

EXPLANATORY MEMORANDUM TO
THE MAGISTRATES' COURTS (FOREIGN TRAVEL ORDERS) (AMENDMENT)
RULES 2010

2010 No. 605

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**
 - 2.1 The purpose of this statutory instrument is to amend the Magistrates' Court (Foreign Travel Orders) Rules 2004 to update the form of summons and order which may be used by the court in respect of Foreign Travel Orders made under the Sexual Offences Act 2003. This is to reflect the changes to Foreign Travel Orders made by the Policing and Crime Act 2009.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.

4. **Legislative Context**
 - 4.1 This instrument is being made to reflect the changes to Foreign Travel Orders made by the Policing and Crime Act 2009 (the '2009 Act').
 - 4.2 Foreign Travel Orders were introduced in the Sexual Offences Act 2003. They can be imposed on people convicted of specified sexual offences against children to prevent them from travelling abroad where a court is satisfied that it is necessary to protect a child or children from serious sexual harm. Foreign Travel Orders can prevent travel to a specific country or countries, or to any country outside the UK. An application for a Foreign Travel Order has to be made by the police to the magistrates' court.
 - 4.3 The 2009 Act makes several changes to Foreign Travel Orders but only two are relevant in relation to these Rules. Firstly, the maximum duration of a Foreign Travel Order has increased from six months to five years. Secondly, an offender who is given a blanket foreign travel ban preventing him from travelling to any country outside the UK has to surrender his passport(s) to the police for the duration of the Order.
 - 4.2 As such, the current court forms in Schedule 2 (Summons on application for a Foreign Travel Order) and Schedule 3 (Foreign Travel Order) of the Magistrates' Courts (Foreign Travel Orders) Rules 2004 need to be amended to reflect these legislative changes.

5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The Government is committed to protecting the public from harm caused by sex offenders. This includes restricting the ability of child sexual offenders to travel in order to harm children abroad.
- 7.2 Foreign Travel Orders form part of a range of civil preventative measures in Part 2 of the Sexual Offences Act 2003 that have been developed to help the police manage sex offenders who are living in the community. Foreign Travel Orders provide an invaluable tool for the police to help them manage the risk known individual sex offenders may pose.
- 7.3 Internal and external stakeholders including the Child Exploitation and Online Protection Centre (CEOP), the Association of Chief Police Officers and the NSPCC were consulted over the changes to Foreign Travel Order and these changes will come into force on 1 April 2010.
- 7.4 Applications for Foreign Travel Orders are made in magistrates' courts and as such, court forms should be revised to take into account the legislative changes that are being made.

- ***Consolidation***

- 7.5 Not applicable.

8. Consultation outcome

- 8.1 Consultation has taken place with the police, the Ministry of Justice, Her Majesty's Court Service and the Court Service in Northern Ireland which is making similar changes to the equivalent Northern Ireland Rules. The rule committee has also been consulted in accordance with the statutory requirement to do so.

9. Guidance

- 9.1 A Home Office Circular will be made publicly available from the Home Office website and circulated to the police and other law enforcement agencies to explain the changes that are being made to Foreign Travel Orders as result of the 2009 Act. In addition, the current Guidance on Part 2 of the Sexual 2003 Act which has a section on Foreign Travel Orders (and is available online at <http://www.crimereduction.homeoffice.gov.uk/sexual/sexual027a.pdf>) will also be updated to reflect the changes made by the Policing and Crime Act 2009 and by these Rules.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal and falls considerably short of the £5 million threshold.

10.2 The impact on the public sector is minimal and falls considerably short of the £5 million threshold.

10.3 An Impact Assessment has not been prepared for this instrument as the impact on the private or voluntary sector is minimal.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office will update the Rules as and when necessary in consultation with the police and Court Service.

13. Contact

Ify Okoye at the Home Office Tel: 020 7035 1846 or email: ifeyinwa.okoye@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.