

EXECUTIVE NOTE

THE RESTRICTION OF LIBERTY ORDER AND RESTRICTED MOVEMENT REQUIREMENT (SCOTLAND) REGULATIONS 2011

SSI 2011/3

1. The above regulations were made in exercise of the powers conferred by sections 227ZJ(1), 245A(8) and 245C(3) of the Criminal Procedure (Scotland) Act 1995 (the 1995 Act). The instrument is subject to negative resolution procedure.

Policy Objectives

2. Section 14 of the Criminal Justice and Licensing (Scotland) Act 2010 amended the 1995 Act to introduce a new community sentence – the community payback order (CPO). The CPO, which will replace probation orders, community service orders and supervised attendance orders, is a single order which can include up to 9 requirements. A restricted movement requirement (RMR), which is an electronically monitored curfew requiring the offender to remain within a specific address for up to 12 hours per day, and/or away from an address for up to 24 hours a day, can be imposed as a sanction following a finding of breach for non-compliance with the CPO. This will extend the options available to the court when imposing sanctions for breach.

3. Section 227ZJ provides for Scottish Ministers to prescribe by regulation the court or class of courts which can impose an RMR and the methods of monitoring compliance.

Current Regulations

4. The Restriction of Liberty Order (Scotland) Regulations 2006 currently specify the courts which may impose a restriction of liberty order (RLO) and prescribe the methods of monitoring compliance with such orders. The methods of monitoring compliance with an RLO are the same methods we intend being used for monitoring compliance with an RMR. We intend to repeal these regulations and make a new set of regulations which will prescribe which courts can impose RLOs and/or RMRs and the methods by which these will be monitored.

Purpose of these regulations

5. The purpose of these regulations is to repeal the current regulations in respect of RLOs only and to make a new set of regulations which will specify the courts which may impose an RLO (the High Court, the Sheriff Court and Justice of the Peace Courts when constituted by a Stipendiary Magistrates) and an RMR (the High Court, the Sheriff Court and Justice of the Peace Courts) and the methods of monitoring compliance. These methods will not change from those currently specified. However, one new piece of equipment will be listed. This works in the same way as the other equipment provided for but the technology has been upgraded.

Financial Effects

6. Serco Ltd have been contracted to carry out electronic monitoring services on behalf of the Scottish Government. The costs of RLOs will be met from the current contract. Providing for RMRs will add slightly to contract expenditure (£1.2m pa) but this can be met from within the current budget.

7. A regulatory impact assessment has not been prepared in this instance as these regulations will have no impact on Scottish businesses other than Serco Ltd who have been contracted to deliver the service in Scotland and employ staff in order to do this.

Community Justice Division
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