EXPLANATORY MEMORANDUM TO

THE COUNTER-TERRORISM ACT 2008 (FOREIGN TRAVEL NOTIFICATION REQUIREMENTS) REGULATIONS 2009

2009 No.

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 Under Part 4 of the Counter-Terrorism Act 2008, certain convicted terrorists are required to comply with a notification scheme. This instrument makes provision requiring such persons who intend to leave the United Kingdom for a period of three days or more to notify the police of their departure before they leave and of their return if they subsequently return to the United Kingdom. The purpose is to provide the police with information about the whereabouts of such persons and their travel abroad.

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

3.1 None.

4. Legislative Context

4.1 Part 4 of the Counter-Terrorism Act 2008 provides that certain persons convicted of (or made subject to a mental health-related finding in relation to) terrorist or terrorist-related offences are required to notify specified information to the police. The majority of the requirements for the notification scheme are set out in the 2008 Act but the Secretary of State may make Regulations imposing further requirements in relation to foreign travel. This instrument makes provision requiring persons to whom the notification requirements in Part 4 of the 2008 Act apply, who intend to leave the United Kingdom for a period of three or more days, to notify the police of their departure before they leave and of their return if they subsequently return to the United Kingdom.

4.2 Some of the information to be included in a notification of departure is set out in section 52 of the 2008 Act and the Regulations make provision for that information and for further information to be notified.

4.3 It is the first use of the power in the 2008 Act to make Regulations on this matter. Part 4 of the 2008 Act will come into force on 1st October 2009 in accordance with the Counter-Terrorism Act 2008 (Commencement No. 4) Order 2009 (S.I. 2009/1493).

4.4 Section 54(1) of the 2008 Act makes it an offence for a person who fails, without reasonable excuse, to comply with these Regulations and for a person to notify any information in purported compliance with these Regulations that the person knows to be false. A person guilty of such an offence is liable to a maximum penalty of 5 years' imprisonment.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

David Hanson has made the following statement regarding Human Rights:

"In my view the provisions of the Counter-Terrorism Act 2008 (Foreign Travel Notification Requirements) Regulations 2009 are compatible with the Convention rights."

7. Policy background

7.1 Part 4 of the Counter Terrorism Act 2008 introduces a notification scheme for persons aged 16 or over convicted of (or made subject to a finding in relation to) certain terrorist or terrorist related offences who have received a sentence of 12 months' or more imprisonment or detention (or been made subject to a hospital order). The scheme also applies to persons who have been dealt with similarly in relation to a corresponding foreign offence and in relation to whom a notification order is made in the United Kingdom. This notification scheme is based largely on the existing system of notification requirements for sex offenders, provided by Part 2 of the Sexual Offences Act 2003. The notification requirements require an individual to provide the police with the following information:

- Name (and any other names used)
- Home address (or any other address they regularly stay at)
- Date of birth
- National Insurance number

The person must also notify the police of any address they stay at for 7 days or more, any changes to the above information and must re-notify the information annually.

7.2 These Regulations require the person to notify the police before they leave the United Kingdom of:

- their intended date of departure,
- the country (or if there is more than one, the first country) to which the person will travel,
- their point of arrival in that country, and
- so much of the following information as they hold:
    i. the person's point of arrival in any additional country they intend travelling to,

ii. the name of the carrier(s) the person intends to use,

iii. the address or other place at which the person intends to stay for their first night outside the United Kingdom,

iv. where the person intends to return to the United Kingdom on a particular date/ point of arrival, those details.

The Regulations also require the person to notify the police, within 3 days of their return, of the date and place of their return to the UK (unless that information has already been notified).

7.3 The information required by these Regulations will supplement the information required under Part 4 of the Counter-Terrorism Act 2008 in helping the police to manage the risks posed by convicted terrorists once they have been released from custody or detention. The Regulations will do this by providing the police with up to date information on the whereabouts of convicted terrorists and their travel overseas. This information will enable the police to know when a convicted terrorist is out of the country and if, for example, they are intending to travel to a country where terrorist training is available. The requirement will provide the police with basic information which will enable them to apply for a foreign travel restriction order if appropriate. It will also enable them to notify the authorities in the country the person is intending to travel to where appropriate. Finally, the requirements will mean that a person cannot use the excuse that they were out of the country if they fail to comply with the notification requirements in the UK where this is not the case.

8. Consultation outcome

8.1 There is no statutory requirement to consult on this instrument. Internal consultation has taken place with the policy leads for the sex offender notification scheme and the outcome was that the foreign travel notification requirements under that scheme work well and so the requirements in these Regulations largely mirror those. In addition, the Home Office has been working closely with the police in relation to the implementation of Part 4 of the Counter-Terrorism Act 2008 (notification requirements). Discussions took place with national leads on the notification requirements - for the Violent and Sex Offenders Register (VISOR) and the Association of Chief Police Offices Terrorism and Allied Matters (ACPO TAM) on the proposed content of these Regulations.

9. Guidance

9.1 The Home Office will publish supporting guidance for the implementation of Part 4 of the Counter-Terrorism Act 2008. This will incorporate guidance on the foreign travel notification requirements. The guidance will be published prior to the commencement of Part 4 of the Act on 1st October 2009.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

12.1 All legislation is subject to review by its home department within a three year period of being passed. Provisions within these Regulations are based on a tried and tested system in the context of the sex offender notification scheme.

13. Contact

James Thompson at the Home Office Tel: 020 7035 8959 or email: james.thompson@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.