

Draft Regulations laid before the Scottish Parliament under section 138(2) of the Sexual Offences Act 2003, for approval by resolution of the Scottish Parliament. This draft supersedes the draft laid on 2nd February 2007.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

CRIMINAL LAW

**The Sexual Offences Act 2003 (Notification Requirements)
(Scotland) Regulations 2007**

Made - - - - - *2007*

Coming into force - - - *1st April 2007*

The Scottish Ministers, in exercise of the powers conferred by sections 83(5)(i) and 84(1)(g) of the Sexual Offences Act 2003(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 138(2)(b) 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 Sexual Offences Act 2003 (Notification Requirements) (Scotland) Regulations 2007 and shall come into force on 1st April 2007.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

- (a) the “2003 Act” means the Sexual Offences Act 2003;
- (b) “banking institution” means a bank, building society or other institution which provides banking services;
- (c) “business” includes any trade, profession or vocation;
- (d) “credit card” means a card which is a credit token within the meaning of section 14(1)(b) of the Consumer Credit Act 1974(c);
- (e) “credit card provider” means a bank, building society or other institution providing credit card services;
- (f) “debit card” means a card, operating as a substitute for a cheque, that can be used to obtain cash or to make a payment at a point of sale whereby the card holder’s account with a banking institution is debited with the payment;
- (g) “operated”, in the context of regulation 3, means operated on a self employed basis; and

(a) 2003 c.42. Section 83(5)(i) was inserted by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (“the 2006 Act”), section 78(2); section 84(1)(g) was inserted by the 2006 Act, section 78(5).
(b) 2003 c.42. Section 138(2) was amended by the 2006 Act, section 78(9).
(c) 1974 c.39.

- (h) “relevant offender” has the same meaning as section 80(2) of the 2003 Act.

Prescribed information to be notified under section 83(5)(i) of the 2003 Act

- 3.—(1) A relevant offender must notify to the police whether that offender holds—
- (a) an account with a banking institution in the name of that offender, or in the names of that offender and another person, and in relation to each such account, the information set out in paragraph (2);
 - (b) an account with a banking institution which is held in the name of an unincorporated business which is operated by that offender, or in the name of an unincorporated business which is operated by that offender and another person, and in relation to each such account, the information set out in paragraph (3);
 - (c) a debit card in connection with any account specified in sub-paragraph (a) or (b), and in relation to each debit card, the information set out in paragraph (4);
 - (d) an account with a credit card provider, in the name of that offender, or in the names of that offender and another person, and in relation to each such account, the information set out in paragraph (5);
 - (e) an account with a credit card provider which is held in the name of an unincorporated business which is operated by that offender, or in the name of an unincorporated business which is operated by that offender and another person, and in relation to each such account, the information set out in paragraph (6); and
 - (f) a credit card in connection with any account specified in sub-paragraph (d) or (e), and in relation to each credit card, the information set out in paragraph (7).
- (2) The information which must be notified to the police in relation to an account specified in paragraph (1)(a) is—
- (a) the name of each banking institution with whom the relevant offender has an account;
 - (b) the address of the office at which each account is maintained and if that office is outside the United Kingdom, the address of the principal office in the United Kingdom (if any) of the relevant banking institution;
 - (c) the number of each account; and
 - (d) the sort code in relation to each account.
- (3) The information which must be notified to the police in relation to an account specified in paragraph (1)(b) is—
- (a) that set out in paragraph (2); and
 - (b) the name of the business in whose name the account is held.
- (4) The information which must be notified to the police in relation to a debit card specified in paragraph (1)(c) is—
- (a) the card number stated on the face of each debit card (where this differs from the account number notified under paragraph (2)(c) or (3));
 - (b) the validation date of each debit card;
 - (c) the expiry date of each debit card; and
 - (d) the name of the business in whose name the card is held (if applicable).
- (5) The information which must be notified to the police in relation to an account specified in paragraph (1)(d) is—
- (a) the name of each credit card provider with whom the relevant offender holds an account;
 - (b) the address of the office at which each account is maintained and, if that office is outside the United Kingdom, the address of the principal office in the United Kingdom (if any), of the relevant credit card provider; and
 - (c) the number of each account.

(6) The information which must be notified to the police in relation to an account specified in paragraph (1)(e) is—

- (a) that set out in paragraph (5); and
- (b) the name of the business in whose name the account is held.

(7) The information which must be notified to the police in relation to a credit card specified in paragraph (1)(f) is—

- (a) the card number stated on the face of each credit card (where this differs from the credit card account number);
- (b) the validation date of each credit card;
- (c) the expiry date of each credit card.
- (d) the name of the business in whose name the card is held (if applicable).

Prescribed events and information to be notified under section 84(1)(g) of the 2003 Act

4.—(1) Where—

- (a) an account with a banking institution, as specified in regulation 3(1)(a) or (b) has been opened;
- (b) a debit card in connection with any account specified in regulation 3(1)(a) or (b) has been obtained;
- (c) an account with a credit card provider, as specified in regulation 3(1)(d) or (e) has been opened; or
- (d) a credit card in connection with any account specified in regulation 3(1)(d) or (e) has been obtained,

which has not previously been notified to the police in accordance with regulation 3, a relevant offender must notify to the police that such an account has been opened, or such a debit card or credit card has been obtained, together with the information specified in regulation 3(2) to (7) in relation to that account, debit card or credit card.

(2) Where—

- (a) an account with a banking institution, as specified in regulation 3(1)(a) or (b) has been closed;
- (b) a debit card in connection with any account specified in regulation 3(1)(a) or (b), is no longer held or that card has expired;
- (c) an account with a credit card provider, as specified in regulation 3(1)(d) or (e), has been closed; or
- (d) a credit card in connection with any account specified in regulation 3(1)(d) or (e), is no longer held or that card has expired,

which has previously been notified to the police in accordance with regulation 3, or regulation 4(1), a relevant offender must notify to the police that that account has been closed, or that debit card or credit card is no longer held or has expired.

(3) Where a relevant offender has previously notified to the police—

- (a) that an account, a debit card or a credit card, as specified in regulation 3(1) is held; and
- (b) the information in relation to that account, debit card or credit card as required by regulation 3(2) to (7),

where any of the information which has been notified to the police under regulation 3(2) to (7) in relation to such an account, debit card or credit card, changes, becomes inaccurate or incomplete as a statement of all the information that must be notified under regulation 3(2) to (7), that offender must notify to the police the information specified in paragraph (4).

- (4) The information which must be notified under paragraph (3) is–
- (a) any change to the information which has previously been notified under regulation 3(2) to (7) in relation to that account, debit card or credit card; and
 - (b) where information under regulation 3(2) to (7) has been notified in relation to more than one account, debit card or credit card as specified in regulation 3(1), the account, debit card or credit card to which that change relates.
- (5) For the purpose of this regulation, a reference to–
- (a) opening or closing an account, as specified in paragraph 1(a) or (c) or paragraph 2(a) or (c), shall be construed as the relevant offender, or a person on behalf of that offender, opening or closing such a account.
 - (b) obtaining a debit card or credit card, as specified in paragraph 1(b) or (d), shall be construed as the relevant offender, or a person on behalf of that offender, obtaining such a debit card or credit card.

St Andrew's House,
Edinburgh

2007

A member of the Scottish Executive

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 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.

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£3.00

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