

SERIOUS CRIME ACT 2015

EXPLANATORY NOTES

TERRITORIAL EXTENT

Part 6: Miscellaneous and General

Commentary on Sections

Section 80: Prevention or restriction of use of communication devices by prisoners etc

323. Under section 40D(3A) of the Prison Act 1952 it is an offence to possess a mobile phone in prison without authorisation. Unauthorised mobile phones in prisons enable organised criminals to carry on offending from prison, and can facilitate a range of other activity such as radicalisation, harassment or drug dealing. The National Offender Management Service takes a range of approaches to tackle this problem including measures to stop phones getting into prisons and measures to find and seize phones in prisons (in 2013/14 over 7,400 SIM cards and phones were seized in prisons in England and Wales). This section provides a further mechanism to deal with this problem.
324. *Subsection (1)* confers on the Secretary of State and the Scottish Ministers a power to make regulations, subject to the affirmative procedure (*subsection (7)*), which would, in turn, confer power on the civil courts to make a telecommunications restriction order. The effect of such an order would be to require the relevant communications provider(s) to blacklist unauthorised mobile phone handsets and block SIM cards in prison (or other custodial institutions, namely (in England and Wales) young offender institutions, secure training centres and secure colleges). Applications for such orders could be made by any person specified in regulations (for example, the National Offender Management Service), following the identification of unauthorised phones and SIM cards that are in use in a particular prison. *Subsection (3)* sets out the matters that must be addressed in any regulations, including provision conferring rights on persons to make representations and provision about appeals. *Subsection (4)* identifies further matters which may be provided for in any regulations, for example provision about the enforcement of orders (it would not be necessary to make provision about contempt of court).