POLICY NOTE

THE ELECTRONIC MONITORING (APPROVED DEVICES) (SCOTLAND) AMENDMENT REGULATIONS 2026

SSI 2026/285

The above instrument was made in exercise of the powers conferred by section 8(1) of the Management of Offenders (Scotland) Act 2019 ("the 2019 Act").

The instrument is subject to the negative procedure.

Summary Box

The 2019 Act allows a court, when making certain disposals, to require a person to submit to electronic monitoring of their compliance with a specified aspect of the disposal. It also allows the Scottish Ministers to require electronic monitoring of relevant conditions imposed on a person released from custody on licence.

Section 8 of the 2019 Act gives the Scottish Ministers the power by regulations to prescribe the types of electronic devices which are "approved devices" for electronic monitoring. Those devices are currently prescribed in the Electronic Monitoring (Approved Devices) (Scotland) Regulations 2020 ("the 2020 Regulations").

These Regulations amend the 2020 Regulations so that the approved devices for monitoring requirements imposed by a court include a GPS personal identification device, a mains charger and a portable charger. This will align devices approved for monitoring court disposals with devices approved for monitoring relevant licence conditions imposed by the Scottish Ministers.

These Regulations work with the Electronic Monitoring (Use of Devices and Information) (Scotland) Regulations 2025, as amended by the Electronic Monitoring (Use of Devices and Information) (Scotland) Amendment Regulations 2026 ("the 2025 Regulations"). Together they limit the circumstances in which a GPS approved device may be used for court-imposed monitoring to compliance with bail conditions in the Sheriffdom of Tayside, Central, and Fife.

Policy Objectives

Radio frequency technology can monitor whether a person is at, or away from, a specified location. GPS technology enables location to be monitored over a wider geographical area and can support monitoring of compliance with one or more exclusion zones.

GPS electronic monitoring was introduced in Scotland on 31 January 2025 for specified geographical conditions imposed on a person released on Home Detention Curfew licence. That was Phase 1 of the phased introduction of GPS electronic monitoring. These Regulations support Phase 2, concerning electronic monitoring requirements imposed by a court in connection with bail.

The policy objective is to make the approved GPS device and its charging equipment available for court-imposed monitoring, while the accompanying 2025 Regulations limit the circumstances in which the GPS functionality may be used. The proposal is intended initially

to support monitoring of geographical bail conditions, particularly exclusion zones, where radio frequency monitoring does not provide an equivalent practical capability.

The legal availability of GPS does not mean that it will necessarily be imposed routinely. The court will continue to decide whether bail is granted, the conditions imposed, whether electronic monitoring is required and the specified aspect to be monitored. The operational rollout will be phased within the Sheriffdom of Tayside, Central and Fife.

The accompanying Electronic Monitoring (Use of Devices and Information) (Scotland) Amendment Regulations 2026 do not permit GPS to be used for bail monitoring where the monitored person is under 18. This restriction does not alter the existing arrangements for radio frequency electronic monitoring.

Interaction with the Electronic Monitoring (Use of Devices and Information) (Scotland) Amendment Regulations 2026

The Phase 2 provisions are not intended to be time-limited. The operation and impact of the pilot will be evaluated. Any proposal to expand GPS use beyond the scope permitted by the Regulations, including any future proposal to make GPS monitoring available to people under 18, would require separate policy and legal consideration, supported by appropriate consultation and impact-assessment work.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers are required to make a written statement about the extent to which, in their view, the Regulations are compatible with the UNCRC requirements as defined by section 1(2) of that Act. The Scottish Ministers consider that the provisions of the Regulations are compatible with the UNCRC requirements.

EU Alignment Consideration

This instrument is not considered relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Consultation was undertaken during development of the legislation which became the Management of Offenders (Scotland) Act 2019. This included the potential use of new electronic monitoring technologies, including GPS.

Development of the Phase 2 GPS bail proposal has involved engagement with the judiciary, Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, Community Justice Scotland, representatives of Justice Social Work and the electronic monitoring provider.

The Scottish Government is consulting the Information Commissioner's Office under the Article 36(4) process.

Impact Assessments
Impact assessments have been prepared. The current position is:

- an Equality Impact Assessment has been prepared;
- a Data Protection Impact Assessment has been drafted and will be kept under review alongside the policy, legislation and implementation arrangements;
- a Child Rights and Wellbeing Impact Assessment has been prepared. The accompanying Electronic Monitoring (Use of Devices and Information) (Scotland) Amendment Regulations 2026 do not permit GPS to be used for bail monitoring where the monitored person is under 18. The assessment identifies possible indirect effects on children and an overall neutral impact;
- an Island Communities Impact Assessment has been prepared;
- A Business and Regulatory Impact Assessment is not required, and agreement is sought from the Cabinet Secretary for Justice on this matter.

Financial Effects
The Scottish Government meets the cost of electronic monitoring from central budgets under its existing contract with the electronic monitoring provider. The contract provides for radio frequency and GPS monitoring. The contractual charge for GPS monitoring from 1 April 2027 is £6.14 per monitored person per day, compared with £5.20 per day for radio frequency monitoring. The single fee covering both installation and de-installation is £139.87 for either form of monitoring. The overall cost of GPS-monitored bail will depend on the number of people made subject to monitoring and the duration of each monitoring requirement. The costs will be met through the existing electronic monitoring contract and from the electronic monitoring budget, and the financial impact will be monitored during implementation.

The phased introduction of GPS-monitored bail may have resource implications for Justice Social Work, Police Scotland, the Scottish Courts and Tribunals Service and the Crown Office and Procurator Fiscal Service. These may arise from the assessment and administration of relevant cases, communication of court orders and monitoring information, consideration of apparent non-compliance, and any associated court or enforcement proceedings.

The scale of any impact will depend on the number and complexity of cases and the final implementation arrangements and cannot yet be quantified. The Scottish Government will continue to work with the relevant justice partners and local authorities as those arrangements are developed and during implementation and evaluation of the pilot.

Scottish Government
Justice Directorate

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