



Home Office

**THE CRIMINAL JUSTICE AND  
IMMIGRATION ACT 2008 (VIOLENT  
OFFENDER ORDERS) (INFORMATION  
ABOUT RELEASE OR TRANSFER)  
REGULATIONS – A TARGETED  
CONSULTATION**

## FOREWORD

Violent Offender Orders (VOOs) were introduced on 3<sup>rd</sup> August 2009 as part of the Government's commitment to do more to protect the public from violent offenders – in particular, those offenders who continue to pose a risk of serious violent harm even after their release from prison or when their licence has ceased. VOOs are a preventative measure which the police can use to place controls on violent offenders in circumstances where they could potentially pose the greatest danger to the public.

The Government is proposing to introduce regulations, provided for by Section 116 of the Criminal Justice and Immigration Act 2008, which will require a body which is responsible for an individual subject to a VOO to notify the police or any receiving institution of their release or transfer. As well as prisons, this will include hospitals who are responsible for patients detained under Part 3 of the Mental Health Act. While prisons already have a well-established relationship for sharing intelligence with the police through use of tools such as the ViSOR database, hospitals may be caring for an individual subject to a VOO but not have such an established link with the police. This consultation is seeking views from mental health services on how this relationship can be most effectively established.

We believe that the proposed regulations will be an important part of the overall Violent Offender Order provisions for ensuring that the police are able to utilise VOOs as an effective tool to manage the risk posed by individuals who remain a significant risk to the public. The co-operation and support of partners who may be responsible for an individual who has been made subject to a VOO is essential to achieving this and these regulations will provide a mechanism to ensure that the police are fully informed of the movements of any offender subject to a VOO and are able to minimise the risk posed to the public by that offender.

That is why the Home Office [in conjunction with the Department of Health] is giving interested parties, specifically mental health services, the opportunity to explain how they would be affected by the proposals and particularly to outline what would be helpful to hospitals to enable them to comply with the new responsibility.

We would encourage you to take this opportunity to give your views on the proposals outlined in this consultation paper to allow any concerns or comments to be taken into account before bringing forward the provisions in secondary legislation.

With thanks to colleagues in the Department of Health for their help in developing this document.



**Justin Russell**  
**Head of Violent Crime Unit**  
**Home Office**

# CONSULTATION SUMMARY

## SCOPE OF THIS CONSULTATION

<b>Topic of this consultation:</b>	Proposals for implementing the Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Information about Release or Transfer) Regulations as provided for by Section 116 of the Criminal Justice and Immigration Act 2008
<b>Scope of this consultation:</b>	This is a targeted consultation which specifically seeks views of mental health services on the impact of the proposed VOO (Information about Release and Transfer) Regulations on hospitals. This is not a consultation on Violent Offender Order (VOO) policy more widely.
<b>Geographical scope:</b>	England and Wales
<b>Impact Assessment:</b>	A partial impact assessment is included with this consultation.

## BASIC INFORMATION

<b>To:</b>	<ul style="list-style-type: none"> <li>• NHS Providers / NHS Mental Health Trusts within England and Wales</li> <li>• NHS Confederation Mental Health Network</li> <li>• Institute of Mental Health Practitioners (IMHAP)</li> <li>• Care Quality Commission</li> <li>• Health Inspectorate Wales</li> <li>• Care and Social Services Inspectorate Wales</li> <li>• Royal College of Psychiatrists Forensic Faculty</li> <li>• High secure providers (Broadmoor, Ashworth and Rampton)</li> <li>• Independent Sector (Independent hospitals registered to detain patients under the Mental Health Act)</li> </ul>
<b>Duration:</b>	8 weeks
<b>Enquiries and Responses:</b>	<p>Deborah Child 4<sup>th</sup> Floor Fry Building 2 Marsham Street London SW1P4DF</p> <p>Email: <a href="mailto:vooconsultation@homeoffice.gsi.gov.uk">vooconsultation@homeoffice.gsi.gov.uk</a></p>
<b>Additional ways to become involved:</b>	As this consultation is targeted to consider the impact of the proposed Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Information about Release or Transfer) Regulations on hospitals only, it will be a written exercise.
<b>After the consultation:</b>	A summary of responses will be placed on the Home Office website and participants will be contacted directly by email.

<p><b>Getting to this stage:</b></p>	<p>In July 2006 a commitment was made in the Criminal Justice System Review to introduce Violent Offender Orders in order to provide courts with stronger powers to manage dangerous violent offenders. Following a stakeholder consultation in April 2007, Violent Offender Orders came into force on 3 August 2009 and are contained in Part 7 of the Criminal Justice and Immigration Act 2008.</p> <p>At this time, provision was made in Section 116 of the Criminal Justice and Immigration Act 2008 for secondary legislation to be brought into force requiring bodies which have become responsible for an offender subject to a Violent Offender Order, and where they are aware of that responsibility, to notify the Police Service of any release or transfer from their care.</p>
<p><b>Previous engagement:</b></p>	<p>In addition to the stakeholder consultation in April 2007, the Home Office has monitored the impact of Violent Offender Orders post commencement and has continued to engage with key stakeholders through a quarterly VOO Management Board.</p>

## INTRODUCTION

1. This paper sets out the Government's proposals for the implementation of The Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Information about Release or Transfer) Regulations. Provision for these Regulations is contained in Section 116 of the Criminal Justice and Immigration Act 2008.
2. It explains the background to the policy for Violent Offender Orders (VOOs) which commenced on 3 August 2009, and the proposed content of the secondary legislation which will impose a new duty on hospitals to notify information to the Police Service or the receiving institution where an offender subject to a Violent Offender Order who is detained in hospital, and where they are aware that the offender is subject to such an order, is about to be released or transferred from their care.
3. Although the Regulations apply equally to other bodies as responsible persons, the scope of this consultation is limited to considering the implications on and practicalities for hospitals in complying with the duty to notify which is imposed by the proposed Regulations. There is a well established relationship between police and prison facilities and an existing process for the notification of the transfer or release of prisoners. This relationship is not as well established for the transfer of patients and the consultation is seeking the views of hospitals on how this can be most effectively established.
4. We welcome your views on the proposals contained within Section 2 and are particularly interested to hear your views on the specific questions asked throughout this consultation document.
5. Responses to the questions in this document and general comments on the proposed Regulations should be sent to the Home Office by email:

[vooconsultation@homeoffice.gsi.gov.uk](mailto:vooconsultation@homeoffice.gsi.gov.uk)

Alternatively, you may respond in writing to:

Violent Offender Order consultation  
Violent Crime Unit  
Home Office  
4<sup>th</sup> Floor Fry Building  
2 Marsham Street  
London  
SW1P4DF

6. The closing date is 12 May 2010 and all comments should be received by that date.
7. You should also contact the consultation team should you require a copy of this consultation paper in any other format, e.g. Braille, Large Font, or Audio.
8. This document is available on the Home Office website.

# SECTION ONE

## BACKGROUND TO VIOLENT OFFENDER ORDERS

Some of the most violent offenders continue to pose a risk of serious harm to the public when they are no longer subject to statutory restrictions available under licence, a Hospital Order or a Supervision Order. Proposals for Violent Offender Orders were included in the Criminal Justice System Review, published in July 2006. In this document, in the context of focusing increasingly on serious crime and protecting the public from dangerous and violent offenders, a commitment was made to: *'Introduce Violent Offender Orders to provide the courts with tough new powers to manage dangerous violent offenders beyond the period of their sentence with penalties of up to five years for breach of conditions'*.

Violent Offender Orders are intended to fill a gap in public protection coverage, providing a tool for the management of risk posed by those violent offenders who have not been awarded a public protection sentence – either because the court did not assess them as sufficiently dangerous at the time of conviction, or because their level of risk has increased during their sentence, or because the offence which they were imprisoned for committing was not a specified offence, or because their offence was committed before the introduction of the new sentences contained within the Criminal Justice Act 2003 – but who are nonetheless considered to pose a high risk of serious harm at the end of their sentence or subsequently.

Following a stakeholder consultation in April 2007<sup>1</sup>, Violent Offender Orders came into force on 3 August 2009 and are contained in Part 7 of the Criminal Justice and Immigration Act 2008<sup>2</sup>. Violent Offender Orders are civil preventative orders available on application by a chief officer of police to a Magistrates' Court and, if granted, will contain such restrictions, prohibitions or conditions authorised by Section 102 of the Act as the court considers necessary to protect the public from the risk of serious violent harm caused by the offender. This is limited to prohibiting their access to certain places, premises, events or people to whom they pose the highest risk.

Violent Offender Orders do not exist in isolation, but as part of a complementary framework of mutually reinforcing public protection measures. The Sexual Offences Prevention Order (SOPO) is a broadly comparable civil order which has proved successful in protecting the public from high-risk sex offenders, who would otherwise be at large in the community without any restrictions<sup>3</sup>.

Since coming into force the legislation has been used by the courts to award three full Violent Offender Orders and four interim Violent Offender Orders, which continue to be monitored by the relevant Police Forces and by the Home Office centrally.

Further information about Violent Offender Orders is available from the Home Office website and full guidance on VOOs is available from the following link: <http://www.crimereduction.homeoffice.gov.uk/violence/violence027.pdf>

<sup>1</sup> The summary of responses to this consultation document is available on the Home Office website at: <http://www.homeoffice.gov.uk/documents/response-violent-offender.html>

<sup>2</sup> [http://www.opsi.gov.uk/acts/acts2008/ukpga\\_20080004\\_en\\_12#pt7](http://www.opsi.gov.uk/acts/acts2008/ukpga_20080004_en_12#pt7)

<sup>3</sup> Sexual Offences Prevention Orders are contained in Part 2 of The Sexual Offences Act 2003: [http://www.opsi.gov.uk/ACTS/acts2003/ukpga\\_20030042\\_en\\_7#pt2-pb5](http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030042_en_7#pt2-pb5)

## SECTION TWO

# PROPOSALS FOR REGULATIONS

This section sets out the proposals for the Violent Offender Orders (Information about Release or Transfer) Regulations and forms the main part of this consultation. We would welcome comments on this section and in particular your comments on those areas where specific questions have been raised.

The legislative power contained in Section 116 of the Criminal Justice and Immigration Act 2008 remains outstanding. Section 116 states that:

- (2) The Secretary of State for the Home Department may by regulations make provision requiring the person who is responsible for such an offender to give notice to specified persons –
- (a) of the fact that that person has become responsible for the offender; and of any occasion when –
- (i) the offender is released, or
- (ii) a different person is responsible for the offender.

Although the Regulations, which require a ‘person who is responsible for a relevant offender’ to notify the Police Service or the receiving institution of the release or transfer of that individual, will apply equally to other bodies including prisons, young offender institutions, and service detention facilities, the scope of this consultation is limited to seeking views from mental health services to consider the implications on and practicalities for hospitals in complying with the duty to notify which is imposed by the proposed Regulations.

We propose that the Regulations will be drafted so as to only impose a duty on the hospital to notify of any release or transfer of an individual subject to a Violent Offender Order if they have been informed that the individual is subject to a VOO. This is to avoid imposing a statutory responsibility on hospitals which they are unable to comply with.

In summary they will:

- require the person responsible for a relevant offender (for an offender detained in hospital, this will be the managers of that hospital as defined in section 145 of the Mental Health Act 1983a) to notify when:
  - the relevant offender is to be released for a period of more than 24 hours (including leave of absence, as well as discharge), or
  - a different person is to become responsible for the relevant offender (eg, on transfer to another hospital or remission to prison).
- where the relevant offender is to be released for a period of more than 24 hours, require notice to be given in writing to the chief officer for the police area in which the relevant offender intends to reside or, where such address is not known, to the chief officer for the police area in which the institution from which he is to be released is situated and for that notice to include the offender’s name, home address, date of birth, details of the offender’s violent offender order or interim violent offender order, the date of the offender’s proposed release and the duration of the proposed release.
- where the relevant offender is to be transferred to another institution, require notice to be given in writing to the person who will become responsible for the relevant offender and for that notice to include the offender’s name, date of birth, and details of the offender’s violent offender order or interim violent offender order.

- require notice of release to be given at least 14 days before the proposed date of release or as soon as reasonably practicable before that date and notice of transfer to be given prior to or at the time the offender is transferred. If it is not possible to comply with this, notice must be given on the date of release or transfer or as soon as reasonably practicable after that date.

A draft version of the Criminal Justice and Immigration Act (Violent Offender Order) (Information about Release or Transfer) Regulations has been included with this consultation document at Annex A.

## EXCLUSIONS

The regulations will only apply to people subject to a VOO who are detained under Part 3 of the Mental Health Act 1983 (or who are still detained on admission orders under the old provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991). They will not apply to people subject to VOOs who are detained under Part 2 of the Mental Health Act (ie, detained on a 'civil' section).

The Violent Offender Orders (Information about Release or Transfer) Regulations will not impose a duty on hospitals to notify the release or transfer of restricted patients. There are arrangements in place for the Mental Health Casework Section (MoJ) to notify the Police Service of the movements of restricted patients, including their discharge from hospital. For further information on this please see 'A Guide to Violent Offender Orders'<sup>4</sup>.

The Government considers the measures contained in the proposed Regulations to be proportionate and necessary to manage the risk of harm posed to the public by an offender who is not currently on licence or serving a prison sentence but who has been assessed by the Police and confirmed by the courts as continuing to pose a high risk of serious harm to the public.

## WHO AWARDS A VIOLENT OFFENDER ORDER?

The decision on whether to apply to the Magistrates' Court for a Violent Offender Order is an operational decision for the Police, based on the circumstances of the particular case and a thorough assessment of whether a Violent Offender Order is the most effective way of managing that individual's risk. A wide range of factors will have been taken into consideration, supported by a number of statistical risk-prediction tools such as OASys (Offender Assessment System), in deciding to utilise a Violent Offender Order as the primary tool to manage the risk posed by that individual.

## REGULATORY LANDSCAPE

A Violent Offender Order is one of a range of measures that is available to the Police to manage dangerous violent offenders who continue to pose a risk to the public following their release from prison. The number of individuals who will be subject to a Violent Offender Order and under the supervision of a hospital at the same time is estimated to be low. Section 101(5) of the Criminal Justice and Immigration Act 2008 provides that a Violent Offender Order cannot be made so as to come into force while the offender in question is in prison, subject to a hospital order or supervision order, or subject to statutory licence conditions made in relation to any offence.

Therefore, the Regulations will generally only apply in a situation where an individual is already subject to a Violent Offender Order before being detained in hospital under Part 3 of the Mental Health Act 1983

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<sup>4</sup> Arrangements are set out in Paragraph 8.24 (page 27) of 'A Guide to Violent Offender Orders'. This document can be found on the Home Office website at: <http://www.crimereduction.homeoffice.gov.uk/violence/violence027.htm>



## **VOLUME OF OFFENDERS**

Provisional figures indicate that the Government expect between 60 – 120 applications for Violent Offender Orders per annum and that of these applications a very small proportion are likely to be impacted by the proposed Regulations.

However, even though the number of offenders impacted by the proposed Regulations is anticipated to be low it is important that any risk they may pose to the public is managed appropriately. The proposed Violent Offender Orders (Information about Release or Transfer) Regulations are an important part of the policy and the legislation related to Violent Offender Orders and the overall package of measures available to the police to protect the public. They will provide a mechanism to ensure that the Police are fully informed of the movements of an offender subject to a Violent Offender Order and are able to minimise the risk posed to the public by that offender.

## **QUESTIONS FOR CONSIDERATION**

As the proposed Regulations will impose a duty on hospitals where they have a patient in their care who is subject to a Violent Offender Order, we have given careful consideration as to how we might assist hospitals to comply with the proposed duty to notify.

We recognise that hospitals may not be immediately aware if an individual in their care is subject to a Violent Offender Order. Where this is the case, we have already put in place mechanisms for the Police Service to notify the hospital of the Violent Offender Order. These mechanisms can be found in 'A Guide to Violent Offender Orders'<sup>5</sup>. The responsibilities of the Police Service are to:

- ensure that contact is made with the relevant Primary Care Trust (PCT), Local Health Board (LHB) or hospital;
- write to the hospital concerned stating that an individual in their care is subject to a Violent Offender Order (disclosing any conditions of that VOO) and requesting that the hospital inform the Police Service or receiving institution if that patient is to be released or transferred;
- remind the hospital of this request every three to six months.

A template for use by the Police Service to inform and remind the hospital of this proposed duty to notify can be found at Annex E of the document 'A Guide to Violent Offender Orders'<sup>6</sup>.

It is important that in implementing the proposed Violent Offender Orders (Information about Release or Transfer) Regulations we ensure that steps are taken to raise the awareness of this new duty within hospitals. To this end, we would like the views of practitioners on how we best achieve this and in particular, what channels of communication would be the most effective.

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<sup>5</sup> Arrangements are set out in Paragraph 8.20 (page 27) of 'A Guide to Violent Offender Orders'. This document can be found on the Home Office website at: <http://www.crimereduction.homeoffice.gov.uk/violence/violence027.htm>

<sup>6</sup> Annex E can be found at pages 46-47 of 'A Guide to Violent Offender Orders' (link to this document available above).

1. WHAT WOULD BE THE MOST HELPFUL METHOD OF RAISING THE AWARENESS OF AND COMMUNICATING THE NEW DUTY TO HOSPITALS?

To ensure that hospitals are supported in complying with the proposed duty to notify the release or transfer of a patient within their care who is subject to a Violent Offender Order, we are giving consideration to developing a short guide for hospitals and/or standard templates which hospitals could use to assist them fulfil the duty to notify. We would like the views of practitioners on what tools or guidance (if any) would be helpful to achieve this and the form any such documents should take.

2. WHAT WOULD HOSPITALS REQUIRE BY WAY OF GUIDANCE TO HELP THEM TO COMPLY WITH THEIR RESPONSIBILITY TO NOTIFY THE POLICE SERVICE OF ANY TRANSFER OR RELEASE OF AN INDIVIDUAL SUBJECT TO A VOO?

3. DO YOU HAVE ANY ADDITIONAL COMMENTS ON ANY OTHER ASPECTS OF THE PROPOSED REGULATIONS?

**TIMESCALES / NEXT STEPS**

The consultation closes on 12 May 2010. Once responses have been reviewed a summary of responses will be placed on the Home Office website and participants will be contacted by email.

We are hoping to bring the Violent Offender Orders (Information about Release or Transfer) Regulations into force in Summer 2010.

**PARTIAL IMPACT ASSESSMENT**

The impact of the proposed Violent Offender Order (Information about Transfer or Release) Regulations is anticipated to be small. Since commencement on 3 August 2009 the Police have successfully applied for and obtained three full VOOs and four interim VOOs and provisional figures indicate that the Government expect between 60 – 120 applications for VOOs per annum. Of these applications a very small proportion are likely to be detained in hospital under Part 3 of the Mental Health Act 1983. It is anticipated that the cost associated with the proposed Violent Offender Order (Information about Transfer or Release) Regulations will be negligible and that any cost attached to developing a short guidance or appropriate templates for hospital use would remain with the Violent Crime Unit, Home Office. However, it is the Government's view that the proposed Regulations are a proportionate and necessary step in managing the risk posed by individuals who have been assessed as continuing to pose a significant risk of harm to the public, where a VOO has been made against them through application to a Magistrates' court.

4. DO YOU AGREE THAT THE POTENTIAL COSTS AND BENEFITS SET OUT IN THE PARTIAL IMPACT ASSESSMENT ARE A REASONABLE ESTIMATE OF THE POTENTIAL COSTS AND BENEFITS? IF NOT, CAN YOU PROVIDE EVIDENCE OF WHAT ANY LIKELY COSTS AND BENEFITS SHOULD BE?

## **CONSULTATION**

### **CONFIDENTIALITY & DISCLAIMER**

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 [FOIA], the Data Protection Act 1998 [DPA] and the Environmental Information Regulations 2004).

If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## **COMPLAINTS**

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office Consultation Co-ordinator, Nigel Lawrence. Please DO NOT send your response to this consultation to Nigel Lawrence. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation.

The Co-ordinator can be emailed at:

[Nigel.Lawrence@homeoffice.gsi.gov.uk](mailto:Nigel.Lawrence@homeoffice.gsi.gov.uk) or alternatively write to him at:

Nigel Lawrence, Consultation Co-ordinator

Home Office

Performance and Delivery Unit

3rd Floor Seacole

2 Marsham Street

London

SW1P 4DF

**GOVERNMENT'S CODE OF PRACTICE ON CONSULTATION**

*This is a targeted consultation but as far as possible it follows the Government's Code of Practice on Consultation – the criteria for which are set out below:*

*Criterion 1 – When to consult – Formal consultation should take place at a stage when there is scope to influence the policy outcome.*

*Criterion 2 – Duration of consultation exercises – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.*

*Criterion 3 – Clarity of scope and impact – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.*

*Criterion 4 – Accessibility of consultation exercises – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.*

*Criterion 5 – The burden of consultation – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.*

*Criterion 6 – Responsiveness of consultation exercises – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.*

*Criterion 7 – Capacity to consult – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.*

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

**Annex A**

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STATUTORY INSTRUMENTS

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**2010 No.**

**CRIMINAL LAW, ENGLAND AND WALES**

**The Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Notice of Release or Transfer) Regulations 2010**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State, in exercise of the powers conferred by section 116 of the Criminal Justice and Immigration Act 2008<sup>(7)</sup>, makes the following Regulations:

**Citation, commencement and extent**

1. These Regulations may be cited as the Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Notice of Release or Transfer) Regulations 2010 and shall come into force on [date].

**Interpretation**

2. In these Regulations, “the 2008 Act” means the Criminal Justice and Immigration Act 2008.

**Requirement to give notice**

3.—(1) This regulation applies where an offender subject to notification requirements<sup>(8)</sup> is serving a sentence of imprisonment, a term of service detention<sup>(9)</sup> or detained in a hospital<sup>(10)</sup>.

(2) The person who is responsible for an offender subject to notification requirements must—

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<sup>(7)</sup> 2008 c. 4.

<sup>(8)</sup> “Offender subject to notification requirements” is defined in section 107(1) of the 2008 Act as a person for the time being subject to a violent offender order or an interim violent offender order under Part 7 of that Act.

<sup>(9)</sup> “Service detention” is defined in section 117(1) of the 2008 Act.

<sup>(10)</sup> “Detained in a hospital” is defined in section 117(6) of the 2003 Act.

- (a) give notice in accordance with regulation 4 if the offender is to be transferred to another institution, including an institution in Scotland or Northern Ireland, where he will continue to be imprisoned or detained;
- (b) give notice in accordance with regulation 5 if the offender is to be released for a period of 24 hours or more.

#### **Notice to be given on transfer**

4.—(1) A notice given in accordance with this regulation must—

- (a) be given in writing to the person who will be responsible for the offender in the institution where the offender is to be imprisoned or detained;
- (b) subject to paragraph (2), be given prior to or at the time the offender is transferred.
- (c) contain the following information about the offender, where it is known—
  - (i) the name of the relevant offender and any other names by which he is known,
  - (ii) the offender's date of birth, and
  - (iii) details of the offender's violent offender order or interim violent offender order, as the case may be, and

(2) If it is not possible to comply with paragraph (1)(b), notice must be given as soon as reasonably practicable after the date the relevant offender is transferred.

#### **Notice to be given on release**

5.—(1) A notice given in accordance with this regulation must—

- (a) subject to paragraphs (2) and (3), be given in writing to the chief officer of police for the police area<sup>(11)</sup> in which the offender intends to reside, or if it is not known where the offender intends to reside, to the chief officer of police for the police area in which the institution from which he is to be released is situated;
- (b) subject to paragraph (4), be given at least 14 days before the proposed date of release or as soon as reasonably practicable before that date;
- (c) contain the following information about the offender, where it is known—
  - (i) the name of the relevant offender and any other names by which he is known,
  - (ii) the offender's home address<sup>(12)</sup>,
  - (iii) the offender's date of birth,
  - (iv) details of the offender's violent offender order or interim violent offender order, as the case may be,
  - (v) the date of the offender's proposed release, and
  - (vi) the duration of the offender's proposed release.

(2) Where the offender intends to reside in Scotland on release, the notice to be given pursuant to paragraph (1)(a) must be given to the chief officer of police for the police area<sup>(13)</sup> in which the relevant offender intends to reside.

(3) Where the offender intends to reside in Northern Ireland on release, the notice to be given pursuant to paragraph (1)(a) must be given to the Chief Constable of the Police Service of Northern Ireland.

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<sup>(11)</sup> “Chief officer” and “police area”, in relation to England and Wales, have the same meanings as in section 101(1) of the Police Act 1996 (c.16) (in relation to England and Wales) and section 50 of the Police (Scotland) Act 1967 (c.77) (in relation to Scotland) by virtue of Schedule 1 to the Interpretation Act 1978 (c. 30).

<sup>(12)</sup> “home address” is defined in section 108(5) of the 2008 Act.

<sup>(13)</sup> “Chief officer” and “police area”, in relation to Scotland, have the same meanings as in section 50 of the Police (Scotland) Act 1967 (c.77) by virtue of Schedule 1 to the Interpretation Act 1978.

(4) If it is not possible to comply with paragraph (1)(b), notice must be given on the date of release or as soon as reasonably practicable after that date.

**Person responsible for offender subject to notification requirements**

6.—(1) For the purposes of section 116 of the 2008 Act and these Regulations, the person who is responsible for an offender subject to notification requirements is—

- (a) in relation to an offender detained in a prison or young offenders' institution, the governor or director of that institution,
- (b) in relation to an offender in service detention, the commanding officer of the facility in which he has been detained, and
- (c) in relation to an offender detained in a hospital, the manager of the hospital.

(2) In paragraph (1)(c) of this Regulation, “manager”—

- (a) in relation to a hospital in England and Wales, has the same meaning as “the managers” in section 145 of the Mental Health Act 1983<sup>(14)</sup>,
- (b) in relation to a hospital in Scotland, has the same meaning as “managers” in section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(15)</sup>, and
- (c) in relation to a hospital in Northern Ireland, means a person who has been designated for the purpose of these regulations by the responsible authority, and “responsible authority” has the same meaning as in Article 2(2) of the Mental Health (Northern Ireland) Order 1986<sup>(16)</sup>.

Date

Home Office

Parliamentary Under-Secretary of State

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Part 7 of the Criminal Justice and Immigration Act 2008 provides for the making of violent offender orders and interim violent offender orders in respect of qualifying offenders. An order may contain prohibitions, conditions or restrictions necessary to protect the public from the risk of serious violent harm caused by the offender. Sections 107 to 112 of the Act impose requirements on offenders subject to violent offender orders or interim violent offender orders to notify specified information to the police. Section 116 of the Act provides for regulations to be made requiring those responsible for an offender who is subject to notification requirements and serving a custodial sentence or detained in hospital, to give notice to specified persons of occasions when the offender is released, or when a different person becomes responsible for him.

Regulation 4 of these regulations provides that, where an offender is transferred between different places of detention, the new institution must be notified that he is subject to a violent offender order or interim violent offender order. Regulation 5 provides that where an offender is to be released for 3 days or longer, the police must be notified 14 days before the release, or as soon as reasonably practicable thereafter. Regulation 6 sets out who is to be treated as responsible for an offender in detention. Although these regulations only extend to England and Wales, the notice requirements in regulations 4 and 5 apply where the offender is being transferred to an institution in Scotland or Northern Ireland, or being released to reside there.

<sup>(14)</sup> 1983 c. 20.

<sup>(15)</sup> 2003 asp 13.

<sup>(16)</sup> S.I. 1986/595 (N.I. 4) as amended by 1994 (NI) 2.

