

POLICY NOTE

THE ELECTRONIC MONITORING (RELEVANT DISPOSALS) (MODIFICATION) (SCOTLAND) REGULATIONS 2022

SSI 2022/93

The above instrument was made in exercise of the powers conferred by section 4(1) of the Management of Offenders (Scotland) Act 2019 (“the 2019 Act”).

The purpose of the instrument is to amend an entry on the list of relevant disposals in section 3(2) of the 2019 Act. This amendment adds two additional routes for bail and is a technical change to ensure that the policy intention of having electronically monitored bail includes specific reference to these two further ways in which a person on bail can have conditions varied.

Policy Objective

These Regulations amend an entry on the list of relevant disposals in section 3(2) of the 2019 Act (entry (h), varying the conditions imposed on bail), to add two additional routes by which a requirement may be imposed under section 1 of the 2019 Act. When bail conditions are varied under sections 71B(9) and 72A(9) of the Criminal Procedure (Scotland) Act 1995 the individual subject to those conditions may be made subject to an electronic monitoring requirement under section 1 of the 2019 Act. This is a technical change to ensure that the policy intention of having electronically monitored bail includes specific reference to these two further ways in which a person on bail can have conditions varied.

Consultation

The changes here are technical in nature but have been subject to consultation with the Scottish Court and Tribunal Service to confirm that they cover additional routes onto bail that are available to the courts.

Impact Assessment

Extensive impact assessments were undertaken in the lead up to the introduction of the Bill leading to the Management of Offenders (Scotland) Act 2019. As a technical change to widen the definition of bail this change has very limited wider impact on the wider policy use of electronic monitoring of bail.

Scottish Government
Justice Directorate

15 March 2022