
STATUTORY INSTRUMENTS

2021 No. 330

CRIMINAL LAW, ENGLAND AND WALES

The Compulsory Electronic Monitoring
Licence Condition Order 2021

<i>Made</i>	- - - -	<i>15th March 2021</i>
<i>Laid before Parliament</i>		<i>17th March 2021</i>
<i>Coming into force</i>	- -	<i>12th April 2021</i>

The Secretary of State, in exercise of the powers conferred by sections 62A(1), (2) and (3) and 76(3) of the Criminal Justice and Court Services Act 2000(1), makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Compulsory Electronic Monitoring Licence Condition Order 2021 and comes into force on 12th April 2021.

(2) In this Order—

- “the 2003 Act” means the Criminal Justice Act 2003(2);
- “qualifying offender” means a person described in Article 2;
- “specified area” means a police area(3) specified in Schedule 1;
- “specified period” means the period described in Article 4.

Qualifying offender

2. This Order applies to a person who—

- (a) is a fixed-term prisoner, within the meaning of section 237(1) of the 2003 Act (meaning of fixed-term prisoner)(4), released on licence on or after the commencement of this Order;
- (b) is serving a sentence of imprisonment—

(1) 2000 c. 43. Section 62A was inserted by section 7(3) of the Criminal Justice and Courts Act 2015 (c. 2).

(2) 2003 c. 44.

(3) The term “police area” has the meaning ascribed to it in section 101(1) of the Police Act 1996 (c. 16) by virtue of Schedule 1 to the Interpretation Act 1978 (c. 30). The police areas are listed in Schedule 1 to the Police Act 1996.

(4) Section 237(1) has been amended by paragraph 219 of Schedule 16 to the Armed Forces Act 2006 (c. 52), section 117(2) of, and paragraph 2 of Schedule 20, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), section 2(3) of the Offender Rehabilitation Act 2014 (c. 11), paragraph 15(2) of Schedule 1 to the Criminal Justice and Courts Act 2015 (c. 2) and paragraph 218(1) and (2) of Schedule 24 to the Sentencing Act 2020 (c. 17).

- (i) for a determinate term of 12 months or more subject to release on licence under section 244 of the 2003 Act (duty to release prisoners)(5);
- (ii) in respect of an offence specified in Schedule 2; and
- (iii) in the case of a person serving two or more sentences of imprisonment, that sentence is the longest term;
- (c) from any release, will be on licence for a period of 30 days or more;
- (d) is required to reside on licence at an address within a specified area;
- (e) has not previously had an electronic monitoring condition included in any licence in respect of the same sentence in accordance with this Order for the specified period; and
- (f) to the satisfaction of the Secretary of State, is not otherwise unsuitable for electronic monitoring.

Compulsory electronic monitoring condition

3. An electronic monitoring condition must be included in the licence of a qualifying offender for the specified period.

Specified period

4. The specified period—
- (a) commences on the date a qualifying offender is first released on licence pursuant to—
 - (i) section 244 of the 2003 Act;
 - (ii) section 246 of the 2003 Act (power to release prisoners on licence before required to do so)(6); or
 - (iii) sections 255B, 255C or 256A of the 2003 Act (further release after recall)(7); and
 - (b) continues to the earlier of—
 - (i) any of the conditions described in Article 2 not being met;
 - (ii) the end of sentence; or
 - (iii) 12 months from the date of first release referred to in paragraph (a), excluding any period where the qualifying offender is no longer released on licence.

(5) Section 244 has been amended by sections 114(2) and 125(2) of, and paragraph 21 of Schedule 10, paragraph 6 of Schedule 14 and paragraph 2 of Schedule 17 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), section 9(2) of, and paragraph 18 of Schedule 3 to, the Offender Rehabilitation Act 2014 (c. 11), paragraph 5 of Schedule 1 to the Criminal Justice and Courts Act 2015 (c. 2) and section 2(3) of the Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3); and modified by S.I. 2020/158.

(6) Section 246 has been amended by paragraph 221 of Schedule 16 to the Armed Forces Act 2006 (c. 52), section 24 of the Criminal Justice and Immigration Act 2008 (c. 4), sections 110(9) and 112 of, and paragraph 23 of Schedule 10, paragraph 7 of Schedule 14, and paragraph 5 of Schedule 20 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), section 15(4) of, and paragraph 7 of Schedule 1 to, the Criminal Justice and Courts Act 2015 (c. 2), section 2(5) of the Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3) and paragraph 224 of Schedule 24 to the Sentencing Act 2020 (c. 17).

(7) Sections 255B and 255C were substituted by section 114(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Section 255B has been subsequently amended by section 9(5) of the Offender Rehabilitation Act 2014 (c. 11). Section 256A was inserted by section 30(6) of the Criminal Justice and Immigration Act 2008 (c. 4) and amended by section 116(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

15th March 2021

Kit Malthouse
Minister of State
Ministry of Justice

Status: This is the original version (as it was originally made).

SCHEDULE 1

Article 1(2)

Specified Areas

1. Avon and Somerset
2. Cheshire
3. Gloucestershire
4. Gwent
5. Humberside
6. West Midlands

SCHEDULE 2

Article 2(b)(ii)

Specified Offences

1. An offence under section 1 of the Theft Act 1968⁽⁸⁾ of—
 - (a) theft from the person of another;
 - (b) theft from a motor vehicle;
 - (c) theft from a vehicle other than a motor vehicle;
 - (d) theft of a motor vehicle other than aggravated vehicle taking under section 12A⁽⁹⁾ of that Act.
2. An offence under section 8 of that Act (robbery or assault with intent to rob).
3. An offence under section 9⁽¹⁰⁾ of that Act (burglary).
4. An offence under section 10 of that Act (aggravated burglary).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order requires an electronic monitoring condition to be included in the licence of persons described in the Order pursuant to section 62A of the Criminal Justice and Court Services Act 2000 (c. 43) (“the 2000 Act”).

Article 2 of this Order describes the persons to which it applies (defined in Article 1 as a “qualifying offender”), by reference to: the date of release; the type, length and release provisions of sentence; the offence (limited to those listed in Schedule 2); the period on licence following release; whether

⁽⁸⁾ 1968 c. 60.

⁽⁹⁾ Section 12A was inserted by section 1(1) of the Aggravated Vehicle-Taking Act 1992 (c. 11) and amended by section 285(1) of the Criminal Justice Act 2003 (c. 44).

⁽¹⁰⁾ Section 9 has been amended by section 26(2) of the Criminal Justice Act 1991 (c. 53) and paragraph 17 of Schedule 6, and Schedule 7 to the Sexual Offences Act 2003 (c. 42).

required to reside on licence at an address within a specified police area (limited to those listed in Schedule 1); previous inclusion of an electronic monitoring condition in accordance with the Order; and whether, to the satisfaction of the Secretary of State, the person is not otherwise unsuitable for electronic monitoring.

Article 3 of this Order requires that an electronic monitoring condition must be included in the licence of a qualifying offender. An “electronic monitoring condition” is defined in section 62 of the 2000 Act.

Article 4 of this Order specifies the date from when the electronic monitoring condition will be included in a qualifying offender’s licence and the period that such condition will remain in the licence.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from www.legislation.gov.uk.