EXPLANATORY MEMORANDUM TO

THE CRIMINAL JUSTICE AND IMMIGRATION ACT 2008 (VIOLENT OFFENDER ORDERS) (NOTIFICATION REQUIREMENTS) REGULATIONS 2009

2009 No. 2019

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 the instrument is to require a person subject to a Violent Offender Order (**VOO**) who proposes to leave the UK to notify certain information to the police before leaving. Additionally, it requires a person subject to a VOO with no fixed abode to notify personal information to the police weekly instead of annually. A VOO is a new type of civil preventative order which is designed to protect the public from the risk of serious violent harm caused by a person who has previously been convicted of a serious violent offence.

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

3.1 None.

4. Legislative Context

4.1 The instrument requires persons subject to a VOO to notify the police where they propose to travel outside the UK. The instrument also requires a person subject to a VOO with no fixed abode to notify personal information to the police weekly instead of annually. These requirements will aid the police in their management of a person subject to a VOO. The instrument is being made to coincide with the commencement of Part 7 of the Criminal Justice and Immigration Act 2008 (the **2008 Act**), which created the VOO. The instrument is therefore the first use of the relevant powers in the 2008 Act. Implementation of Part 7 will also require the making of Magistrates' Courts Rules (under section 144 of the Magistrates' Courts Act 1980 and section 99(7) of the 2008 Act).

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 Alan Campbell, Parliamentary Under-Secretary of State for Crime Reduction, has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Criminal Justice and Immigration Act 2008 (Violent Offender Orders) (Notification Requirements) Regulations 2009 are compatible with the Convention rights.

7. Policy background

7.1 The 2008 Act created Violent Offender Orders as a preventative measure aimed at protecting the public from the risk of serious violent harm caused by a person who has been sentenced to 12 months or more for a serious violent offence. VOOs are made by the Magistrates' Court on application by the police, subject to certain criteria being satisfied. A Violent Offender Order will allow the police service to manage the risk that some violent offenders continue to pose to the public on completion of their sentence for that offence. Violent Offender Orders place specific restrictions on the activities of those offenders by prohibiting them from particular persons, places or events. A person subject to a Violent Offender Order is also subject to notification requirements which require them to notify the police at least once a year of personal information such as name, date of birth and home address.

7.2 Violent Offender Orders are designed to continue the active management of violent offenders beyond the completion of their sentence in order to limit their opportunities for violent re-offending. This is because serious re-offending while an offender is under active management is a relatively rare phenomenon. Multi Agency Public Protection Arrangement (MAPPA) reports for England and Wales for 2008 indicate that of the 16,000 Category 2 offenders (i.e. those who have committed violent and sexual offences) they manage, there were around 70 instances of offenders being convicted of a further serious offence.

7.3 The instrument, together with section 111 of the 2008 Act, sets notification requirements for a person subject to a Violent Offender Order who proposes to leave the UK. The person is required to notify the police of specified information about their travel plans before leaving the UK. This will allow the police to liaise with authorities overseas as appropriate and be aware of the person's movements in and out the UK. The instrument is modelled on existing equivalent regulations relating to Sexual Offences Prevention Orders: the Sexual Offences Act 2003 (Travel Notification Requirements) Regulations 2004 (S.I. 2004/1220).

7.4 The instrument also makes provision about the notification requirements for a person subject to a Violent Offender Order who has no sole or main residence in the UK. Such a person is required to notify the police of his/her personal information weekly rather annually. The reason for this is to enable the police to have more frequent contact with a person who has no fixed abode and enable more effective monitoring of them.

7.5 Violent Offender Orders were of some public interest on announcement and during their passage through Parliament. However, the provisions in this instrument are of limited political and legal importance.

8. Consultation outcome

8.1 Violent Offender Orders were subject to a consultation exercise in May 2007 with a range of stakeholders, of which 31 responded. The Home Office took on board many of the responses such as removing the requirement for those subject to Violent

Offender Orders to take positive steps for example attending drug and alcohol treatment programmes.

A more detailed analysis of the consultation can be found here: http://www.homeoffice.gov.uk/documents/response-violent-offender.pdf?view=Binary

8.2 We have not carried out a public consultation on this instrument. We have however engaged with the key stakeholders on an ongoing basis through the Violent Offender Orders management board, which has been created to oversee the implementation of Violent Offender Orders. This board comprises key stakeholders such as the Association of Chief Police Officers, the National Offender Management Service, the Association of Police Lawyers and MAPPA. The Board has agreed the policy reflected in the instrument.

9. Guidance

9.1 Guidance on VOOs, which will include guidance on the requirements of this instrument, will be published by the Home Office and made available on its website. The Home Office will be issuing a Home Office circular to Her Majesty's Court Service on how the courts should manage the making of these orders. Where the police are managing a VOO they will provide guidance to ensure persons subject to a VOO understand the implications of being subject to an order.

10. Impact

10.1 No impact on business, charities or voluntary bodies is foreseen.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument. This is because no impact on business, charities or voluntary bodies is foreseen and the impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Violent Offender Orders are designed to help prevent violent re-offending. These orders and their supporting legislation will be monitored and reviewed for 12 months by the Violent Offender Orders management board and the legislation may be amended accordingly.

13. Contact

Edward Young at the Home Office Tel: 020 7035 0065 or email: edward.young24@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.