

2006 No. 8

CRIMINAL LAW

The Restriction of Liberty Order (Scotland) Regulations 2006

Made - - - - *11th January 2006*

Laid before the Scottish Parliament *13th January 2006*

Coming into force as provided for by regulation 1(2)

The Scottish Ministers, in exercise of the powers conferred by sections 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, commencement and revocation

1.—(1) These Regulations may be cited as the Restriction of Liberty Order (Scotland) Regulations 2006.

(2) These Regulations shall come into force on 20th February 2006, except that paragraph (3) of this regulation shall come into force on 16th April 2006.

(3) The Restriction of Liberty Order (Scotland) Regulations 1998(b) are hereby revoked.

Interpretation

2. In these Regulations—

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

“offender” has the meaning assigned to it by section 245A(1) of the Act;

“Premier Geografix” means Premier Geografix Limited, a company incorporated under the Companies Acts under number 3522659 and having its registered office at Serco House, 16 Bartley Wood Business Park, Bartley Wood, Hook, Hampshire, RG27 9UY;

“restriction of liberty order” has the meaning assigned to it by section 245A(1) of the Act; and

“place of curfew” means that place specified in a restriction of liberty order in terms of section 245A(2)(a) or (b) of the Act, which the offender is required to be in or, as the case may be, not be in.

Prescribed courts

3. The courts which are prescribed for the purposes of making restriction of liberty orders are those listed in Schedule 1 to these Regulations.

(a) 1995 c.46; 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).

(b) S.I. 1998/1802, as amended by S.I. 1999/144 and S.S.I.s 2002/119 and 2005/142.

Methods of monitoring compliance with restriction of liberty orders

4. Compliance of an offender with the requirements of a restriction of liberty order which has been made in respect of him or her may be monitored by the following methods–

- (a) radio and electronic monitoring of an offender's presence at or absence from a place of curfew by means of a regular radio signal transmitted by a transmitter device attached to the offender with the transmitted signal received by a radio receiving and monitoring device located at the place of curfew, with the relevant information received and processed by said radio receiving and monitoring device periodically passed by telephone line to a central computer at a monitoring centre;
- (b) radio and electronic monitoring of an offender's presence at or absence from a place of curfew by a mobile receiver which receives radio signals transmitted by a transmitter device attached to the offender;
- (c) monitoring the offender's whereabouts by periodic telephone calls to the offender at a particular location with secondary verification of the identity of the offender by verification against stored personal details; and
- (d) monitoring the offender's whereabouts by random visits to the offender's place of curfew during periods of restriction,

but the methods of monitoring referred to 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.

Specified devices which may be used for monitoring compliance with a restriction of liberty order

5. For the purposes of section 245C(3) of the Act the devices listed in Schedule 2 to these Regulations are specified and may be used for the purpose of remotely monitoring the compliance of an offender with the requirements of a restriction of liberty order.

HUGH HENRY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
11th January 2006

SCHEDULE 1

Regulation 3

The courts, or classes of courts which are prescribed for the purposes of making restriction of liberty orders are—

1. The High Court of Justiciary;
2. Any sheriff court;
3. Any district court when constituted by a stipendiary magistrate.

SCHEDULE 2

Regulation 5

Specified for the purposes of section 245C(3) of the Act are the following devices—

Devices manufactured by Premier Geografix and sold under the Premier Geografix name:

- (a) Personal Identity Device, model number PID501;
- (b) Site Monitoring Unit, model number SMU001;
- (c) Field Management Unit 2, model number FMU2;
- (d) Monitoring Officers Transmitter 2, model number MOT2.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the monitoring by electronic and radio devices of the compliance by offenders with the requirements of restriction of liberty orders (“RLOs”). They also revoke the Restriction of Liberty Order (Scotland) Regulations 1998, as amended, (“the 1998 Regulations”) which prescribe the courts which may make RLOs and the methods and the devices which may be used for monitoring compliance. The prescribed courts and methods are the same in these Regulations as in the 1998 Regulations but, following a change of contractor, the prescribed devices are different. By virtue of regulation 1(3), there is a period of about two months during which the devices prescribed in either set of Regulations may be used. This is to allow for an orderly transition.

Regulation 3 and Schedule 1 prescribe which courts may make RLOs. These remain as in the 1998 Regulations.

Regulation 4 prescribes the methods by which compliance with the requirements of RLOs may be monitored. These remain as in the 1998 Regulations.

Regulation 5 and Schedule 2 specify the devices which may be used for monitoring compliance with the requirements of RLOs.

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