A 574

I assent.

(L.S.) **MYRIAM SPITERI DEBONO**
President

29th July, 2025

ACT No. XXIV of 2025

AN ACT to establish an electronic monitoring system for sentenced persons with a view to monitoring the movements of a person subject to the electronic monitoring order by means of a secure electronic device and to provide for matters connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

ARRANGEMENT OF ACT

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PART I
General Provisions

Short title and commencement.

1. (1) The short title of this Act is the Electronic Monitoring Act, 2025.

(2) This Act shall come into force on such date or dates as the Minister responsible for home affairs may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires:

"Act" means the Electronic Monitoring Act;

"breach" and "suspected breach" mean any act that contravenes or may contravene the conditions that may be prescribed in the electronic monitoring order, including but not limited to:

(a) restrictions of access or a prohibition for the person concerned to enter any premises identified in the order; and

(b) restrictions on the movement of the person concerned, including movement at prescribed times of the day:

Provided that failure on the part of the person concerned to respond or contact the responsible authority shall also constitute a "breach" or "suspected breach";

"Commissioner" means the Information and Data Protection Commissioner established under article 11 of the Data Protection Act; Cap. 586.

"contracting party" means any public entity, private entity, or both, which the responsible authority considers is capable of performing the function entrusted to it by way of delegation from the responsible authority;

"Court" means the Court of Magistrates in its jurisdiction as a Court of Criminal Judicature or Court of Criminal Inquiry, the Criminal Court and the Court of Criminal Appeal;

"electronic monitoring equipment" means any equipment, worn or otherwise, by means of which the movements of a

person concerned are monitored for the purposes of the Act;

"electronic monitoring order" means the order issued by the Court, Parole Board or Correctional Services Agency prescribing the monitoring of the movements of a person concerned by means of a secure electronic device, as established in Schedule I;

"electronic monitoring system" means the system whereby the movements of persons required to wear or carry electronic monitoring equipment for the purposes of the Act are tracked on a twenty-four (24) hour basis from a control room;

"issuing authority" means the authority which is responsible for issuing an electronic monitoring order;

"Minister" means the Minister responsible for home affairs;

Cap. 516.

"Parole Board" means the Board established under article 8 of the Restorative Justice Act;

"person concerned" means a person who has been issued with an electronic monitoring order under articles 4, 5, 6 or 7;

Cap. 164.

"Police" means the Malta Police Force as established under article 3 of the Police Act;

S.L. 595. 14.

"responsible authority" means the Local Enforcement System Agency established by article 3 of the Local Enforcement System (Establishment as an Agency) Order:

Provided that the responsible authority may delegate some or all of its functions to a contracting party, or enter into a partnership with a contracting party to perform some or all of its functions;

"tampers" means any act that interferes with or is capable of interfering with the proper functioning of the electronic monitoring equipment or which disrupts, or is capable of disrupting, the transmission of the monitoring tracking signal of the electronic monitoring equipment.

General principles.

S.L. 260. 03.

3. (1) An electronic monitoring order may be issued by a Court following a judgment or by the Correctional Services Agency according to the Prisons Regulations or by the Parole Board:

Provided that an electronic monitoring order shall only be issued if the person concerned gives his consent and signs the form

prescribed under Schedule I.

(2) Wherever the person concerned breaches any of the conditions imposed in the electronic monitoring order, the electronic monitoring order may be reviewed or withdrawn by the issuing authority according to the gravity of the breach:

Provided that although the conditions relating to an electronic monitoring order are listed in Schedule I, when the Court issues such electronic monitoring order, the Court may vary the conditions listed in Schedule I as it may deem appropriate in the circumstances.

Issuance of an electronic monitoring order by the Courts of Justice.

4. (1) An electronic monitoring order may be issued by a Court to a concerned person who was sentenced for not more than one (1) year of imprisonment:

Provided that such order shall not apply where the person concerned is found guilty of an offence which is liable to more than two (2) years of imprisonment, or is an offence or circumstance listed in Schedule III:

Provided further that the electronic monitoring order shall, following the consent and signature of the form established in Schedule I, suspend the person concerned from being confined in prison.

(2) An electronic monitoring order may also be issued by a Court to a person concerned when such person has been issued with an order in terms of articles 382A, 383, 412C and 540A of the Criminal Code. This shall be for the period imposed by the Court for the order issued in terms of articles 382A, 383, 412C and 540A of the Criminal Code: Cap. 9.

Provided that the consent of the person concerned shall not be required for an electronic monitoring order issued in conjunction with an order in terms of 382A, 383, 412C and 540A of the Criminal Code as provided in Schedule II: Cap. 9.

Provided further that where a protection order is issued in favour of a victim in accordance with articles 412C or 540A of the Criminal Code, or where the provisions of articles 382A and 383 of the said Code apply, the victim may, subject to his consent, be electronically monitored for his protection. Cap. 9.

(3) When an electronic monitoring order is issued by the Court, the Court may appoint experts for the purpose of determining and specifying the parameters of such order.

Issuance of an electronic monitoring order by the Chief Executive Officer of the Correctional Services Agency. S.L. 260. 03.

5. An electronic monitoring order may be issued by the Chief Executive Officer of the Correctional Services Agency in respect of any prisoner who is granted prison leave in accordance with regulation 61 of the Prisons Regulations:

Provided that the electronic monitoring order may be revoked by the Chief Executive Officer of the Correctional Services Agency in respect of prisoners if he deems it appropriate in the circumstances.

Issuance of an electronic monitoring order by the Parole Board. Cap. 516.

6. An electronic monitoring order may be issued by the Parole Board in respect of a prisoner who is granted parole in accordance with the Restorative Justice Act.

Responsible authority.

7. (1) The responsible authority shall procure and maintain electronic monitoring equipment and shall be responsible for:

(a) ensuring a secure system of electronic monitoring, whereby unauthorised persons cannot access data;

(b) monitoring the person concerned and make immediate contact with that person in accordance with prescribed regulations;

(c) retrieving and analysing information, in case it is suspected that the person concerned has breached monitoring conditions, in which case it shall act in accordance with the provisions of this Act, and provide information to the issuing authority;

(d) retrieving information, on a Police request, whenever the person concerned is subject to a criminal investigation; and

(e) reporting any suspected breach of the electronic monitoring order in accordance with this Act.

(2) The responsible authority shall install electronic monitoring equipment and secure any electronic tags to be worn by the person concerned as necessary, while ensuring that electronic tags do not cause physical pain or distress.

(3) The responsible authority may conduct unexpected visits to the place of residence or any place of work or any other premises where the person concerned is to perform any community work or other activity, in order to:

(a) inspect the tag and, or any other equipment relating to electronic monitoring;

(b) carry out maintenance of the said equipment;

(c) verify that the conditions associated with the electronic monitoring order are being observed by the person concerned; or

(d) for any other purpose related to the electronic monitoring order.

Arrest or detention of the person concerned following a temporary recall issued pursuant to the regulations.

8. Notwithstanding the provisions of any other law, the person concerned may be arrested by the Executive Police without a warrant by the Magistrate, taken back to prison by the Correctional Services Officials or by the Executive Police in accordance with any regulations made under this Act.

Person concerned.

9. (1) The person concerned shall comply with any order relating to the maintenance of electronic monitoring equipment, in accordance with the instructions issued by the responsible authority.

(2) The person concerned shall inform the responsible authority should he know or suspect that the electronic equipment is faulty.

Offences.

10. (1) Any unauthorised person, including the person concerned, who attempts to or knowingly or deliberately tampers with or removes the electronic monitoring equipment device shall be guilty of an offence and shall be liable, on conviction, to imprisonment of not less than six (6) months and not more than two (2) years or a fine (*multa*) of not less than eight hundred euro (€800) and not more than five thousand euro (€5,000) or to both such fine and imprisonment:

Provided that it shall be a defence for a person brought before the Court for the removal of the said electronic monitoring equipment to prove to the satisfaction of the Court that the electronic monitoring equipment was removed in a situation of emergency.

(2) Any person who acts in contravention of any provision of this Act in respect of which an offence is not established under any other article of this Act shall be guilty of an offence and shall be liable to imprisonment of not more than six (6) months, or to a fine (*multa*) of not less than two hundred fifty euro (€250) and not more than seven hundred euro (€700), or to both such fine and imprisonment.

Powers of the Minister to make regulations.

11. The Minister may make regulations to give better effect to any of the provisions of this Act and for the better performance of any of the provisions of this Act and, without prejudice to the generality of the foregoing, may by such regulations:

(a) set out procedures in relation to the electronic

monitoring of persons issued with an electronic monitoring order;

(b) prescribe further conditions pertaining to persons in respect of whom an electronic monitoring order has been issued;

(c) provide for the voluntary electronic monitoring in accordance with the provisions of articles 4, 5 and 6;

(d) amend the Schedules as required.

PART II
Electronic Monitoring Regulator

Electronic monitoring regulator.

12. (1) The President shall, acting on the advice of Cabinet of Ministers, appoint an Electronic Monitoring Regulator, who may be

(a) a retired member of the judiciary; or

(b) a retired Attorney General; or

(c) a retired Public Service employee, who served either as a Permanent Secretary or a Director General, or equivalent, for a minimum of three (3) years.

(2) The Regulator shall be appointed for a period of three (3) years and shall be eligible for reappointment. The Regulator shall hold office until his successor is appointed.

(3) The Regulator may only be removed from office by the President acting on the advice of the Cabinet of Ministers on the grounds of proved inability to perform the functions of the office of the Regulator or proved misbehaviour.

(4) The Regulator shall oversee the implementation of the provisions of this Act and its regulations by the responsible authority. The Regulator may carry out inspections, including unannounced inspections, at any premises accessible to the responsible authority, as well as the control room and any other facility operated by the responsible authority in terms of this Act.

(5) The Regulator shall submit to the Minister, by the end of June of the following calendar year, a yearly report on the implementation of the provisions of this Act by the responsible authority, which report shall also include, where necessary, recommendations for improvement, which recommendations may be legislative or operational. The report shall be tabled in Parliament by the Minister.

PART III
Data Protection

Data protection. S.L. 586. 08.

13. (1) Nothing in this Act or any other regulations issued thereunder shall prejudice the applicability of the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties) Regulations and the fundamental rights and freedoms of the data subjects.

(2) Where the responsible authority in its capacity of data controller processes personal data of the persons concerned, it shall comply with the principles relating to the processing of personal data pursuant to regulation 4 of the Data Protection (Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations. The Electronic Monitoring System shall store the data indicated in Schedule IV. S.L. 586. 08.

(3) The controller, taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the rights and freedoms of the persons concerned, both at the time of the determination of the means for processing and at the time of the processing itself, shall implement appropriate technical and organisational measures, in an effective manner and to integrate the necessary safeguards into the processing, in order to protect the rights of the persons concerned .

(4) Where processing is to be carried out by the processor on behalf of the controller, the controller shall only use processors providing sufficient guarantees to implement appropriate technical and organisational measures pursuant to sub-article (3).

(5) The data protection officer appointed by the controller shall be consulted in a timely manner prior to the implementation of the electronic monitoring system and at the time of the processing operations.

(6) The controller shall ensure that a data protection impact assessment is carried out prior to the implementation of the electronic monitoring system.

(7) The controller shall maintain documentation relating to the processing system, including users and system logs, which shall be made available, upon request to the Commissioner.

Retention of personal data.

14. All the personal data processed for the purpose of this Act and the regulations issued thereunder, shall be retained for a period of one

(1) year from the date of termination of the electronic monitoring order.

Authorised access to the electronic monitoring system.

15. (1) The responsible authority shall ensure that the physical and, or electronic access to the electronic monitoring system is strictly granted to personnel authorised by the Chief Executive Officer based on a role access control mechanism.

(2) The responsible authority shall make the necessary arrangements to enable the Police in the exercise of their duties, to access the information contained in the electronic monitoring system for the purposes of the prevention, investigation, detection and prosecution of criminal offences.

(3) Any access to and use of the electronic monitoring system shall be recorded by means of an audit trail system.

SCHEDULE I
(article 3)

Electronic Monitoring Order Signature Form and Conditions

Date: Today, the

Order made by _____as Issuing Authority.

An electronic monitoring order is hereby issued in respect of ……. (name and surname), ……. (ID No./Passport No./ Residence Permit No.), hereinafter referred to as the person concerned. The person concerned hereby consents and agrees to this order and undertakes to abide by the Laws of Malta, the provisions of the Electronic Monitoring Act, and conditions relevant to the order and to the following conditions:

That he shall be residing at _____

That he shall be allowed to attend work/study at _____

That he retires at indicated residence by not later than _____pm and that he does not leave the said residence before_____am.

That he shall not confine in the localities of _____

That he does not leave the Maltese Islands without prior consent of the Issuing Authority.

The person concerned also understands, consents and agrees in this regard, that he is required to carry out equipment maintenance tasks in accordance with article 9 of the Electronic Monitoring Act.

The person concerned understands that he may be detained or lose the benefits incurred as a result of this order in the event of a suspected breach of conditions, until such time as a decision is taken on the case in accordance with applicable legislation.

Signed

_____ _____

Issuing Authority Person Concerned

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SCHEDULE II
(article 4 (2))

Electronic Monitoring Order Form – Order in terms of 382A, 383, 412C and 540A of the Criminal Code.

Date: Today, the

Order made by _____as Issuing Authority.

An electronic monitoring order is hereby issued in respect of ……. (name and surname), ……. (ID No./ Passport No./ Residence Permit No.), hereinafter referred to as the person concerned.

The electronic monitoring order is being made in conjunction with an order in terms of 382A, 383, 412C and 540A of the Criminal Code, annexed with this form and marked _____.

The person concerned also understands and agrees in this regard, that he is required to carry out equipment maintenance tasks in accordance with article 9 of the Electronic Monitoring Act.

The person concerned understands that he may be detained or lose the benefits incurred as a result of this order in the event of a suspected breach of conditions, until such time as a decision is taken on the case in terms of applicable legislation.

Signed

_____ _____

Issuing Authority Person Concerned

SCHEDULE III
(first proviso to article 4)

Legislation	**Chapter or S.L**	**Provision/ Description**
Criminal Code	Cap. 9	article 338(z)
Criminal Code	Cap. 9	article 338(ll)
Criminal Code and Gender-based Violence and Domestic Violence	Cap. 9 and Cap. 581	Any offence that falls under the definition of article 2 of Cap. 581 and any offence committed against the persons listed in article 202(h) and (i) of Cap. 9
Protection of Minors (Registration) Act	Cap. 518	Any person whose name is registered in the Register established in accordance with article 3 of Cap. 518.

SCHEDULE IV
(article 13)

Data stored in the Electronic Monitoring System:

(a) name and surname;

(b) identity card number, residence permit number, or passport number or other identification document number;

(c) residential address (where applicable);

(d) issuing authority;

(e) duration of the order;

(f) conditions to be observed (e.g. curfew, premises that may not be approached by person concerned); and

(g) location data:

Provided that instead of the information in

paragraphs (a), (b) and (c), the responsible authority may enter a unique identification number.

Passed by the House of Representatives at Sitting No. 369 of the 23rd July, 2025.

ANĠLU FARRUGIA
Speaker

ELEANOR SCERRI
Clerk of the House of Representatives

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