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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 3**

**CRIMINAL LAW**

**The Restriction of Liberty Order and Restricted Movement Requirement (Scotland) Regulations 2011**

<i>Made</i>	- - - -	<i>11th January 2011</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>13th January 2011</i>
<i>Coming into force</i>	- -	<i>4th February 2011</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 227ZJ(1), 245A(8) and 245C(3) of the Criminal Procedure (Scotland) Act 1995<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement and revocation**

1.—(1) These Regulations may be cited as the Restriction of Liberty Order and Restricted Movement Requirement (Scotland) Regulations 2011 and come into force on 4th February 2011.

(2) The Restriction of Liberty Order (Scotland) Regulations 2006<sup>(2)</sup> and the Restriction of Liberty Order (Scotland) Amendment Regulations 2008<sup>(3)</sup> are revoked.

**Interpretation**

2. In these Regulations—

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

“G4S JSL” means G4S Justice Services Limited, a company incorporated under the Companies Acts under number 390328 and having its registered office at Sutton Park House, 15 Carshalton Road, Sutton, Surrey SM1 4LD;

“Guidance Monitoring Limited” means Guidance Monitoring Limited, a company incorporated under the Companies Acts under number 2626613 and having its registered office at 4 Dominus Way, Leicester LE19 1RP;

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(1) 1995 c.46. Section 227ZJ(1) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) was inserted by section 14 of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13. Section 245A(8) and 245C(3) of the 1995 Act were inserted by section 5 of the Crime and Punishment (Scotland) Act 1997 (c.48).

(2) S.S.I. 2006/8 as amended by S.S.I. 2008/307.

(3) S.S.I. 2008/307.

“offender” means a person in respect of whom a restriction of liberty order or a restricted movement requirement has been imposed;

“restricted movement requirement” has the meaning assigned to it by section 227ZF(1)(4) of the Act;

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

“place of curfew” means, in relation to a restriction of liberty order, 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; and, in relation to a restricted movement requirement, that place specified in a restricted movement requirement in terms of section 227ZF(2) of the Act, which the offender is required to be in or, as the case may be, not be in; and

“Serco Geografix” means Serco 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.

### **Prescribed courts**

3.—(1) The courts which are prescribed for the purpose of making restriction of liberty orders are those listed in Part 1 of Schedule 1 to these Regulations.

(2) The courts which are prescribed for the purpose of imposing restricted movement requirements are those listed in Part 2 of Schedule 1 to these Regulations.

### **Methods of monitoring compliance with restriction of liberty orders and restricted movement requirements**

4. Compliance of an offender with the requirements of a restriction of liberty order or a restricted movement requirement 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 and a restricted movement requirement**

5. For the purposes of section 245C(3)(5) 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 or a restricted movement requirement.

St Andrew's House, Edinburgh  
11th January 2011

*KENNY MACASKILL*  
A member of the Scottish Executive

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(5) Section 245C(3) was inserted by section 5 of the of the Crime and Punishment (Scotland) Act 1997 (c.48). By virtue of section 227ZI of the Criminal Procedure (Scotland) Act 1995 (c.46) (as inserted by section 14 of the [Criminal Justice and Licensing \(Scotland\) Act 2010 asp 13](#)), section 245C and regulations made under it apply in relation to the imposition of, and compliance with, restricted movement requirements as they apply in relation to the imposition of, and compliance with, restriction of liberty orders.

## SCHEDULE 1

Regulation 3

### PART 1

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 Justice of the Peace Court when constituted by a stipendiary magistrate.

### PART 2

The courts, or classes of courts which are prescribed for the purposes of imposing restricted movement requirements are—

1. The High Court of Justiciary;
2. Any Sheriff Court;
3. Any Justice of the Peace Court.

## SCHEDULE 2

Regulation 5

1. Devices manufactured by Serco Geografix and sold under the Serco Geografix name:
  - (a) Personal Identity Device, model number PID501;
  - (b) Site Monitoring Unit, model number SMU001;
  - (c) Site Monitoring Unit, model number GSMU 002;
  - (d) Field Management Unit 2, model number FMU2;
  - (e) Monitoring Officers Transmitter 2, model number MOT2.
2. Devices manufactured by Guidance Monitoring Limited:
  - (a) Home Monitoring Unit, model number GCSHMU MU1;
  - (b) Home Monitoring Unit, model number GCSHMU MU2;
  - (c) Personal Identification Device, model number PIDGS 418;
  - (d) Personal Identification Device, model number PIDGCS 433;
  - (e) Hand Held Unit, model number HHU GCS;
  - (f) New Fitting Tool, model number FIT GML.
3. Devices manufactured by G4S JSL:
  - (a) Home Monitoring Unit, model number GSM JSI (PHMU);
  - (b) Personal Identification Device, model number PID 1.1 JSI (PTX);
  - (c) Officer Drive including officer transmitter, model number PMD.

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## 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”) and with restricted movement requirements imposed under a community payback order. They also revoke the Restriction of Liberty Order (Scotland) Regulations 2006 and an amending order.

Regulation 3 and Schedule 1 prescribe which courts may make RLOs and which courts may impose restricted movement requirements.

Regulation 4 prescribes the methods by which compliance with the requirements of RLOs and restricted movement requirements may be monitored.

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