

EXPLANATORY MEMORANDUM TO
THE ELECTRONIC MONITORING (RESPONSIBLE PERSONS) (AMENDMENT)
ORDER 2018

2018 No. 1277

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this Order is to:
 - i) add a new provider to a list of existing persons who may be made responsible for the monitoring of prisoners under the Criminal Justice and Court Services Act 2000 (“the 2000 Act”) section 62(2B); and
 - ii) amend the details of the persons listed in Section 3(a) (ii) of Order 2018 Number 212.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Joint Committee on Statutory Instruments reported the Electronic Monitoring (Responsible Persons) Order 2018 in its 17th Report, dated 23rd March 2018, for defective drafting. This is because the responsible person listed at Article 3(a)(ii), namely Alcoholic Monitoring Systems Limited, did not have its company number listed also, which was inconsistent with the other responsible persons listed.
- 3.2 This instrument corrects the defective drafting by including the company number for Alcoholic Monitoring Systems Limited, but also amends the company address, as this has changed.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Section 62(2B) of the 2000 Act states that a person may not be made responsible for the monitoring of prisoners under section 62 unless they are of a description specified in an order by the Secretary of State. This order seeks to amend the Electronic Monitoring (Responsible Persons) Order 2018 (S.I. 2018/212) to add a new person and amend the details of an existing one.

7. Policy background

What is being done and why?

- 7.1 With regard to section 2.1 (i) above, the London Mayor's office for Policing and Crime (MOPAC) has, since March 2017, been running a small scale electronic location monitoring pilot, using GPS tags, for prolific offenders given a community sentence with a location monitoring requirement. Buddi Limited, have been providing the monitoring services for the purpose of this pilot. The pilot, which is due to conclude in September 2019, has focussed on the use of standalone location monitoring¹, which is considered by offender managers to be a valuable tool that assists with supervision.
- 7.2 As part of a wider strategy to reduce knife crime in the London area, MOPAC would like to build upon the success of their community sentence pilot and test the effectiveness of electronic location monitoring on adult offenders whose offending behaviour involves the possession or use of a knife and who have been automatically released from London prisons on licence to the London area. However, in order for Buddi Limited to provide the monitoring services for the purpose of this pilot, they must be listed in an order as person who may be made responsible for the monitoring of prisoners, as set out in paragraph 6.1.
- 7.3 The prisons affected, having due regard to advice from probation practitioners, would continue to consider proportionate and necessary licence conditions. Where a GPS tag is imposed the information gathered from it will be used to challenge behaviours which may impact on the subject's potential to carry or use a knife, such as travelling across boroughs, travelling to places of known drug activity or loitering in areas of concern. It will also be used to monitored compliance with additional licence conditions such as exclusion zones.
- 7.4 The specific aims of the proposed pilot will be to:
- challenge offenders' thinking and lifestyles around knife carrying and to positively change it through the use of location data in supervision;
 - improve the management of the risk posed to known adults, children and the public;
 - provide a deterrent to knife possession and other knife related offending behaviour;
 - disrupt gang activity and manage this risk in combination with other licence conditions;
 - reduce the number of recalls for eligible offenders through GPS being imposed as a licence variation;

¹ A standalone location monitoring requirement allows for a subject's whereabouts to be actively monitored for its own sake rather than to manage compliance with any specific condition, such as an exclusion zone

- increase the effectiveness of enforcement action and managing compliance with licence conditions; and
 - test how decision makers respond when given the option of imposing GPS as a licence condition.
- 7.5 The pilot will run for 12 months in which time a GPS tag may be imposed, with a further six month wind down period during which location monitoring may continue. Over the 12 months MOPAC anticipate that they will tag between 50 and 100 subjects. Although numbers are likely to be small, MoJ analysts consider that, with an in-depth qualitative evaluation focusing on how offender managers are using standalone location monitoring data, it could provide additional learning to that gleaned from the MoJ's GPS pilot and help inform future deployment of the capability. This learning will feed into the new national electronic monitoring service developed by the MoJ.
- 7.6 Section 2.1 (ii) above refers to a change of details of the existing provider for electronic alcohol monitoring.
- 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**
- 8.1 This instrument does not relate to withdrawal from the European Union.
- 9. Consolidation**
- 9.1 This Order does not seek to consolidate or revoke any existing orders.
- 10. Consultation outcome**
- 10.1 While there has been no public consultation on the proposed pilot, MOPAC has discussed with, and obtained agreement from, the London Knife Crime Executive Board, which sits fortnightly and has representation from probation providers, police, courts, CPS, prisons and others. Probation Offender Managers and the police involved in MOPAC's community sentence pilot are keen to explore opportunities to use electronic location monitoring to rehabilitate other offenders and reduce crime. MOPAC are planning a workshop with stakeholders in December to consult further on the proposal in anticipation that the SI is approved.
- 11. Guidance**
- 11.1 MOPAC will provide appropriate guidance and support to stakeholders if the SI is approved. This will include detailed guidance to probation providers.
- 12. Impact**
- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector or the Police. Numbers in the pilot will be low (between 50 and 100). The Metropolitan Police are committed to reducing knife crime in the Capital and are engaged in the planning and delivery of this and existing London GPS programmes.
- 12.3 An Impact Assessment has not been prepared for this instrument because of the low level of impact expected.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There is no intention to monitor or review this Order. However, the pilot will be evaluated and the findings will help inform the deployment of electronic location monitoring opportunities in the new national electronic monitoring service.

15. Contact

- 15.1 Toby Head at the Ministry of Justice Telephone: 07773 062867 or email: toby.head@noms.gsi.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Ken Everett as Head of Electronic Monitoring of Operations at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rory Stewart MP, Minister of State at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.