

14.—(1) The information set out in paragraph (2) is prescribed for the purposes of section 83(5)(h) of the 2003 Act in a case where a relevant offender (R) holds any passport, other identity document or (in a case where R does not hold any passport or other identity document) any other document in which R's full name appears.

(2) The information which R must notify is—

- (a) where R holds any passport, and in relation to each passport R holds—
 - (i) the passport number, and
 - (ii) R's full name as it appears in the passport;
- (b) where R does not hold a passport, in relation to any other identity document R holds—
 - (i) the description of the identity document,
 - (ii) the issue number (if any) of the identity document, and
 - (iii) R's full name as it appears in the identity document;
- (c) where R does not hold a passport or other identity document, in relation to another document R holds—
 - (i) the description of the document (including the name of any issuing authority),
 - (ii) the issue number (if any) of the document; and
 - (iii) R's full name as it appears in the document.

15.—(1) The changes in circumstances set out in paragraph (2) are prescribed for the purposes of section 84(1)(ca) of the 2003 Act.

(2) The changes of circumstance are where the relevant offender—

- (a) obtains a passport, other identity document or other document in relation to which there has been no notification under section 83(1); and
- (b) ceases to hold a passport, other identity document or other document in relation to which there has been a notification under section 83(1).

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Sexual Offences Act 2003 (Travel Notification Requirements) Regulations 2004 (SI 2004/1220) (“the 2004 Regulations”) and introduce new notification requirements under the Sexual Offences Act 2003 (“the 2003 Act”).

Part 2 of the 2003 Act imposes notification requirements on offenders convicted of certain sex offences. These offenders are called “relevant offenders”. The 2003 Act requires relevant offenders to notify certain personal information to the police, both at the outset and periodically thereafter (and to notify certain changes of circumstances).

These Regulations amend the 2004 Regulations and impose new notification requirements on relevant offenders.

Regulations 3 to 8 make provision about the application of, or amend, the 2004 Regulations. Regulation 3 contains transitional provision for the 14 day period immediately following the coming into force of these Regulations. Regulation 5 provides that relevant offenders who are required to notify their personal details to the police under Part 2 of the 2003 Act (including those subject to a foreign travel order) must notify the police of any intended travel outside the United Kingdom (regardless of the length of the trip). Previously, the 2004 Regulations only required relevant offenders to notify the police of intended travel outside the United Kingdom for three or more days. Regulation 5 also provides that relevant offenders are required to notify their intended travel not less than seven days before departure, or exceptionally not less than 12 hours before departure. Previously, the 2004 Regulations only permitted relevant offenders to exceptionally notify the intended travel not less than 24 hours before departure. Regulation 6 provides that relevant offenders must notify additional information about their intended travel. Regulations 7 and 8 make consequential amendments to the 2004 Regulations, including provision for relevant offenders to exceptionally notify a change to information previously notified by them less than 12 hours before departure.

Regulation 9 requires relevant offenders who have no sole or main residence to notify every seven days the address or location of a place in the United Kingdom where they can regularly be found. Previously, Part 2 of the 2003 Act required such a relevant offender to give notification once every year.

Regulations 10 and 11 require relevant offenders to notify the police when the relevant offender resides, or stays for at least 12 hours, at a relevant household. A relevant household is a household or other place at which a child (defined as a person aged under 18 years) resides or stays (whether with its parent, guardian or carer, with another child or alone) and to which the public do not have access. The information must include the date on which the relevant offender begins to reside or stay at the relevant household, its address and the period for which the relevant offender intends to reside or stay at that place.

Regulations 12 and 13 impose requirements on relevant offenders to notify information about their bank accounts, and debit and credit cards. It applies to accounts and cards held by relevant offenders in their own names or in the name of an unincorporated business run by them, and whether held singly or jointly with another person.

Regulation 12(1) requires relevant offenders to notify the police about whether they hold an account with a banking institution (defined as a bank, building society or any other institution providing banking services), a debit card in relation to such an account, a credit card account or a credit card. If relevant offenders hold an account or card, they are required to notify the information specified in regulation 12(2) to (7).

Regulation 13 requires relevant offenders to notify a change in any of the circumstances prescribed by that regulation. These circumstances arise where an account is opened or closed, a debit or credit card is obtained, no longer held or has expired and information previously notified by the relevant offenders has altered or become inaccurate or incomplete.

Regulations 14 and 15 require relevant offenders, when giving initial notification under sections 83 to 85 of the 2003 Act, to give certain information in accordance with whether or not they hold a passport, other identity document (which has the meaning given in the Identity Documents Act 2010) or other document. If the relevant offender holds a passport, the information must comprise the passport number and relevant offender's full name as it appears in the passport. If the relevant offender does not hold a passport but holds another identity document, the information must comprise the description of the identity document, its issue number (if any) and the relevant offender's full name as it appears in the identity document. If the relevant offender does not hold a passport or other identity document, but holds another document containing information which can verify the relevant offender's identification, the information must comprise the description of the document, its issue number (if any) and the relevant offender's full name as it appears in the document.

A full regulatory impact assessment on the effect of this instrument is annexed to the Explanatory Memorandum which is available alongside this instrument on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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