



Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

2004 CHAPTER 19

Removal and detention

36 Electronic monitoring

(1) In this section—

- (a) “residence restriction” means a restriction as to residence imposed under—
 - (i) paragraph 21 of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry) (including that paragraph as applied by another provision of the Immigration Acts), or
 - (ii) Schedule 3 to that Act (deportation),
- (b) “reporting restriction” means a requirement to report to a specified person imposed under any of those provisions,
- (c) “employment restriction” means a restriction as to employment or occupation imposed under any of those provisions, and
- (d) “immigration bail” means—
 - (i) release under a provision of the Immigration Acts on entry into a recognizance or bail bond,
 - (ii) bail granted in accordance with a provision of the Immigration Acts by a court, a justice of the peace, the sheriff, the Asylum and Immigration Tribunal, the Secretary of State or an immigration officer (but not by a police officer), and
 - (iii) bail granted by the Special Immigration Appeals Commission.

(2) Where a residence restriction is imposed on an adult—

- (a) he may be required to cooperate with electronic monitoring, and
- (b) failure to comply with a requirement under paragraph (a) shall be treated for all purposes of the Immigration Acts as failure to observe the residence restriction.

(3) Where a reporting restriction could be imposed on an adult—

- (a) he may instead be required to cooperate with electronic monitoring, and
 - (b) the requirement shall be treated for all purposes of the Immigration Acts as a reporting restriction.
- (4) Immigration bail may be granted to an adult subject to a requirement that he cooperate with electronic monitoring; and the requirement may (but need not) be imposed as a condition of a recognizance or bail bond.
- (5) In this section a reference to requiring an adult to cooperate with electronic monitoring is a reference to requiring him to cooperate with such arrangements as the person imposing the requirement may specify for detecting and recording by electronic means the location of the adult, or his presence in or absence from a location—
 - (a) at specified times,
 - (b) during specified periods of time, or
 - (c) throughout the currency of the arrangements.
- (6) In particular, arrangements for the electronic monitoring of an adult—
 - (a) may require him to wear a device;
 - (b) may require him to make specified use of a device;
 - (c) may prohibit him from causing or permitting damage of or interference with a device;
 - (d) may prohibit him from taking or permitting action that would or might prevent the effective operation of a device;
 - (e) may require him to communicate in a specified manner and at specified times or during specified periods of time;
 - (f) may involve the performance of functions by persons other than the person imposing the requirement to cooperate with electronic monitoring (and those functions may relate to any aspect or condition of a residence restriction, of a reporting restriction, of an employment restriction, of a requirement under this section or of immigration bail).
- (7) In this section “adult” means an individual who is at least 18 years old.
- (8) The Secretary of State—
 - (a) may make rules about arrangements for electronic monitoring for the purposes of this section, and
 - (b) when he thinks that satisfactory arrangements for electronic monitoring are available in respect of an area, shall notify persons likely to be in a position to exercise power under this section in respect of the area.
- (9) Rules under subsection (8)(a) may, in particular, require that arrangements for electronic monitoring impose on a person of a specified description responsibility for specified aspects of the operation of the arrangements.
- (10) A requirement to cooperate with electronic monitoring—
 - (a) shall comply with rules under subsection (8)(a), and
 - (b) may not be imposed in respect of an adult who is or is expected to be in an area unless the person imposing the requirement has received a notification from the Secretary of State under subsection (8)(b) in respect of that area.
- (11) Rules under subsection (8)(a)—
 - (a) may include incidental, consequential or transitional provision,

- (b) may make provision generally or only in relation to specified cases, circumstances or areas,
 - (c) shall be made by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) Before the commencement of section 26 a reference in this section to the Asylum and Immigration Tribunal shall be treated as a reference to—
- (a) a person appointed, or treated as if appointed, as an adjudicator under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals), and
 - (b) the Immigration Appeal Tribunal.