

**2022 No. 93**

**CRIMINAL LAW**

**The Electronic Monitoring (Relevant Disposals) (Modification)  
(Scotland) Regulations 2022**

*Made* - - - - - *16th March 2022*

*Laid before the Scottish Parliament* *18th March 2022*

*Coming into force* - - - *17th May 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 4(1) of the Management of Offenders (Scotland) Act 2019(a) 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 2022 and come into force on 17 May 2022.

**Modification of the list of relevant disposals**

2.—(1) Section 3(2)(h)(b) of the Management of Offenders (Scotland) Act 2019 (list of the relevant disposals) is modified in accordance with paragraphs (2) to (4).

- (2) In sub-paragraph (iii), omit “or”,
- (3) In sub-paragraph (iv), for “.” substitute “;”,
- (4) After sub-paragraph (iv) insert—
  - “(v) under section 71B(9) of that Act, or
  - (vi) under section 72A(9) of that Act.”.

*KEITH BROWN*  
A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
16th March 2022

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(a) 2019 asp 14.  
(b) Section 3(2)(h) was inserted by S.S.I. 2020/309, regulation 2.

## 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 amend an entry on the list of relevant disposals in section 3(2) of the 2019 Act (entry (h), varying the conditions imposed on bail), to add two additional routes by which a requirement may be imposed under section 1 of the 2019 Act. When bail conditions are varied under sections 71B(9) and 72A(9) of the Criminal Procedure (Scotland) Act 1995 the individual subject to those conditions may be made subject to an electronic monitoring requirement under section 1 of the 2019 Act.

Section 4(3) of the 2019 Act 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.

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