

2005 No. 142

CRIMINAL LAW

**The Bail Conditions (Specification of Devices) and Restriction
of Liberty Order (Scotland) Amendment Regulations 2005**

Made - - - - *9th March 2005*

Laid before the Scottish Parliament *10th March 2005*

Coming into force - - *18th April 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 24B(1)(b), 24D(4), 245A(8) and 245C(3) of the Criminal Procedure (Scotland) Act 1995(a) and all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Bail Conditions (Specification of Devices) and Restriction of Liberty Order (Scotland) Amendment Regulations 2005.

(2) These Regulations shall come into force on 18th April 2005.

Interpretation

2. In these Regulations—

“the Act” means the Criminal Procedure (Scotland) Act 1995; and

“Elmo Tech” means Elmo Tech Limited, a company incorporated under the laws of Israel and having a place of business at 2 Harbazeel Street, Tel Aviv, 61132, Israel.

Methods of monitoring compliance with movement restriction conditions

3.—(1) Compliance with the requirements of a movement restriction condition which has been made in respect of a person may be monitored by the following methods:—

- (a) radio and electronic monitoring of that person’s presence at or absence from a specified place by means of a regular radio signal transmitted by a transmitter device attached to the person with the transmitter signal received by a radio receiving and monitoring device located at a specified place, with the relevant information received and processed by that radio receiving and monitoring device periodically passed by telephone line to a central computer at a monitoring centre;
- (b) radio and electronic monitoring of that person’s presence at or absence from a specified place by a mobile receiver which receives radio signals transmitted by a transmitter device attached to the person;

(a) 1995 c.46; sections 24A to 24E were inserted by the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), section 17; and sections 245A to 245H were inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 5. The functions of the Secretary of State transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

- (c) monitoring that person's whereabouts by periodic telephone calls to the person at a specified place with a secondary verification of the identity of the person by verification against stored personal details; and
- (d) monitoring that person's whereabouts by random visits to a specified place during periods when the person is required to be at such a place (or, as the case be, required not to be there) under the movement restriction condition,

but the methods of monitoring in (b), (c) or (d) shall not be used unless it is not reasonably practicable to use the method described in (a) except that the method referred to in (c) may be used as a back-up method of monitoring where method (a) is also being used.

(2) For the purposes of this regulation "specified place" means a place or description of place specified in the movement restriction condition which has been made in respect of a person.

Specified devices which may be used for monitoring compliance with movement restriction conditions

4. For the purposes of section 24D(4) of the Act the devices listed in the Schedule to these Regulations are specified and may be used for the purpose of remotely monitoring the compliance of persons in respect of whom remote monitoring requirements have been imposed under section 24A(1) or (2) of the Act with the movement restriction conditions in respect of which they are imposed.

Amendment of the Restriction of Liberty Order (Scotland) Regulations 1998

5. In Schedule 2 (specified devices) to the Restriction of Liberty Order (Scotland) Regulations 1998(a), after paragraph 2(m) insert—

- “(n) Small transmitter, model number TX-700-2;
- (o) Large transmitter, model number TXL-700-2;
- (p) E3 Receiver: DCU-2010-2;
- (q) Data Extension Unit Repeater, model number iDEU-800-2;
- (r) Manual Reset device, model number MRD RF-700-2;
- (s) Mobile Unit, model number MU-800-2.”.

HUGH HENRY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
9th March 2005

(a) S.I. 1998/1802, as amended by S.I. 1999/144 and S.S.I. 2002/119.

SCHEDULE

Regulation 4

Specified for the purposes of section 24D(4) of the Act are the following devices:

Devices manufactured and sold by Elmo Tech:

- (a) EMS200HA Small transmitter, model number TX-500-EP-2;
- (b) EMS200HA Large transmitter, model number TX-500-2;
- (c) EMS200HA Home Monitoring Receiver Unit Type 1, model number HMRU 500i-EU;
- (d) EMS200HA GSM Cellphone Home Monitoring Receiver Unit, model number HMRU 610;
- (e) EMS200HA Activator Unit, model number MRD;
- (f) EMS200HA Alert & Activator Unit, model number MRD-RF-2;
- (g) EMS200HA Mobile Unit, model number MBU 510;
- (h) EMS2000i Voice Verification Platform;
- (i) Small transmitter, model number TX-700-2;
- (j) Large transmitter, model number TXL-700-2;
- (k) E3 Receiver: DCU-2010-2;
- (l) Data Extension Unit Repeater, model number iDEU-800-2;
- (m) Manual Reset device, model number MRD RF-700-2;
- (n) Mobile Unit, model number MU-800-2.

EXPLANATORY NOTE

(This note is not part of the Regulations))

These Regulations, which are made under sections 24B(1)(b) and 24D(4) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), as inserted by section 17 of the Criminal Procedure (Amendment) (Scotland) Act 2004 and sections 245A(8) and 245(C)3 of the 1995 Act, as inserted by section 5 of the Crime and Punishment (Scotland) Act 1997, make provision for the monitoring of certain groups of people by means of electronic or radio devices.

Regulation 3 specifies the methods by which compliance with movement restriction conditions, as defined in section 24A(18) of the 1995 Act, may be monitored.

Regulation 4 and the Schedule specify the electronic and radio devices which may be used for monitoring the compliance of those on bail with movement restriction conditions.

Regulation 5 amends the list of specified devices which may be used to monitor the compliance of offenders with the requirements of restriction of liberty orders. Such devices are already specified in the Restriction of Liberty Order (Scotland) Regulations 1998, and this regulation adds more devices to the list of those which may be used for monitoring.

£3.00

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under the authority and superintendence of Carol Tullo, the Queen’s Printer for Scotland
250 03/05 19593

