

2019 No. 423

CRIMINAL LAW

**The Restriction of Liberty Order etc. (Scotland) Amendment
Regulations 2019**

Made - - - -at 12.45 p.m. on 17th December 2019

Laid before the Scottish Parliament at 3.45 p.m. on 17th December 2019

Coming into force - - - - 20th December 2019

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 245C(3) of the Criminal Procedure (Scotland) Act 1995(a) 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 2019 and come into force on 20 December 2019.

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

2.—(1) The Restriction of Liberty Order etc. (Scotland) Regulations 2013(b) are amended as follows.

(2) In regulation 2—

- (a) omit the entry for “movement restriction condition”, and
- (b) omit the entry for “Serco Geografix”.

(3) Omit regulation 6.

(4) For Schedule 2 substitute—

“SCHEDULE 2

Regulation 5

1. Devices manufactured by G4S Monitoring Technologies—

- (a) Home Monitoring Unit 433, model number 10-0079-4;

(a) 1995 c.46 (“the 1995 Act”). Section 245C was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48) section 5 and was amended by the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5) Schedule 1, paragraph 36. Section 245C is applied for other purposes by: (1) section 12AB(3) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9), which was inserted by the Management of Offenders etc. (Scotland) Act 2005 (asp 14) section 15(10); (2) section 227Z1 of the 1995 Act, which was added by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) section 14(1); (3) section 234CA(5) of the 1995 Act, which was inserted by the Criminal Justice (Scotland) Act 2003 (asp 7) section 47(2); and (4) section 40(7) of the Criminal Justice (Scotland) Act 2003, which was amended by the Management of Offenders etc. (Scotland) Act 2005 (asp 14) section 21(13). Section 245C will be repealed by the Management of Offenders (Scotland) Act 2019 (asp 14), Schedule 1, paragraph 7(2)(d) once that provision is brought into force.

(b) S.S.I. 2013/6.

- (b) Home Monitoring Unit 868, model number 10-000183 - 01;
- (c) Personal Identification Device 433, model number 35-0025-3;
- (d) Personal Identification Device 868, model number 10-0149-4;
- (e) Fitting and Installation Unit 433, model number 10-0052-4;
- (f) Fitting and Installation Unit 868, model number 10-000225 -01;
- (g) Security Keyfob 433, model number 10-0054-4;
- (h) Security Keyfob 868, model number 10-0143-4;
- (i) Home Station, model number 10-0139-4.”.

St Andrews House
Edinburgh
At 12.45 p.m. on 17th December 2019

H YOUSAF
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Restriction of Liberty Order etc. (Scotland) Regulations 2013 (“the 2013 Regulations”). Regulation 2(2) revokes two obsolete definitions from Regulation 2 of the 2013 Regulations as movement restriction conditions are no longer referred to in the 2013 Regulations and, following the amendment of Schedule 2, Serco Geografix will no longer be referred to.

Regulation 2(3) removes Regulation 6 from the 2013 Regulations as it is no longer required. Regulation 6 made amendments to the Intensive Support and Monitoring (Scotland) Regulations 2008 (SSI 2008/75) and those Regulations were in turn revoked by Regulation 1 of the Children’s Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013 (SSI 2013/210) (“the MRC Regulations”).

Regulation 2(4) substitutes a new Schedule 2 into the 2013 Regulations. Schedule 2 of the 2013 Regulations specifies devices which may be used for the purposes of remotely monitoring an individual’s compliance with—

- a) a restriction of liberty order made under section 245A of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”),
- b) a restricted movement requirement as defined in section 227ZF(1) of the 1995 Act,
- c) requirements imposed under section 234CA(1) of the 1995 Act as part of a drug treatment and testing order,
- d) requirements imposed under section 230A(1) of the 1995 Act as part of a probation order,
- e) a curfew condition as defined in section 12AB(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, and
- f) a condition specified by virtue of section 40(2) of the Criminal Justice (Scotland) Act 2003.

Regulation 2(4) replaces Schedule 2 of the 2013 Regulations in order to specify a new list of devices which may be used for these purposes.

Sections 228 to 234 of the 1995 Act (probation) were repealed by paragraph 17 of Schedule 2 of the Criminal Justice and Licensing (Scotland) Act 2010. However, savings provisions in the Criminal Justice and Licensing (Scotland) Act 2010 (Commencement No. 6, Transitional and Savings Provisions) Order 2010 (SSI 2010/413) retained probation orders for offences committed before 1st February 2011.

Section 150 of the Children’s Hearings (Scotland) Act 2011 enables the Scottish Ministers to prescribe the devices which may be used for monitoring compliance with a movement restriction condition imposed on a child as part of a compulsory supervision order. This power has been exercised in the MRC Regulations.

Regulation 8 of the MRC Regulations specifies devices for the purposes of section 150 of the 2011 Act via a cross-reference to Schedule 2 of the 2013 Regulations. Accordingly, the changes being made in these Regulations to Schedule 2 of the 2013 Regulations will mean that new devices are specified for the purposes of section 150 of the 2011 Act via the cross-reference in Regulation 8 of the MRC Regulations.

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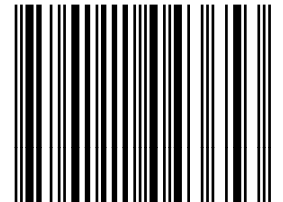
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