EXPLANATORY MEMORANDUM TO

THE NATIONAL POLICE RECORDS (RECORDABLE OFFENCES) (AMENDMENT) REGULATIONS 2007

2007 No. 2121

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

2. Description

2.1 The Regulations amend the Schedule to the National Police Records (Recordable Offences) Regulations 2000.

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

3.1 None.

4. Legislative Background

4.1 The Regulations are made pursuant to section 27(4) of the Police and Criminal Evidence Act 1984. These Regulations ("the 2007 Regulations") add three offences to the Schedule to the National Police Records (Recordable Offences) Regulations 2000 ("the 2000 Regulations"). The Schedule lists those offences which are recordable but which do not attract the possibility of a custodial sentence.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 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 2000 Regulations list offences which are recordable on national police records. They provide for the recording of convictions and cautions for imprisonable offences as well as those offences, specified in the Schedule, which do not attract the possibility of a custodial sentence. The 2007 Regulations add to the list of recordable offences two non-imprisonable offences under the Football Spectators Act 1989 and one non-imprisonable offence under the Criminal Justice and Public Order Act 1994.

7.2 These amendments add to the schedule of the 2000 Regulations the following offences:-

- Section 19(6) of the Football Spectators Act 1989: the offence of an individual subject to a football banning order failing to comply with the requirements determined by the enforcing authority and made of him by a police officer on the individual's initial reporting at the police station;
- Section 20(10) of the Football Spectators Act 1989: the offence of a banned person knowingly or recklessly providing false or misleading information in support of his application for an exemption from a reporting requirement of their banning order;
- Section 166(1) of the Criminal Justice and Public Order Act 1994: the offence of unauthorised sale or disposal of tickets for a designated football match (ticket touting).

7.3 Making the two specified offences under the Football Spectators Act 1989 recordable will harmonise the approach to recording of various types of breaches of banning orders. Offences for certain other categories of breach are already recordable e.g. a banned person's failure to comply with the enforcing authority's (the Football Banning Orders Authority's) requirement that they report in connection with a regulated football match outside England or Wales. This initiative will positively impact upon police ability to deal with banned individuals. Information on recordable offences is used in the following circumstances:

- Police undertake risk assessments on individuals whose banning orders expire. A further banning order may be sought through a section 14B application if there is evidence that the individual continues to pose a risk, which could include consideration of a pattern of non-compliance with the original ban;
- Police or Football Banning Orders Authority's ("FBOA's") consideration of banned individuals' applications for exemption from reporting conditions for particular matches or a tournament;
- To enable informed police representations to the court during hearings of banned individuals' applications for early termination of their order.

7.4 Police and FBOA make an assessment of the banned individual's character and reliability on the basis of access to information within the complete arrest record. Impetus can be lost to pursue convictions for section 19(6) and section 20(10) offences if there is no lasting record to assist future decision making.

7.5 Making the offence of ticket touting under section 166(1) of the Criminal Justice and Public Order Act 1994 a recordable offence is intended to provide local forces with immediate information (through a Police National Computer check) on repeat offenders operating in various police force areas since touts typically operate at high-profile football matches in diverse police force areas. At present, local forces will only be aware of touts operating in their own police force area which can and does result in mobile touts escaping with a caution when a prosecution would be more appropriate.

7.6 Regulation 2 amends the Schedule and lists the offences now to be included.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is also no impact on public bodies.

9. Contact

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