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- (i) section 215(2) (electronic monitoring requirement).”
- (4) In subsection (3) (curfew or exclusion requirement must be accompanied by electronic monitoring requirement) for “(as defined by section 215)” substitute “within section 215(1)(a) for securing the electronic monitoring of the curfew or exclusion requirement”.
- (5) Omit subsection (4) (power, in certain cases where subsection (3) does not apply, to impose requirement for electronic monitoring of another requirement included in the suspended sentence order).
- (6) In consequence, omit section 72(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- 14 In section 192(3)(b) (reviews of suspended sentence order)—
- (a) after “electronic monitoring requirement” insert “within section 215(1)(a)”, and
- (b) for “190(1)” substitute “190(1)(a) to (l)”.
- 15 In section 197(1)(a) (meaning of “the responsible officer” where curfew or exclusion requirement imposed)—
- (a) in sub-paragraph (i)—
- (i) for “177(1)” substitute “177(1)(a) to (l)”, and
- (ii) for “190(1)” substitute “190(1)(a) to (l)”, and
- (b) in sub-paragraph (ii) after “requirement” insert “within section 215(1)(a)”.
- 16 (1) Section 215 (electronic monitoring requirement) is amended as follows.
- (2) In subsection (1) (“electronic monitoring requirement” is a requirement for securing the monitoring of compliance with other requirements)—
- (a) for “for securing the” substitute “to submit to either or both of the following—
- (a)”,
- and
- (b) at the end insert “, and
- (b) electronic monitoring of the offender’s whereabouts (otherwise than for the purpose of monitoring the offender’s compliance with any other requirements included in the order) during a period specified in the order.”
- (3) After subsection (4) insert—
- “(4A) Where a relevant order imposes an electronic monitoring requirement, the offender must (in particular)—
- (a) submit, as required from time to time by the responsible officer or the person responsible for the monitoring, to—
- (i) being fitted with, or installation of, any necessary apparatus, and
- (ii) inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
- (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
- (c) take any steps required by the responsible officer, or the person responsible for the monitoring, for the purpose of keeping in

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working order any apparatus fitted or installed for the purposes of the monitoring.”

- (4) In subsection (5) (electronic monitoring requirement not to be imposed for monitoring compliance with alcohol abstinence and monitoring requirement) after “electronic monitoring requirement” insert “within subsection (1)(a)”.
- (5) In subsection (6) (subsection (5) does not prevent electronic monitoring of compliance with other requirements) for “this is” substitute “the electronic monitoring requirement is within subsection (1)(b) or is included”.

17 After section 215 insert—

“215A Data from electronic monitoring: code of practice

- (1) The Secretary of State must issue a code of practice relating to processing of data gathered in the course of electronic monitoring of offenders under electronic monitoring requirements imposed by relevant orders.
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”

18 (1) Section 218 (availability of arrangements in local area) is amended as follows.

(2) In subsection (4)—

- (a) after “electronic monitoring requirement” insert “within section 215(1)(a)”, and
- (b) in paragraph (b), for “those arrangements” substitute “the arrangements currently available”.

(3) After subsection (8) insert—

“(9) A court may not include an electronic monitoring requirement within section 215(1)(b) in a relevant order in respect of an offender unless the court—

- (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the local justice area proposed to be specified in the order,
- (b) is satisfied that the offender can be fitted with any necessary apparatus under the arrangements currently available and that any other necessary provision can be made under those arrangements, and
- (c) is satisfied that arrangements are generally operational throughout England and Wales (even if not always operational everywhere there) under which the offender’s whereabouts can be electronically monitored.”

19 In Schedule 8 (breach etc of community order) in paragraph 3(b)—

- (a) after “electronic monitoring requirement” insert “within section 215(1)(a)”, and
- (b) for “177(1)” substitute “177(1)(a) to (l)”.

20 (1) Schedules 9 and 13 (transfer of community or suspended sentence order to Scotland or Northern Ireland) are amended as follows.

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- (2) In paragraphs 1(2)(g) and 3(2)(h) of Schedule 9, and paragraphs 1(2)(g) and 6(2)(h) of Schedule 13, after “requirement” insert “within section 215(1)(a)”.
 - (3) In paragraph 1(5) of each of Schedules 9 and 13 (certain requirements not to be included in orders to be complied with in Scotland) before “to be complied with” insert “, or an electronic monitoring requirement within section 215(1)(b),”.
 - (4) In paragraph 3(1) of Schedule 9 and paragraph 6(1) of Schedule 13 (pre-conditions for imposing requirements where offender will be living in Northern Ireland) before the “and” at the end of paragraph (a) insert—
 - “(aa) in the case of an order imposing an electronic monitoring requirement within section 215(1)(b)—
 - (i) that any necessary provision can be made in the offender’s case under arrangements that exist for persons resident in that locality, and
 - (ii) that arrangements are generally operational throughout Northern Ireland (even if not always operational everywhere there) under which the offender’s whereabouts can be electronically monitored,”.
 - (5) In paragraphs 3(3)(b) and (4) and 13(b) of Schedule 9 and paragraph 6(3)(b) and (4) of Schedule 13 (references to the pre-conditions) for “and (b)” substitute “to (b)”.
 - (6) In paragraph 4(3)(d) of Schedule 9 and paragraph 9(3)(d) of Schedule 13 (disapplication of section 218(4)) for “subsection (4)” substitute “subsections (4) and (9)”.
 - (7) In paragraph 17 of Schedule 13 (reference to the pre-conditions) for “and (b)”, in the second place, substitute “to (b)”.
- 21 In Schedule 12 (breach or amendment of suspended sentence order and effect of further conviction) in paragraph 15(2)(b)—
- (a) after “electronic monitoring requirement” insert “within section 215(1)(a)”, and
 - (b) for “190(1)” substitute “190(1)(a) to (l)”.