

**2013 No. 6**

**CRIMINAL LAW**

**CHILDREN AND YOUNG PERSONS**

**The Restriction of Liberty Order etc. (Scotland)  
Regulations 2013**

*Made* - - - - *10th January 2013*

*Laid before the Scottish Parliament* *14th January 2013*

*Coming into force* - - *1st March 2013*

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(a), section 70(13) and (14) of the Children (Scotland) Act 1995(b), 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 etc. (Scotland) Regulations 2013 and come into force on 1st March 2013.

(2) The Restriction of Liberty Order and Restricted Movement Requirement (Scotland) Regulations 2011(c) are revoked.

**Interpretation**

**2.** In these Regulations—

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

“curfew condition” has the meaning assigned to it by section 12AB(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993(d);

“G4S Monitoring Technologies” means G4S Monitoring Technologies Limited, a company incorporated under the Companies Acts under number 2626613 and having its registered office at Southside, 105 Victoria Street, London, SW1E 6QT;

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(a) 1995 c.46 (“the Act”); section 227ZJ was inserted by section 14(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13); sections 245A and 245C were inserted by section 5 of the Crime and Punishment (Scotland) Act 1997 (c.48); section 245A(8) is applied by sections 230A(5) and 234CA(5) of the Act for the purposes specified therein; section 245C(3) is applied by sections 230A(5), 227ZI and 234CA(5) of the Act, and by section 12AB(3) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9) for the purposes specified therein; where applicable, functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1995 c.36; section 70 was amended by the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8).

(c) S.S.I. 2011/3.

(d) 1993 c.9; section 12AB was inserted by section 15(10) of the Management of Offenders etc. (Scotland) Act 2005 (asp 14).

“movement restriction condition” has the meaning assigned to it by section 70(11) of the Children (Scotland) Act 1995;

“offender” means a person subject to a requirement to which regulation 4 applies, or a person subject to a curfew condition;

“place of curfew” means a place that is specified in a requirement to which regulation 4 applies, or in a curfew condition, as a place which the offender is required to be in or, as the case may be, not be in;

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

“restriction of liberty order” has the meaning assigned to it by section 245A of the Act; 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 Way, Hook, Hampshire RG27 9UY.

### **Prescribed courts**

3.—(1) The courts which are prescribed for the purpose of—

- (a) making restriction of liberty orders;
- (b) imposing requirements under section 234CA(1) of the Act(b); and
- (c) imposing requirements under section 230A(1) of the Act(c);

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**

4.—(1) This regulation applies to requirements imposed—

- (a) in a restriction of liberty order;
- (b) in a restricted movement requirement;
- (c) under section 234CA(1) of the Act; and
- (d) under section 230A(1) of the Act.

(2) Subject to paragraph (3), compliance with requirements to which this regulation applies 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

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(a) Section 227ZF was inserted by section 14 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).

(b) Section 234CA was inserted by section 47(2) of the Criminal Justice (Scotland) Act 2003 (asp 7).

(c) Section 230A was repealed by schedule 2, paragraph 17 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13). By virtue of article 3 of the Criminal Justice and Licensing (Scotland) Act 2010 (Commencement No. 6, Transitional and Savings Provisions) Order 2010 (S.S.I. 2010/413) the repeal has no effect in relation to an offence committed before 1st February 2011 or in relation to any probation order made under the Act.

- (d) monitoring the offender's whereabouts by random visits to the offender's place of curfew during periods of restriction.

(3) The methods of monitoring set out in (2)(b), (c) and (d) shall not be used unless it is not reasonably practicable to use the method set out in (2)(a), except that the method set out in (2)(c) may be used as a back-up method of monitoring where the method set out in (2)(a) is also being used.

### **Specified devices**

5. The devices specified in Schedule 2 to these Regulations may be used for the purpose of—
- (a) remotely monitoring the compliance of an offender with a requirement to which regulation 4 applies;
  - (b) remotely monitoring the compliance of an offender with a requirement imposed in a curfew condition; and
  - (c) monitoring the compliance of a child with a restriction imposed in a movement restriction condition.

### **Amendment of the Intensive Support and Monitoring (Scotland) Regulations 2008**

6. The Intensive Support and Monitoring (Scotland) Regulations 2008(a) are amended as follows—

- (a) in regulation 2 (interpretation), the definition of “Serco Geografix” is omitted;
- (b) regulation 9 (specified devices which may be used for the purpose of monitoring compliance with requirements of a movement restriction condition) is omitted; and
- (c) the Schedule is omitted.

St Andrew's House,  
Edinburgh  
10th January 2013

*KENNY MACASKILL*  
A member of the Scottish Government

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(a) S.S.I. 2008/75.

## SCHEDULE 1

Regulation 3

### PART 1

The courts, or classes of courts, which are prescribed for the purposes specified in regulation 3(1) 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 purpose specified in regulation 3(2) 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—
  - (a) Personal Identity Device, model number PID501;
  - (b) Site Monitoring Unit, model number SMU001;
  - (c) Site Monitoring Unit, model number GSMU002;
  - (d) Field Management Unit 2, model number FMU2.
2. Devices manufactured by G4S Monitoring Technologies—
  - (a) Home Monitoring Unit 433, model number 10-0079-4;
  - (b) Home Monitoring Unit 868, model number 10-0141-4;
  - (c) Personal Identification Device 433, model number 35-0025-3;
  - (d) Personal Identification Device 868, model number 10-0140-4;
  - (e) Fitting and Installation Unit 433, model number 10-0052-4;
  - (f) Fitting and Installation Unit 868, model number 10-0142-4;
  - (g) Security Keyfob 433, model number 10-0054-4;
  - (h) Security Keyfob 868, model number 10-0143-4;
  - (i) Home Station, model number 10-0139-4.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations principally regulate matters concerned with the provisions in the Criminal Procedure (Scotland) Act 1995 under which an offender's movements may be restricted, and under which compliance with such restrictions may be monitored. The Regulations also regulate matters concerned with the provisions in the Children (Scotland) Act 1995 under which a children's hearing can impose a movement restriction condition on a child.

Section 245A(8) of the Criminal Procedure (Scotland) Act 1995 confers power to prescribe various matters by regulations in relation to restriction of liberty orders, including the courts which may make such an order and the methods of monitoring compliance with such an order. Section 245A(8) is also applied by other provisions for the purpose of prescribing such matters in relation to a requirement restricting movement when imposed in a probation order or a drug treatment and testing order. Section 227ZJ(1) confers a corresponding power to prescribe the same matters in relation to restricted movement requirements.

Regulation 3 and Schedule 1 prescribe the courts that may impose such orders and requirements.

Regulation 4 prescribes the methods of monitoring compliance with such orders and requirements.

Section 245C(3) of the Criminal Procedure (Scotland) Act 1995 confers power to specify in regulations the devices that may be used for the purpose of remotely monitoring compliance with a restriction of liberty order. Section 245C(3) is also applied by other provisions for the purpose of specifying the devices that may be used for the purpose of remotely monitoring compliance with a requirement restricting movement when imposed in a probation order, a drug treatment and testing order, a restricted movement requirement, or a curfew condition imposed under section 12AA(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993. Section 70(14) of the Children (Scotland) Act 1995 confers power to specify in regulations the devices that may be used for the purpose of monitoring compliance with a movement restriction condition imposed on a child by a children's hearing. Regulation 5 and Schedule 2 specify the devices that may be used for each of these purposes.

The Regulations revoke the Restriction of Liberty Order and Restricted Movement Requirement (Scotland) Regulations 2011.

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