

2008 No. 36

CRIMINAL LAW

**The Home Detention Curfew Licence (Prescribed Standard
Conditions) (Scotland) Order 2008**

Made - - - - *11th February 2008*

Laid before the Scottish Parliament *12th February 2008*

Coming into force - - *21st March 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 12AA(3) and (5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993(a) and all other powers enabling them to do so.

In accordance with section 3AA(4) as applied by section 12AA(6) of that Act they have had regard to considerations of protecting the public at large, preventing re-offending by the prisoner and securing the successful re-integration of the prisoner into the community.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Home Detention Curfew Licence (Prescribed Standard Conditions) (Scotland) Order 2008 and comes into force on 21st March 2008.

(2) In this Order, “the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993.

Prescribed standard conditions

2. For the purposes of section 12AA(3) of the 1993 Act—

- (a) the conditions specified in Part 1 of the Schedule to this Order are prescribed as standard conditions which must be included in any licence granted in respect of a prisoner specified in section 3AA(1)(a) of the 1993 Act; and
- (b) the conditions specified in Part 2 of the Schedule to this Order are prescribed as standard conditions which must be included in any licence granted in respect of a prisoner specified in section 3AA(1)(b) of the 1993 Act.

(a) 1993 c.9. Section 3AA was inserted by section 15(5) of the Management of Offenders etc. (Scotland) Act 2005 (asp 14) and section 12AA was inserted by section 15(10) of that Act. See section 12AA(4) for the definition of “prescribed”.

Revocation

3. The Home Detention Curfew Licence (Prescribed Standard Conditions) (Scotland) Order 2006(a) is revoked.

St Andrew's House,
Edinburgh
11th February 2008

KENNY MACASKILL
A member of the Scottish Executive

(a) S.S.I. 2006/315.

PART 1

Prescribed standard conditions – prisoners specified in section 3AA(1)(a) of the 1993 Act

1. The offender must be of good behaviour and keep the peace.
2. The offender must not commit any offence.
3. The offender must not tamper with or intentionally damage the electronic monitoring equipment or device(s) used to monitor compliance with curfew conditions complying with section 12AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993(a), or knowingly allow such equipment or device(s) to be tampered with or intentionally damaged.
4. The offender must allow a representative or employee of [*name of electronic monitoring service provider*] access to the address specified in this licence for the purposes of section 12AB(1)(a) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 to install, check, repair or replace the electronic monitoring equipment or device(s).

PART 2

Prescribed standard conditions – prisoners specified in section 3AA(1)(b) of the 1993 Act

1. The offender must be of good behaviour and keep the peace.
2. The offender must not commit any offence.
3. The offender must not tamper with or intentionally damage the electronic monitoring equipment or device(s) used to monitor compliance with curfew conditions complying with section 12AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993, or knowingly allow such equipment or device(s) to be tampered with or intentionally damaged.
4. The offender must allow a representative or employee of [*name of electronic monitoring service provider*] access to the address specified in this licence for the purposes of section 12AB(1)(a) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 to install, check, repair or replace the electronic monitoring equipment or device(s).
5. The offender must report forthwith to the officer in charge of the office at [*name and address of the relevant local authority*].
6. The offender must be under the supervision of such officer to be nominated for this purpose from time to time by the Chief Social Work Officer of [*name and address of the relevant local authority*] (“the supervising officer”).
7. The offender must comply with such requirements as the supervising officer may specify for the purposes of the offender’s supervision.
8. The offender must keep in touch with the supervising officer in accordance with that officer’s instructions.
9. The offender must inform the supervising officer about any change of the offender’s place of residence and provide details to the supervising officer about the offender’s employment (if any).

(a) Section 12AB was inserted by section 15(10) of the Management of Offenders etc. (Scotland) Act 2005 (asp 14).

10. The offender must not travel outside the United Kingdom of Great Britain and Northern Ireland without the prior permission of the supervising officer.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes standard conditions for the purposes of section 12AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”).

Section 3AA(1) of the 1993 Act gives the Scottish Ministers a power to release on licence, commonly known as a home detention curfew licence, certain prisoners before the date on which they would have served half of their sentence. The power applies in respect of (a) short-term prisoners serving a sentence of three months or more; or (b) long-term prisoners whose release on having served one-half of their sentence has been recommended by the Parole Board.

By virtue of section 12AA(1)(a) of the 1993 Act, a licence must include the standard conditions. For short-term prisoners these are prescribed in Part 1 of the Schedule to this Order and for long-term prisoners these are prescribed in Part 2 of that Schedule.

In relation to all prisoners, as well as the standard conditions, the licence must also, by virtue of section 12AA(1)(b) of the 1993 Act, include a curfew condition complying with section 12AB of that Act.

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