



Ministry
of Justice

Lord Faulks QC

Minister of State for Justice
102 Petty France
London SW1H 9AJ

T 020 3334 3555

F 020 3334 3669

E general.queries@justice.gsi.gov.uk

www.gov.uk/moj

Lord Marks of Henley-on-Thames
House of Lords
London
SW1A 0PW

29th July 2014

Dear Tanathar

CRIMINAL JUSTICE AND COURTS BILL – COMPULSORY ELECTRONIC MONITORING PROVISION

In Day 1 of Committee on the Criminal Justice and Courts Bill you raised a concern that the provisions relating to compulsory electronic monitoring conditions did not provide for cases where the imposition of a compulsory condition would be inappropriate. Lord Ahmad promised that we would write to you to explain further how the clause does, in fact, cover this circumstance.

The power under section 62 of the Criminal Justice and Court Services Act 2000 to impose electronic monitoring as a licence condition is currently used on a discretionary basis for individual offenders and, in respect of indeterminate sentence prisoners, a recommendation from the Parole Board is required before such a condition may be imposed. The electronic monitoring provisions in the Bill provide for future electronic monitoring to be used on a wider scale and on groups of offenders.

Clause 6(3) inserts new section 62A into the Criminal Justice and Court Services Act 2000 to provide an order making power to allow the Secretary of State to provide that offenders released from custody subject to conditions must be subject to compulsory electronic monitoring. Section 62A(2) provides for the order to require electronic monitoring in particular cases described in the order (such as offenders convicted of particular offences, or given particular sentences) and to specify the duration of the condition. However, section 62A(3)(c) allows for the order to exclude offenders on an individual basis if a person specified in the order is satisfied of a matter, such as that the offender has a physical or mental health problem which makes the licence condition unsuitable, or that it is impossible to make arrangements for the offender to recharge the battery in the tag. Relying on section 62A(2)(b) and (3)(c) an order could provide that an electronic monitoring condition must be imposed otherwise than in such cases. This subsection therefore provides for cases in which the compulsory condition should not apply.

I appreciate that the wording of the subsection may not make its operation immediately obvious, but the explanatory notes make clear the purpose behind it and

demonstrate how the provision will be used in practice. I hope that this reassures you that the safeguard you are looking for is already contained in the clause.

I am placing a copy of this letter in the House of Lords library.

A, ce

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Edward

EDWARD FAULKS