



# Management of Offenders (Scotland) Act 2019

2019 asp 14

## PART 1

### ELECTRONIC MONITORING ETC.

VALID FROM 17/05/2022

#### *Monitoring on release on parole*

#### **5 Requirement with licence conditions**

- (1) When imposing any conditions of a sort mentioned in section 7(1) in connection with release of a person on licence, the Scottish Ministers may additionally require the person to submit to monitoring by means of an approved device.
- (2) Section 8(1) describes what an approved device is in relation to a requirement under subsection (1).
- (3) A requirement under subsection (1) means that the person—
  - (a) is to be monitored by a person designated under section 11(2)(a), and
  - (b) is bound by the obligations set out in section 12(2) and (3).
- (4) Monitoring by virtue of a requirement under subsection (1) is for the purpose of ascertaining whether the person—
  - (a) is complying with the specified aspects of the conditions, and
  - (b) is fulfilling the obligations set out in section 12(2) and (3).
- (5) The Scottish Ministers must—
  - (a) explain to the person the purpose mentioned in subsection (4), and
  - (b) warn the person of the consequences of failing to fulfil the obligations set out in section 12(2) and (3).

*Status: Point in time view as at 01/12/2020. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Management of Offenders (Scotland) Act 2019, Cross Heading: Monitoring on release on parole. (See end of Document for details)*

- (6) The terms of a requirement made under subsection (1) are to be stated in the licence on which the person is released (with the licence being as referred to in the enactment under which the person is released).
- (7) In subsection (4)(a), the reference to the specified aspects is to the particular aspects specified by the Scottish Ministers when imposing the conditions.

## **6 Particular rules regarding conditions**

- (1) Where a recommendation of the Parole Board for Scotland is necessary before any conditions mentioned in a particular paragraph of section 7(1) can be imposed on a person, the Parole Board's recommendation that there should be a requirement under section 5(1) in the person's case is necessary before the requirement can be made in addition to the conditions.
- (2) A requirement made under section 5(1) lasts for as long as the person is subject to the associated conditions, but the Scottish Ministers may vary or revoke the requirement in conjunction with the variation or revocation by them under an enactment of the associated conditions.

## **7 List of the relevant conditions**

- (1) These are the conditions referred to in section 5(1)—
  - (a) a curfew condition as provided for in section 12AA(1)(b) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (which relates to release on licence under section 3AA of that Act),
  - (b) conditions under section 12(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (on release on licence under Part 1 of that Act (where sentencing is on or after 1 October 1993)),
  - (c) conditions under section 22(6) of the Prisons (Scotland) Act 1989 (on release on licence regarding certain sentences (where sentencing is before 1 October 1993)),
  - (d) conditions relating to temporary release in accordance with rules made under section 39 of the Prisons (Scotland) Act 1989 (known as prison rules),
  - (e) conditions relating to release from imprisonment or detention which arise on the basis prescribed in regulations made by the Scottish Ministers.
- (2) A general or specific reference to any conditions mentioned in subsection (1) is, in relation to a requirement under section 5(1), to be construed as being to the relevant conditions so far as concerning—
  - (a) a person's whereabouts in some way (including being at, or not being at, a particular place), or
  - (b) a person's consumption, taking or ingesting of alcohol, drugs or other substances.

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