

2001 No. 188

CRIMINAL LAW

**The Sex Offenders (Notice Requirements) (Foreign Travel)
(Scotland) Regulations 2001**

Made

18th May 2001

Coming into force

1st June 2001

The Scottish Ministers, in exercise of the powers conferred by sections 2(6D) to (6F) and 10(6) of the Sex Offenders Act 1997(a), and of all other powers enabling them in that behalf, hereby make the following Regulations a draft of which has, in accordance with section 2(6G) of that Act, been laid before, and approved by resolution of, the Scottish Parliament:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Sex Offenders (Notice Requirements) (Foreign Travel) (Scotland) Regulations 2001 and shall come into force on 1st June 2001.

(2) These Regulations extend to Scotland and, in so far as regulation 9 extends beyond Scotland, it does so only as a matter of Scots law.

Interpretation

2. In these Regulations, “the Act” means the Sex Offenders Act 1997.

Determination of point of arrival

3.—(1) For the purposes of section 2(6E)(a) of the Act and of these Regulations, a person’s point of arrival in a country is to be determined in accordance with this regulation.

(2) In a case in which a person will arrive in a country by rail, sea or air, the person’s point of arrival is the station, port or airport at which the person will first disembark.

(3) In a case in which a person will arrive in a country by any means other than those mentioned in paragraph (2) above, the person’s point of arrival is the place at which the person will first enter the country.

Notice to be given before leaving the United Kingdom

4.—(1) This regulation applies to persons who—

- (a) are subject to the notification requirements of Part I of the Act; and
- (b) intend to leave the United Kingdom for a period of eight days or longer.

(2) Every person to whom this regulation applies must give a notice under section 2(6E) of the Act at least 24 hours prior to the person’s intended departure from the United Kingdom.

(a) 1997 c.51. Section 2(6D) to (6F) was inserted by paragraph 4 of Schedule 5 to the Criminal Justice and Court Services Act 2000 (c.43) (“the 2000 Act”) and section 10(6) was inserted by paragraph 9 of Schedule 5 to the 2000 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) as read with section 81(6) of the 2000 Act which deemed section 66 of, and Schedule 5 to, the 2000 Act to be pre-commencement enactments within the meaning of the said 1998 Act.

Additional information to be disclosed in a notice under section 2(6E) of the Act

5. In addition to the information required to be disclosed under section 2(6E)(a) of the Act, a notice under section 2(6E) must disclose, where a person holds such information at least 48 hours prior to the person's intended departure from the United Kingdom—

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

Change to information disclosed in a notice under section 2(6E) of the Act

6.—(1) Where—

- (a) a person has given a notice under section 2(6E) of the Act; and
- (b) at any time earlier than 48 hours prior to the person's intended departure from the United Kingdom, the information disclosed in that notice becomes inaccurate or incomplete as a statement of all the information mentioned in section 2(6E) of the Act and regulation 5 above which the person currently holds,

the person must give a fresh notice under section 2(6E) of the Act.

(2) A notice under paragraph (1) above must be given at least 24 hours prior to the person's intended departure from the United Kingdom.

Notice to be given on return to the United Kingdom

7.—(1) This regulation applies to persons who—

- (a) were required to give a notice under section 2(6E) of the Act;
- (b) have left the United Kingdom accordingly; and
- (c) have subsequently returned to the United Kingdom.

(2) Except as provided by paragraph (3) below, every person to whom this regulation applies must give a notice under section 2(6F) of the Act within eight days of the person's return to the United Kingdom.

(3) A person to whom this regulation applies need not give a notice under section 2(6F) of the Act in any case in which the person gave a relevant notice under section 2(6E) of the Act which—

- (a) disclosed a date under the provisions of sub-paragraph (d) of regulation 5 above; and
- (b) disclosed a point of arrival under the provisions of sub-paragraph (e) of regulation 5 above,

and in which the person's return to the United Kingdom was on that date and at that point of arrival.

Information to be disclosed in a notice under section 2(6F) of the Act

8. A notice under section 2(6F) of the Act must disclose the date of the person's return to the United Kingdom and the person's point of arrival in the United Kingdom.

Giving a notice

9.—(1) Subject to paragraph (2) below, for the purpose of giving a notice under section 2(6E) or 2(6F) of the Act, a person must attend at a police station—

- (a) which is in the person's local police area; and
- (b) at which, pursuant to the provisions of section 2(5) of the Act, notifications under section 2(1) of the Act may from time to time be made.

(2) For the purpose of giving a fresh notice under section 2(6E) of the Act as required by regulation 6 above, a person must attend at a police station at which, pursuant to the provisions of section 2(5) of the Act, notifications under section 2(1) of the Act may from time to time be made, but that police station need not be in the person's local police area.

(3) A notice under section 2(6E) or 2(6F) of the Act must be given to a police officer, or to a person authorised by the officer in charge of the station under section 2(5)(b)(a) of the Act for the purpose of receiving a notification under that section.

(4) A person giving a notice under section 2(6E) or 2(6F) of the Act must inform the person to whom he or she gives the notice of—

(a) his or her name; and

(b) his or her home address,

as currently notified under section 2 of the Act.

(5) A person giving a fresh notice under section 2(6E) of the Act as required by regulation 6 above must inform the person to whom he or she gives the notice of the police station at which he or she first gave a relevant notice under section 2(6E).

JAMES WALLACE

A member of the Scottish Executive

St Andrew's House,
Edinburgh
18th May 2001

(a) Section 2(5)(b) was substituted by Schedule 5 to the 2000 Act, paragraph 2(2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend to Scotland. The Sex Offenders Act 1997 specifies in Part I that certain sex offenders are subject to requirements to notify certain personal details to the police. The Criminal Justice and Court Services Act 2000 amended the Sex Offenders Act 1997 (“the Act”) to provide for such offenders to be subject to additional requirements to give notices where they propose to leave, and return to, the United Kingdom. These Regulations impose such requirements.

Regulation 4 requires a relevant sex offender to give a notice under section 2(6E) of the Act to the police at least 24 hours before he or she leaves the United Kingdom. The Act specifies that the notice must disclose the date of departure from the United Kingdom, the country to which the sex offender will travel (or, if there is more than one, the first country), and the point of arrival in that country. A person’s “point of arrival” in any country is to be determined in accordance with regulation 3.

Regulation 5 provides that the section 2(6E) notice must additionally disclose the following information in relation to the sex offender’s intended travels, where that information is held at least 48 hours prior to his or her intended departure: the intended point of arrival in each country that he or she intends to travel to; any carriers that he or she intends to travel from one country to another with; details of his or her accommodation arrangements for his or her first night outside the United Kingdom; the date of intended return to the United Kingdom; and the point of arrival on return to the United Kingdom.

Regulation 6 provides that where a section 2(6E) notice has already been given, but at any time up until 48 hours prior to the sex offender’s intended departure, the information disclosed in that notice becomes out of date, then a fresh notice under section 2(6E) must be given no later than 24 hours prior to his or her intended departure.

Regulations 7 and 8 require the sex offender to give a notice pursuant to section 2(6F) of the Act within eight days of his or her return to the United Kingdom, disclosing his or her date of return and point of arrival in the United Kingdom, unless that information has previously been notified.

Regulation 9 sets out the general rule that to give a notice the sex offender must attend in person at a police station in his or her local police area at which, pursuant to the provisions of section 2(5) of the Act, notifications under section 2(1) of the Act may from time to time be made. The exception to this rule is in the case of a fresh notice under section 2(6E) and regulation 6, which must be given at a police station at which, pursuant to the provisions of section 2(5) of the Act, notifications under section 2(1) of the Act may from time to time be made, but that need not be in the sex offender’s local police area. Provision is made in paragraphs 2 and 3 of Schedule 5 to the Criminal Justice and Court Services Act 2000 to amend section 2(5) of the Act. “Local police area” is defined in section 2(7) of the Act.

Regulation 9 also provides that a sex offender giving a notice under section 2(6E) or 2(6F) must inform the person to whom he or she gives the notice of his or her name and his or her home address, as they are currently notified under section 2(1) or (2) of the Act; and where he or she is giving a fresh notice under section 2(6E) and regulation 6, he or she must inform the person to whom he or she gives the notice of the police station at which he or she first gave a relevant notice under section 2(6E).

In terms of section 3(1B) of the Act (as inserted by paragraph 5 of Schedule 5 to the Criminal Justice and Court Services Act 2000), where a sex offender without reasonable excuse fails to give a notice in accordance with the Regulations or gives a notice which does not disclose the required information or which discloses information which he or she knows to be false, he or she will be guilty of an offence and be liable in the case of conviction on indictment, to imprisonment for up to five years, or a fine, or both and in the case of summary conviction, to imprisonment for up to six months, or a fine not exceeding the statutory maximum, or both.

£1.75

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