These notes refer to the Violent Crime Reduction Act 2006 (c.38) which received Royal Assent on 8 November 2006

VIOLENT CRIME REDUCTION ACT 2006

EXPLANATORY NOTES

BACKGROUND

Part 3: Miscellaneous

59. In the light of the significant contribution that football banning orders are making to reducing levels of English and Welsh football disorder, particularly at regulated matches played outside England and Wales, the Act removes the current time limitation on key measures. The Act also puts in place some refinements to the administration of football banning orders and abolishes provisions for the setting up of a national membership scheme. The provisions have never been implemented and the principle of restricting access to football matches to individuals who are members of such a scheme is inconsistent with the strategic aim of encouraging football fans from all sections of society to attend matches. The Act also updates ticket touting provisions in connection with football to cover unauthorised internet ticket sales and other ticket touting practices designed to avoid prosecution under current provisions.

60. Section 145 of the Nationality, Immigration and Asylum Act 2002 introduced a new offence of traffic in prostitution. Section 146 of that Act applied sections 25C and 25D of the Immigration Act 1971 to an offence under section 145. Broadly, the application of sections 25C and 25D allowed the court to order the forfeiture of a ship, vehicle or aircraft used or intended to be used in connection with the offence subject to certain conditions, and allowed a constable or chief immigration officer to detain such a ship, vehicle, or aircraft, again subject to certain conditions.

61. The Sexual Offences Act 2003 repealed sections 145 and 146 of the 2002 Act and replaced those provisions with three new offences in the 2003 Act itself: trafficking into the UK for sexual exploitation (section 57), trafficking within the UK for sexual exploitation (section 58), and trafficking out of the UK for sexual exploitation (section 59).

62. In relation to those three new offences, section 25C and section 25D of the 1971 Act were not applied. It was believed at the time that it was enough to rely on police detention powers in the Police and Criminal Evidence Act 1984 and the general forfeiture provision in section 143 of the Powers of Criminal Courts (Sentencing) Act 2000. The Government's current view is that section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 does not meet the policy aim because section 143 does not help with detention prior to conviction, nor does it allow for the special conditions for forfeiture of a ship or aircraft.

63. The Government's policy is that the courts should have the power to order the forfeiture of ships, vehicles or aircrafts used or intended to be used in connection with offences under sections 57 to 59 of the 2003 Act, and the police should have the power to detain such vehicles, ships or aircrafts, in the same way as the courts and police have such powers under sections 25C and 25D of the 1971 Act.

64. In a recent court case in respect of a sexual offence, the judge took the view that since it was not clear whether the offence was committed before or after the Sexual Offences

Act 2003 came into force, the case against the defendant could not be put to the jury either under the old or the new law and he ruled therefore that there was no case to answer. It is the Government's view that an offender should not avoid conviction for a sexual offence because it cannot not be proven beyond reasonable doubt exactly when such an offence took place. The provision made by section 55 is intended to make that clear.

65. In June this year, the Scottish Executive passed the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. This Act introduced in Scotland several new offences and civil orders which are similar to those which the Sexual Offences Act 2003 introduced in England, Wales and Northern Ireland. The Scottish Act however cannot amend the law as it relates to England, Wales and Northern Ireland. Section 56 makes provision dealing with the cross-border aspects of the two pieces of legislation to ensure that offenders should not be able to avoid monitoring by moving around the United Kingdom.

66. The Criminal Justice Act 2003 introduced a new type of sentence. Where a person aged 18 or over is convicted of a serious offence and the court is of the opinion that there is significant risk to members of the public of serious harm from future offences, the court must impose a sentence of imprisonment for public protection. This is not the same as a life sentence. Because it is not a life sentence and because the judge is not required to express the length of the sentence in terms of months or years to be spent in custody, a person handed down such a sentence for a sexual offence would, as the law stood before this Act, have only been required on release to notify their details under the Sexual Offences Act 2003 for a period of 5 years, a considerably shorter period than those convicted of less serious crimes.

67. The Government is of the view that those persons who are convicted of the most serious sexual crimes and potentially pose the greatest threat should be required to notify their details to the police for the rest of their lives following their release from prison.

68. It is the Government's intention that the police have all the powers that they require to manage effectively the risks posed to the community by relevant sexual offenders. Following a stocktake of the effectiveness of the Sexual Offences Act 2003 and a report into the management of sex offenders in Scotland, the Government formed the view that police officers should, on production of a warrant issued by a magistrate, be able to enter and search, by force if necessary, the homes of registered sex offenders for the purposes of assessing the risks they pose, where it is both necessary to do so and where it has not previously been possible to secure entry.

69. The Mobile Telephones (Re-programming) Act 2002 created a number of offences relating to the electronic identifiers of mobile wireless communications devices. In particular it became an offence to change the unique International Mobile Equipment Identity (IMEI) number which identifies a mobile telephone handset. It is also possible to interfere with the operation of the IMEI by the addition of a small electronic chip to the handset and this too was an offence.

70. From September 2002 all the major mobile telephone network providers have been able to bar mobile telephone handsets, when these are reported stolen or lost, by reference to the IMEI number. However, if the IMEI number of the stolen or lost telephone is changed, it is not possible to implement the barring process and the telephone is able to continue in use.

71. It is clear from international Global System for Mobiles (GSM) standards that the IMEI number should not be changed and that it should be resistant to change. There is no legitimate reason why anyone other than the manufacturer of a mobile telephone (or its authorised agents) should need to alter an IMEI number. It is therefore the Government's view that it should be an offence to offer or agree to re-programme a mobile telephone.