



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 4

#### PRISONERS ETC.

##### *Monitoring on release*

#### **40 Remote monitoring of released prisoners**

- (1) This section applies where a person is released on licence under—
  - (a) section 22 of the 1989 Act (persons sentenced before 1st October 1993); or
  - (b) Part I of the 1993 Act (persons sentenced on or after that date),but in the case of a person released under that Part by virtue of section 7(5) of the 1993 Act (application of certain provisions to children detained in solemn proceedings) only if, at release, that person has attained the age of sixteen years.
- (2) Conditions which may be specified in the licence include conditions for securing the remote monitoring of the person's—
  - (a) compliance with any other condition so specified;
  - (b) whereabouts (other than for the purposes of paragraph (a)).
- (3) Where the Scottish Ministers specify such conditions in the licence they must designate in it a person who is to be responsible for the monitoring and must, as soon as practicable after they do so, send that person a copy of the conditions so specified together with such information as they consider requisite to the fulfilment of the responsibility.
- (4) Subject to subsection (5), the designated person's responsibility—
  - (a) commences on that person's receipt of the copy so sent;
  - (b) is suspended during any period in which the conditions for securing the monitoring are suspended; and
  - (c) ends when those conditions are cancelled or the licence is revoked or otherwise ceases to be in force.
- (5) The Scottish Ministers may from time to time designate a person who, in place of the person designated under subsection (3) (or last designated under this subsection),

---

*Status: Point in time view as at 12/01/2004. This version of this provision has been superseded.*

*Changes to legislation: Criminal Justice (Scotland) Act 2003, Section 40 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

is to be responsible for the monitoring; and on the Scottish Ministers amending the licence in respect of the new designation, that subsection and subsection (4) apply in relation to the person designated under this subsection as they apply in relation to the person replaced.

- (6) If a designation under subsection (5) is made, the Scottish Ministers must, in so far as it is practicable to do so, notify the person replaced accordingly.
- (7) Section 245C of the 1995 Act (contractual and other arrangements for, and devices which may be used for the purposes of, remote monitoring) applies in relation to the imposition of, and compliance with, conditions specified by virtue of subsection (2) as that section applies in relation to the making of, and compliance with, a restriction of liberty order.
- (8) A designation under this section is not a licence condition for the purposes of—
  - (a) section 22(7) of the 1989 Act (requirement for recommendation of Parole Board); or
  - (b) section 12(3)(b) of the 1993 Act (requirement for recommendation of, or consultation with, Parole Board).

**Status:**

Point in time view as at 12/01/2004. This version of this provision has been superseded.

**Changes to legislation:**

Criminal Justice (Scotland) Act 2003, Section 40 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.