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Justice Committee Comataidh a' Cheartais

Telecommunications Restriction Orders (Custodial Institutions) (Scotland) Regulations 2017



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Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



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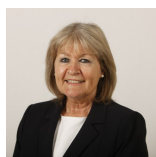


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Telecommunications Restriction Orders (Custodial Institutions) (Scotland) Regulations 2017

Introduction

1. At its meeting on 14 November 2017 the Committee considered the following draft instrument:

[Telecommunications Restriction Orders \(Custodial Institutions\) \(Scotland\) Regulations 2017](#)

2. The instrument was laid before Parliament on 26 September 2017 and referred to the Justice Committee as lead committee. The instrument is subject to the affirmative procedure.
3. The instrument is made under section 80 of the Serious Crime Act 2015 ("the 2015 Act").
4. The regulations provide a mechanism whereby a sheriff may make an order, namely a "telecommunications restriction order" (as defined by section 80(2) of the 2015 Act), requiring the disconnection of certain communication devices within prisons and other custodial institutions.

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 24 October 2017 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

Justice Committee consideration

6. The Justice Committee considered the instrument at its meeting on 14 November 2017 when it took evidence from Michael Matheson, Cabinet Secretary for Justice.
7. The Cabinet Secretary told the Committee that the regulations build on steps already taken to tackle illicit mobile phone use in prison. This included the piloting of interference technology in two prisons to disrupt mobile phone use. The Cabinet Secretary emphasised that the use of mobile phones in prisons presents a range of serious risks to the security of prisons and to the safety of the public. He told the Committee that the challenges posed by unauthorised mobile phones were not insignificant. Since 2013, more than 1,500 mobile phones or component parts had been recovered. The Cabinet Secretary committed to minimising the number of mobile phones entering prisons and to recovering those which do.
8. The regulations would allow a court to order that a mobile phone being used within a prison should be disconnected from the network. The Cabinet Secretary told the Committee that this would render the mobile phone worthless and permanently stop prisoners from using that phone to engage in criminal activity from prison.

9. In response to questions from the Committee, the Cabinet Secretary explained that the regulations included provision (in regulation 3) to allow a mobile phone blocked from the network to be reconnected if it was subsequently discovered that the phone was not being used within a prison. He said that experience to date suggests that the likelihood of such an error happening is extremely rare.
10. The Committee questioned whether the disconnection of mobile phones under the regulations could impact on people using mobile phones in close proximity to a prison, and in particular could interfere with telehealth and telecare services. The Cabinet Secretary reassured that Committee that the Scottish Prison Service had engaged with the Scottish Centre for Telehealth and Telecare on this issue. He told the Committee that the data that would be collected to establish whether a mobile phone was being used within a prison would allow the Scottish Prison Service to identify if that phone was being used to access telecare or telehealth services. He also explained that the Scottish Prison Service deployed the technology in a way that minimises the risk of it going beyond the boundary of the prison.
11. The Committee also raised concerns about the possibility that a person outside a prison could have their phone disconnected and be prevented from making emergency calls. Again, the Cabinet Secretary emphasised that such issues had not arisen during the piloting of the interference technology to date. He said that the technology continued to develop and that the process would be monitored by the Scottish Prison Service, which would continue to adapt its approach and ensure that it is not causing undue risk to individuals living in close proximity to a prison.
12. The Cabinet Secretary then moved the motion in his own name: S5M-08386—That the Justice Committee recommends that the Telecommunications Restriction Orders (Custodial Institutions) (Scotland) Regulations 2017 [draft] be approved.
13. The motion was agreed to without debate or dissent.

[Scottish Parliament Justice Committee, Official Report 14 November 2017.](#)

14. The Justice Committee recommends to the Parliament that it approve the Telecommunications Restriction Orders (Custodial Institutions) (Scotland) Regulations 2017 [draft].

