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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 89**

**CRIMINAL LAW**

**The Restriction of Liberty Order etc.  
(Scotland) Amendment Regulations 2016**

*Made* - - - - 3rd February 2016  
*Laid before the Scottish  
Parliament* - - - - 4th February 2016  
*Coming into force* - - 13th March 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 245C(3) of the Criminal Procedure (Scotland) Act 1995(1) (as applied by section 40 of the Criminal Justice (Scotland) Act 2003(2)) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Restriction of Liberty Order etc. (Scotland) Amendment Regulations 2016 and come into force on 13th March 2016.

**Amendment of the Restriction of Liberty Order etc. (Scotland) Regulations 2013**

2. After regulation 5(b) of the Restriction of Liberty Order etc. (Scotland) Regulations 2013(3) insert—

“(ba) remotely monitoring the compliance of an offender with a condition specified by virtue of section 40(2) of the Criminal Justice (Scotland) Act 2003.”.

St Andrew’s House, Edinburgh  
3rd February 2016

*MICHAEL MATHESON*  
A member of the Scottish Government

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(1) 1995 c.46. Section 245C was inserted by section 5 of the Crime and Punishment (Scotland) Act 1997 (c.48) and amended by paragraph 36 of Schedule 1 to the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5).  
(2) 2003 asp 7. Section 40 was amended by section 21 of the Management of Offenders etc. (Scotland) Act 2005 (asp 14).  
(3) S.S.I. 2013/6.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations amend the Restriction of Liberty Order etc. (Scotland) Regulations 2013 (“the Principal Regulations”) by adding to regulation 5 of the Principal Regulations a further purpose for which the devices specified in Schedule 2 of the Principal Regulations may be used.

Section 245C(3) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) requires the Scottish Ministers to specify in regulations the devices which may be used for remotely monitoring the compliance of offenders with the requirements of restriction of liberty orders. Section 40(2) of the Criminal Justice (Scotland) Act 2003 (“the 2003 Act”) provides that, where a prisoner is released on licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993, the licence may contain conditions for securing the remote monitoring of the prisoner. Section 40(7) of the 2003 Act provides that sections 245C of the 1995 Act applies in relation to the imposition of and compliance with, conditions specified by virtue of section 40(2) as it applies to the making of, and compliance with, a restriction of liberty order.

This amendment to the regulation 5 of the Principal Regulations, under the power in section 245C(3) of the 1995 Act, provides that the devices listed in Schedule 2 to the Principal Regulations are specified devices which may be used for the purposes of remotely monitoring a prisoner’s compliance with a condition specified by virtue of section 40(2) of the 2003 Act.