

**EXPLANATORY MEMORANDUM TO  
THE NATIONAL POLICE RECORDS (RECORDABLE OFFENCES)  
(AMENDMENT) REGULATIONS 2012**

**2012 No. 1713**

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

**2. Purpose of the instrument**

2.1 These Regulations amend the National Police Records (Recordable Offences) Regulations 2000 to add the offences of soliciting and paying for the sexual services of a prostitute subjected to force.

2.2 The National Police Records (Recordable Offences) Regulations 2000 list all offences which are recordable, meaning that convictions or cautions for these offences can be recorded in national police records and the police are permitted to take fingerprints and DNA samples from someone arrested for them.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 These regulations will result in two prostitution-related offences being added to the National Police Records (Recordable Offences) Regulations 2000.

- A new offence of *soliciting* under section 51A of the Sexual Offences Act 2003 (inserted by section 19 of the Policing and Crime Act 2009) which repealed and replaced the offence of *kerb crawling* and *persistent soliciting* under the Street Offences Act 1959.
- A new offence of *paying for sexual services of a prostitute subjected to force* under section 53A of the Sexual Offences Act 2003 (inserted by section 14 of the Policing and Crime Act 2009).

**5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

## 6. European Convention on Human Rights

6.1 As these regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## 7. Policy background

- *What is being done and why*

7.1 The National Police Records (Recordable Offences) Regulations 2000 (“the 2000 Regulations”) list all offences which are recordable. The effect of specifying that an offence is recordable is that it permits the police to take fingerprint and DNA (and where required footwear impressions) of someone arrested for that offence.

7.2 These Regulations will add the offences of *soliciting* and *paying for the sexual services of a prostitute subjected to force* to the list of recordable offences.

7.3 It is considered that amending the list to include these offences will provide the police with a valuable tool to gather intelligence and share information on offenders and offending patterns across forces.

7.4 Only those offences for which a term of imprisonment can be imposed are automatically recordable by virtue of the 2000 Regulations; other non-imprisonable offences must be specifically included in the Schedule to the 2000 Regulations in order for them to be recordable. The two new offences under section 51A and 53A of the Sexual Offences Act 2003 carry a maximum sentence of a level 3 fine (currently £1000) and therefore these regulations add them to the Schedule to the 2000 Regulations in order to make them recordable.

7.5 The repealed offence of *kerb crawling* and *persistent soliciting* is a recordable offence. It remains our consideration that including the new offence of *soliciting* on the list of recordable offences is justified.

7.6 Intelligence gained as a result of making these offences recordable will be beneficial to the police. It will enable police to collect and share intelligence across forces and as a result build a better picture of offending patterns and identify serial perpetrators who cross force boundaries in a bid to avoid detection. Identifying offending patterns will also be beneficial in protecting vulnerable victims as police will be able to build a better picture of risk and harm being directed towards those in prostitution.

7.7 The ability to access and retain DNA and fingerprint data will also assist police in the investigation of crime as well as providing evidence to secure convictions.

- *Consolidation*

7.8 As this is a relatively minor change to the 2000 Regulations, the Home Office is not consolidating the legislation at this time.

## **8. Consultation outcome**

8.1 The Department has consulted closely with key partners, including ACPO, on the development of this policy. A public consultation on this amendment was not undertaken. Due to the nature of the amendment it was considered that engagement with key partners on this matter would provide the Department with the necessary intelligence to make a well judged and informed decision on this policy development.

## **9. Guidance**

9.1 The Department will engage with ACPO to ensure that this amendment is communicated to all forces within England and Wales.

9.2 Our counterparts in Northern Ireland and Scotland have been advised of our intention to make these amendments.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is £0.07million.

10.3 We have undertaken an assessment of the costs and benefits associated with this change and the threshold for an Impact Assessment has not been met.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The effectiveness of the new regime will be monitored by the police. The Home Office will continue to engage with police counterparts to ensure the policy's effectiveness in achieving its objectives.

12.2 The Home Office will collect statistical data on these offences which would enable a review to be undertaken. The review would be an assessment of: volume of offences being committed, identification of prevalence within regions, whether cross border offending is occurring, patterns of serial perpetrators as well as reviewing the effectiveness of the legislation.

12.3 The Policing and Crime Act 2009 is scheduled to be reviewed in November 2014 and this addition to the recordable offences can be reviewed

as part of this process.

### **13. Contact**

Faye Ricketts at the Violent and Youth Crime Prevention Unit (Tel: 0207 035 8430 or email: [faye.ricketts4@homeoffice.gsi.gov.uk](mailto:faye.ricketts4@homeoffice.gsi.gov.uk)) can answer any queries regarding the Regulations.