

EXECUTIVE NOTE

The Home Detention Curfew Licence (Prescribed Standard Conditions) (Scotland) Order 2006 S.S.I. 2006/315

1. The above Order is made in exercise of the powers conferred by sections 12AA(3) and (4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) (as inserted by section 15(10) of the Management of Offenders etc (Scotland) Act 2005). The instrument is subject to negative resolution procedure.

Policy Objectives

2. Section 15 of the Management of Offenders etc. (Scotland) Act 2005 amends the Prisoners and Criminal Proceedings (Scotland) Act 1993 and introduces a new scheme of home detention curfew (HDC). The provisions of section 15 which relate to HDC will be brought into force as regards short term prisoners on 3 July by the Management of Offenders etc. (Scotland) Act 2005 (Commencement No.2) Order 2006. Section 15(10) was brought into force from 8 February 2006 by the Management of Offenders etc. (Scotland) Act 2005 (Commencement No.1) Order 2006 (SSI 2006/48), but only for the limited purpose of allowing Scottish Ministers to prescribe standard conditions for the purposes of section 12AA of the 1993 Act.

3. Under the new section 3AA of the 1993 Act, Scottish Ministers have the power to release certain prisoners on licence, and such a licence will include a curfew condition (compliance with which will be monitored remotely by means of electronic equipment or devices) and certain prescribed standard conditions. Additional conditions can be added to the HDC licence by Scottish Ministers in accordance with recommendations made by the Parole Board.

4. The power to release on HDC will allow certain prisoners to be released between 2 weeks and 4 months prior to the date on which they would otherwise be released under the 1993 Act (such prisoners will continue to serve their sentence during the period of the HDC licence and will be required to remain at the place specified in their licence for up to 12 hours per day). The primary aim of HDC scheme is to ease reintegration of prisoners back into the community whilst restricting their movements.

5. Statutory exclusions will prevent certain categories of offenders, e.g. sex offenders, from being released on HDC. All other prisoners will be subject to a robust risk assessment process undertaken by the Scottish Prison Service which will take account of issues such as previous history of violence etc.

6. New section 12AA of the 1993 Act, inserted by section 15(10) of the 2005 Act, provides that licences under section 3AA must include a curfew condition (as set out in section 12AB of the 1993 Act) and “the standard conditions”. Section 12AA(3) provides that “the standard conditions” means “such conditions as may be prescribed as such for the purposes of this section”. Subsection (4) provides that “prescribed” means prescribed by order by the Scottish Ministers, and subsection (5) provides that different standard conditions may be so prescribed for different classes of prisoner

7. HDC will be available initially for short term prisoners serving a sentence of imprisonment for a term of three months or more but less than 4 years. Accordingly, this Order prescribes the standard conditions for such short term prisoners.

9 The standard conditions to be prescribed are to:

- be of good behaviour and keep the peace;
- not commit any offence
- not tamper with or intentionally damage the electronic monitoring equipment or device(s) or knowingly allow these to be tampered with or intentionally damaged; and
- allow the electronic monitoring service provider access to the specified address to install and check electronic monitoring equipment.

Purpose of this Order

8. The purpose of this Order is to prescribe, for short term prisoners only, the standard conditions to be included in all Home Detention Curfew licences, alongside the curfew condition which will be electronically monitored.

Financial Effects

9. Serco Ltd have been contracted to carry out remote monitoring services on behalf of the Scottish Executive throughout Scotland. Home Detention Curfew will incur additional costs for the Scottish Executive over and above the costs of the current electronic monitoring contract. There will also be costs for the Scottish Prison Service in managing the risk assessment process and eligibility for HDC.

10. In relation to the HDC scheme, there will also be additional costs for local authorities in providing SPS with reports on the person's home circumstances, including the attitudes of the people living there, and on the proposed place of restriction.

11. Financial provision for the HDC in terms of electronic monitoring costs and local authority costs will be met from the Scottish Executive Justice Department's budget. SPS will meet their own costs.

12. 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.

SCOTTISH EXECUTIVE JUSTICE DEPARTMENT

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