

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 4 – Prisoners

Monitoring on release

Section 40 – Remote monitoring of released prisoners

191. **Section 40** makes provision for the remote monitoring of prisoners released on licence. It provides that the Scottish Ministers may include in a licence a condition that the prisoner comply with such conditions as appropriate to enable the remote monitoring of the prisoner's compliance with any other conditions of the licence or for the purpose of monitoring his or her whereabouts. An example of a licence condition that may be remotely monitored would be a condition requiring the prisoner to remain in or away from a particular place.
192. **Section 40** applies, by virtue of subsection (1), to persons released on licence under section 22 of the Prisons (Scotland) Act 1989 (where the person has been sentenced prior to 1 October 1993) or under Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (in respect of persons sentenced on or after that date), except those individuals under 16 at the time of their release under section 7(5) of the 1993 Act.
193. Subsection (3) provides that where a remote monitoring condition is specified in a licence, the Scottish Ministers must designate a person responsible for monitoring the prisoner and send to that person as soon as is practicable a copy of the licence condition together with any information required to fulfil the monitoring responsibility. Subsection (4) provides that the designated person will be responsible for monitoring the prisoner according to the licence conditions from the point at which they receive the copy of the licence condition and remain responsible until the licence condition has been suspended, cancelled, revoked or is otherwise no longer in force.
194. Subsection (5) provides the Scottish Ministers with the power to replace the designated person and amend the licence to reflect this. If this occurs this replacement person will become subject to subsections (3) and (4).
195. Subsection (7) applies section 245C of the Criminal Procedure (Scotland) Act 1995 to the remote monitoring of prisoners released on licence. Section 245C makes provision for the Scottish Ministers to make such arrangements as they see fit for the remote monitoring of compliance of offenders in respect of whom the court makes a restriction of liberty order.
196. **Section 40(8)** has the effect that the Scottish Ministers have the power to designate and amend the designation of the person responsible for monitoring the prisoner without having to consult or receive a recommendation from the Parole Board.