POLICY NOTE

THE ELECTRONIC MONITORING (APPROVED DEVICES) (SCOTLAND) REGULATIONS 2020

SSI 2020/308

The above instrument was made in exercise of the powers under sections 8(1) and 15(1) of the Management of Offenders (Scotland) Act 2019 and all other powers enabling the Scottish Ministers to do so. The instrument is subject to negative procedure.

These Regulations prescribe the types of electronic devices which are approved devices in relation to an electronic monitoring requirement imposed under Part 1 of the Management of Offenders (Scotland) Act 2019 ("the 2019 Act").

Policy Objectives

These Regulations are being taken forward in recognition of the requirement that the types of equipment used in electronic monitoring should be set out in regulations so that they may be approved by Parliament. Previously, the Scottish Ministers were required to specify the devices that could be used for electronic monitoring and not the types of devices. This meant that each individual device was prescribed by reference to the serial number of that device (see the Restriction of Liberty Order etc. (Scotland) Amendment Regulations 2019 (SSI 2019/423)). The requirement in section 8 of the 2019 Act is that the Scottish Ministers must prescribe the types of devices that are to be approved devices for the purposes of electronic monitoring under Part 1 of the 2019 Act.

Under these new regulations made under the 2019 Act, equipment is described by reference to how it operates in order that Parliament might have a more meaningful understanding of the nature of the equipment. This also means that the previous approach of needing to come back to Parliament every time a new model of equipment was introduced into the service, is no longer necessary.

These Regulations describe a personal identification device (a PID or "tag") typically worn on the ankle, a home monitoring unit which sits in a location and monitors presence at or absence from that location and a fitting tool which is used to securely set up the equipment. These are all pieces of equipment that have, in some form, been a core part of the electronic monitoring service for a number of years. They are used for radio frequency monitoring, the form of monitoring that has been in place in Scotland since electronic monitoring was first piloted in 1998. The policy aim here is to ensure that the service continues to operate with equipment that has the approval of Parliament. No changes to what can be monitored nor how that monitoring is done are made by approving this equipment. When the technology used within the service changes in future months or years (for example to introduce new technology using GPS or technology for remote substance monitoring) it will be through an update to these regulations that such new technology is approved by Parliament.

Consultation

The recent (last year) passage of the 2019 Act meant there has been recent consultation with stakeholders and partners over the broader plans within the Act for the expansion of electronic monitoring, and the supporting and administrative arrangements that should be in place for such an expansion. G4S (the current provider of the monitoring service in Scotland) were consulted on the descriptions of the technology to ensure they were technically accurate. The actual equipment used was not deemed to be of wider interest to partners as it is only the requirement to approve the equipment that is changing here, not the equipment itself. Therefore a wider consultation was not undertaken.

Impact Assessments

Further impact assessments were not undertaken. As above, the impact of this change is likely to be minimal, as it is not the equipment itself that is changing, only the need that it is approved in this new way.

Financial Effects

The *Cabinet Secretary for Justice* confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Justice Directorate

October 2020