



Management of Offenders (Scotland) Act 2019 2019 asp 14

PART 1

ELECTRONIC MONITORING ETC.

Obligations and compliance

12 Standard obligations put on monitored persons

- (1) The obligations in subsections (2) and (3) are set out in relation to a requirement made under—
 - (a) section 1(1), or
 - (b) section 5(1).
- (2) The monitored person must obey instructions given by the designated person on how or when an approved device allocated to the monitored person is to be—
 - (a) worn, or
 - (b) used in some other way,so as to facilitate monitoring of the monitored person by means of the approved device for the purpose mentioned in section 1(4) or (as the case may be) 5(4).
- (3) The monitored person must not—
 - (a) tamper with the approved device, or cause or permit someone else to tamper with the device, or
 - (b) intentionally damage or destroy the approved device, or cause or permit someone else so to damage or destroy the device.
- (4) In subsection (2), the reference to the designated person is to whoever is for the time being designated under section 11(1)(a) or (as the case may be) (2)(a).
- (5) In subsections (2) and (3)—
 - (a) the references to an approved device include any apparatus linked to the device as well as meaning the device itself,

Status: This is the original version (as it was originally enacted).

- (b) the references to the monitored person are to the person subject to the requirement made under section 1(1) or (as the case may be) 5(1).

13 Deemed breach of disposal or conditions

- (1) In the operation of a disposal mentioned in section 3(2)—
 - (a) an additional requirement made under section 1(1) is to be regarded as if part of the disposal,
 - (b) the disposal is therefore to be taken as breached with respect to the requirement if the person subject to it contravenes section 12(2) or (3).
- (2) Any provisions of an enactment as to breach of the disposal are engaged by virtue of subsection (1) accordingly (so far as relevant in the case).
- (3) No offence constituted by reason of breaching the disposal (where there is such an offence) can be committed by virtue of subsection (1).
- (4) In the operation of any conditions mentioned in section 7(1)—
 - (a) an additional requirement made under section 5(1) is to be regarded as if part of the conditions,
 - (b) the conditions are therefore to be taken as breached with respect to the requirement if the person subject to it contravenes section 12(2) or (3).
- (5) Any provisions of an enactment—
 - (a) as to breach of the conditions or the licence in which they are contained, or
 - (b) as to recall to a prison or another place in consequence of breach of the conditions or the licence in which they are contained,
 are engaged by virtue of subsection (4) accordingly (so far as relevant in the case).
- (6) In subsections (2) and (5), the references to provisions relating to breach of something include provisions relating to variation or revocation of it in consequence of breach of it.

14 Documentary evidence at breach hearings

- (1) As regards a requirement made under section 1(1), subsection (3) applies in relation to a hearing on the issue of whether the person subject to the requirement has—
 - (a) contravened the specified aspects of the associated disposal, or
 - (b) contravened section 12(2) or (3).
- (2) As regards a requirement made under section 5(1), subsection (3) applies in relation to a hearing on the issue of whether the person subject to the requirement has—
 - (a) contravened the specified aspects of the associated conditions, or
 - (b) contravened section 12(2) or (3).
- (3) Evidence may be given by way of a document bearing to comprise (both)—
 - (a) a statement—
 - (i) produced by an approved device (or any apparatus linked to the device), and
 - (ii) showing information relevant to the issue, and
 - (b) a certificate signed by or on behalf of the designated person that the information is accurate.

- (4) Examples are information about—
- (a) the device's whereabouts at a particular time (including when being at, or not being at, a particular place),
 - (b) the—
 - (i) connectivity of the device or working of the device in some other way,
 - (ii) wearing of the device or use of the device in some other manner, at a particular time,
 - (c) the presence or level of alcohol, drugs or other substances in the wearer's or user's body at a particular time.
- (5) The document—
- (a) is sufficient evidence of everything contained in it,
 - (b) is admissible only if a copy of it is served, prior to the start of the hearing, on the person whose alleged contravention is the subject of the hearing.
- (6) In subsections (1) to (3)—
- (a) a reference to a hearing includes a court or administrative hearing,
 - (b) a reference to the specified aspects of the disposal or the conditions in question has the same meaning as is given by section 1(7) or (as the case may be) 5(7),
 - (c) the reference to the designated person is to someone who at the time of the signing of the certificate is designated under section 11(1)(a) or (as the case may be) (2)(a).