

EXPLANATORY MEMORANDUM TO
THE ELECTRONIC MONITORING (RESPONSIBLE PERSONS) (AMENDMENT)
ORDER 2024

2024 No. 328

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 From May 2024, following the re-procurement of electronic monitoring contracts, Serco Limited will replace Capita Business Services Limited as the provider of electronic monitoring services in England and Wales. The purpose of this instrument is to amend Order 212 of 2018 (S.I. 2018/212) to name persons employed by Serco Limited as a Responsible Person for electronic monitoring and to remove persons employed by Attenti EM UK Limited and Alcohol Monitoring Systems Limited.
- 2.2 This instrument also amends the details of the G4S subsidiary company that provide electronic monitoring services in Scotland.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent and territorial application of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The amendment in this Order of the description of the person who can be made responsible for monitoring a person released on Home Detention Curfew to Scotland, is for the purposes of applying the release provisions in England and Wales.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 In accordance with section 62 (2B) of the Criminal Justice and Courts Services Act 2000, a person may not be made responsible for electronic monitoring of prisoners released on licence unless the person is of a description specified in an order made by the Secretary of State. This Order adds Serco Limited as a responsible person to S.I. 2018/212 and removes Attenti and AMS.

7. Policy background

What is being done and why?

- 7.1 Prisoners may be released from custody into the community for a period of time to be spent on licence as part of their sentence and they will be bound by a number of licence conditions. The aims of the licence conditions are to protect the public, to prevent re-offending and to secure the successful re-integration of the offender into the community.
- 7.2 Licence conditions should be preventative as opposed to punitive and must be proportionate, reasonable and necessary. However, the exception is where prisoners are released early on Home Detention Curfew under section 246 of the Criminal Justice Act 2003 and are required by section 253 of that Act to be released subject to an electronically monitored curfew as a condition of the licence. For these prisoners the curfew also has a punitive role that reflects the fact that they are still serving the custodial element of the sentence.
- 7.3 Electronic monitoring may be imposed as a licence condition for the purposes of monitoring compliance with other conditions (such as a curfew, exclusion zone or alcohol monitoring condition) and/or to monitor a person's whereabouts.
- 7.4 This instrument names those employed by Serco Limited as a Responsible Person for electronic monitoring of such conditions.
- 7.5 Capita Business Services Limited, who are the current provider of the electronic monitoring services in England and Wales will remain named in S.I. 2018/212 until removed to allow for a smooth transition between providers.
- 7.6 Buddi Ltd will also remain on S.I. 2018/212 as they continue to provide an electronic monitoring service to the London Mayor's Office for Policing and Crime for pilot projects. Alcohol Monitoring Services and Attenti EM UK Ltd are being removed from S.I. 2018/212, as they do not currently carry out the role of a Responsible Person.
- 7.7 This instruments also amends the details in S.I. 2018/212 for the G4S subsidiary company that provide the electronic monitoring service in Scotland for those released from England and Wales to Scotland on Home Detention Curfew. S.I. 2018/212 and a previous instrument it replaced (S.I. 2014/669), listed G4S Monitoring Technologies Limited rather than G4S Care and Justice Services Limited (a subsidiary of G4S Plc.) as the Responsible Person for electronic monitoring in Scotland. It is unclear how this error occurred, but it may have been due to fact that G4S Monitoring Technologies were delivering part of the EM service in England and Wales.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This Order does not seek to consolidate any existing Orders.

10. Consultation outcome

- 10.1 While there has been no public consultation, the Ministry of Justice has engaged with stakeholders, including, but not limited to, HM Prisons and Probation Service, the Police, the Home Office, regarding the re-procurement of electronic monitoring services. The Ministry of Justice continues to liaise with those stakeholders to ensure a smooth transition from the current provider (Capita) to the newly appointed provider (Serco).
- 10.2 The Ministry of Justice has also consulted with the Electronic Monitoring Contract and Policy lead in Scotland to ensure the correct details for G4S are reflected in this instrument.

11. Guidance

- 11.1 The Ministry of Justice continues to engage with stakeholders and will provide appropriate guidance to them on any relevant changes to the electronic monitoring service.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector as electronic monitoring services will continue to be delivered, stakeholders have been informed of the change of provider and all necessary steps are being taken to ensure a smooth transition.
- 12.3 A full Impact Assessment has not been prepared for this instrument because of the low level of impact.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 As the instrument is only administrative no monitoring or review is felt to be necessary.

15. Contact

- 15.1 Toby Head, HMPPS, email: toby.head@justice.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Ken Everett, Deputy Director for Electronic Monitoring Operations, HMPPS can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Minister Bacon at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.