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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 309**

**CRIMINAL LAW**

**The Electronic Monitoring (Relevant Disposals)  
(Modification) (Scotland) Regulations 2020**

*Made* - - - - 2nd October 2020  
*Laid before the Scottish  
Parliament* - - - - 5th October 2020  
*Coming into force* - - 19th November 2020

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 4(1) and 15(1) of the Management of Offenders (Scotland) Act 2019<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Electronic Monitoring (Relevant Disposals) (Modification) (Scotland) Regulations 2020 and come into force on 19 November 2020.

**Modification of the list of relevant disposals**

2. In section 3(2) of the Management of Offenders (Scotland) Act 2019 (list of the relevant disposals), after paragraph (f) insert—

- “(g) imposing conditions on bail under section 24(4) of the Criminal Procedure (Scotland) Act 1995,
- (h) varying the conditions imposed on bail—
  - (i) under section 28(4)(c) of that Act,
  - (ii) pursuant to a review under section 30 or 31 of that Act,
  - (iii) pursuant to an appeal under section 32 of that Act, or
  - (iv) under section 71(1C)(b) of that Act.”

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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St Andrews House  
Edinburgh  
2nd October 2020

*HUMZA YOUSAF*  
A member of the Scottish Government

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## EXPLANATORY NOTE

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

These Regulations modify the list of relevant disposals in section 3(2) of the Management of Offenders (Scotland) Act 2019 (“the 2019 Act”) alongside which a requirement may be imposed by the court under section 1 of the 2019 Act.

A requirement imposed by the court under section 1 of the 2019 Act is a requirement that a person must submit to monitoring by means of an approved device. An approved device is a device of a type prescribed by the Scottish Ministers under section 8 of the 2019 Act. The person subject to the requirement is then monitored for the purposes of ascertaining their compliance with (1) the underlying court order to which they are subject and (2) the standard electronic monitoring obligations in section 12 of the 2019 Act.

These Regulations add two new entries to the list of relevant disposals in section 3(2) of the 2019 Act – the imposition of bail conditions under section 24(4) of the Criminal Procedure (Scotland) Act 1995; and the variation of bail conditions in accordance with sections 28(4)(c), 30, 31, 32 or 71(1C)(b) of that Act.

Section 4(3) of the 2019 provides that a reference to a relevant disposal mentioned in section 3(2) relates to a monitoring requirement under section 1(1) only insofar as the disposal concerns a person’s whereabouts or the person’s consumption etc. of alcohol, drugs or other substances. This means that, in relation to the imposition or variation of bail conditions, a requirement under section 1 of the 2019 Act could only be imposed alongside a bail condition which relates to the individual’s movements or consumption of substances. The court’s power to impose a requirement under section 1 is also limited by the extent to which the Scottish Ministers have approved electronic devices under section 8 of the 2019 Act as electronic monitoring can only take place by means of an approved device.