



## **Guidelines for execution of sentence with electronic monitoring**

Stipulated by the central administration of the Norwegian Correctional Service on 4 March 2009 pursuant to the Regulations to Section 8-1 of the Act of 22 February 2007 relating to execution of sentences. Revised by the Directorate of Norwegian Correctional Service on 8 October 2013.

### *Section 16 of the Execution of Sentences Act. Execution of sentence outside prison*

If it is a necessary and appropriate means of ensuring the continuation of a particularly positive development and the counteraction of new criminality, the Norwegian Correctional Service may transfer a convicted person for execution of sentence outside prison subject to special conditions when half the term of the sentence has been served. The Norwegian Correctional Service must always assess whether the conditions for transferring convicted persons under the age of 18 for execution of the sentence outside prison are in place when half the term of the sentence has been served. No such decision to transfer shall be made if the purpose of the sentence or proper security considerations in regard to its execution contraindicates this.

If the unconditional prison sentence that has been imposed or the remaining period until expected release is up to 4 months and it is an appropriate means of ensuring a positive development and the counteraction of new criminality, the sentence can be served outside of prison when the condition is set that the convicted person must be subject to electronic monitoring. The Norwegian Correctional Service must always assess whether convicted persons under the age of 18 satisfy the conditions for execution of the sentence outside of prison with electronic monitoring. For convicted persons under the age of 18, the condition that the imposed prison sentence or remaining period until expected parole is up to 4 months does not apply. The Norwegian Correctional Service can issue regulations with supplementary provisions pertaining to the use of electronic monitoring. Paragraph one, second sentence applies accordingly.

It is a precondition for execution of the sentence outside prison that the convicted person shall have a permanent residence and be employed in a form of work, training or other measures. The convicted person shall also avoid the use of intoxicants, anaesthetics, hormone preparations or other chemical substances that are not lawfully prescribed.

If it appears to be necessary for a properly secure execution of sentence outside prison, the Norwegian Correctional Service shall lay down special conditions. The said Service may, among other things, determine that the convicted person shall:

- a) undergo treatment,
- b) participate in a programme,
- c) take antabus or other prescribed medicines,
- d) comply with provisions concerning where to stay, or
- e) avoid the company of specific persons.

The Norwegian Correctional Service may abolish fixed conditions, amend them or lay down new conditions if it appears necessary for a properly secure execution of the sentence.

The Norwegian Correctional Service shall check that the convicted person complies with preconditions and fixed conditions. As a step in such control, measures pursuant to

Section 56 may be implemented. In the event of breaches of conditions or preconditions, or if it is probable that a convicted person has committed or will commit a criminal act or will evade execution of the sentence, the provisions concerning return to prison in Section 14, paragraphs six and seven shall apply.

If it is of importance for an aggrieved person in criminal proceedings or for his or her surviving relatives to be informed of the date of the execution of sentence outside prison, the Norwegian Correctional Service shall notify the aggrieved person or the survivors beforehand. Notification must also include information about conditions that have been set pursuant to Section 16, paragraph three (d) and (e) if these conditions directly concern the aggrieved person or the survivors.

#### Section 7-1 of the Regulations. Objective

*The execution of a sentence with electronic monitoring pursuant to Section 16, paragraph two is a form of executing a sentence outside of prison with the objective of enhancing the convicted person's ability to meet his/her social and financial obligations while serving the sentence and contributes to reducing the risk of new criminality.*

Execution of the sentence with electronic monitoring must be appropriate for ensuring that the convicted person develops in a positive manner and for preventing new criminality. Steps shall be taken to ensure that the convicted person is able to meet his/her social and financial obligations. If the convicted person does not already have obligations such as a residence or employment, arrangements can be made to establish these.

#### Section 7-2 of the Regulations. Target group

*The execution of a sentence with electronic monitoring applies for convicted persons who, during the entire execution of the sentence, reside in one of the counties where the offer of electronic monitoring has been established and who otherwise satisfy the other conditions. The same applies to inmates who will be transferred to electronic monitoring and who reside in or shall reside in one of the relevant counties.*

*As a starting point, execution of parts of the sentence with electronic monitoring shall apply to convicted persons who are expected to be paroled after two-thirds or more of the sentence has been served. Transfer from prison to execution of the sentence with electronic monitoring cannot occur until one-third of the unconditional sentence has been served.*

*If the convicted person is charged for a new criminal act, execution of the sentence with electronic monitoring cannot, as a general rule, be approved.*

*As a general rule, convicted persons who have been ordered to be expelled from the country shall not be granted the opportunity to serve their sentences with electronic monitoring.*

#### *Definitions of full and partial execution of a sentence*

Execution of a sentence with electronic monitoring shall apply for convicted persons who have been sentenced to imprisonment for a term of up to four months (full execution) or have up to four months left until expected release (partial execution).

#### *Full execution*

Full execution of a sentence will be particularly suitable for young offenders and first-time offenders to, among other things, avoid potential negative consequences resulting from

incarceration. Consideration of the convicted person's ability to continue or commence schooling, work or other appropriate employment shall be assigned major emphasis.

#### *Partial execution*

Transfer from prison to execution of the sentence with electronic monitoring must be appropriate for ensuring a positive development, for example, that the convicted person can work, have contact with family etc. As a starting point, less shall be required for transfer pursuant to Section 16, paragraph two than pursuant to Section 16, paragraph one. As opposed to Section 16, paragraph one, an already established positive development is not required as long as the transfer is deemed appropriate in terms of future positive development. In addition, execution of a sentence with electronic monitoring should, on the whole, be perceived as suitable with regard to possibilities of living a life without crime.

For partial execution, the Norwegian Correctional Service shall take a provisional position regarding the date of expected release before an application for execution of the sentence with electronic monitoring can be assessed. Release when half the sentence has been served pursuant to Section 42, paragraph three of the Execution of Sentences Act is not normally included because this provision is meant to safeguard considerations other than release from prison.

A convicted person who receives a reduction in his/her sentence for time served in custody on remand, can be transferred directly to execution of the sentence with electronic monitoring if the time served in custody on remand extends beyond one-third of the term of the sentence and the conditions for partial execution of the sentence with electronic monitoring are otherwise satisfied. If a convicted person is released from custody on remand, it is not necessary that he/she is incarcerated prior to when transfer to execution of the sentence with electronic monitoring occurs.

In connection with decisions regarding execution of a sentence with electronic monitoring, the probation office must consider the expected date of release. If necessary, when processing the case a request can be made for a statement from the prison where the convicted person has been in custody on remand.

#### *Residence*

The convicted person is deemed to reside where he/she is registered in the Norwegian National Registry or lives temporarily. Temporary place of residence can, for example, be where the convicted person studies or moves to temporarily during the period in which he/she is serving the sentence. It can be accepted that the convicted person lives with others while serving the sentence, for example, with relatives or friends.

#### *Convicted persons exempt from execution of sentence with electronic monitoring*

Persons under preventive detention and persons serving a sentence in default of paying a fine shall not be permitted to serve their sentences with electronic monitoring.

A convicted person who, after breach of community sentence, drug programme with court supervision or driving while intoxicated recovery programme has the sentence changed to imprisonment may be granted partial execution, but not, as a main rule, full execution of the sentence with electronic monitoring.

Execution of the sentence with electronic monitoring cannot occur in an institution pursuant to Section 12. However, a convicted person who is already serving his/her sentence in

accordance with Section 12 can be transferred to partial execution of the sentence with electronic monitoring.

*Convicted persons who have received multiple criminal sanctions*

Execution of a sentence with electronic monitoring can be approved for multiple sentences at the same time, as long as the combined length of the unconditional prison sentence does not exceed four months. If the convicted person has two or more judgments for which the unconditional prison sentence is more than four months, full execution of the sentence with electronic monitoring cannot be approved.

Convicted persons who receive a combined community sentence and unconditional prison sentence can serve the unconditional prison sentence with electronic monitoring.

The same applies to convicted persons who receive a combination of conditional and unconditional prison sentences, if the combined length of the unconditional prison sentence does not exceed four months.

*New criminal acts*

If a convicted person is charged with new criminal acts, cf. Section 82 of the Criminal Procedure Act, execution of the sentence with electronic monitoring should not be granted. Particular emphasis must be placed on the severity of the new criminal act and whether it could result in an unconditional prison sentence.

*Convicted persons who are foreign nationals*

It is a precondition for being permitted to execute a sentence with electronic monitoring that convicted persons with foreign citizenship have a residency permit or work permit in Norway.

When assessing whether convicted persons who have received an expulsion order should be permitted to execute the sentence with electronic monitoring, particular emphasis must be placed on the risk of evasion and the risk that the convicted person may commit another criminal act. Consideration must also be made to the convicted person's connection to the country.

*Convicted persons under the age of 18*

Separate rules apply for convicted persons who are under the age of 18 on the date an application for electronic monitoring is submitted.

The condition that the unconditional prison sentence that is imposed or the remaining time until expected release must not exceed four months does not apply. The length of time in which the convicted person can serve a sentence with electronic monitoring shall be determined based on an individual assessment that is independent of the length of the imposed prison sentence or time remaining until expected release.

For convicted persons under the age of 18, decisive emphasis must be placed on whether electronic monitoring would be advisable after an individual assessment, including whether this is justifiable in terms of security considerations. The restrictions on the ability to approve applications for certain types of criminal acts, for example, criminal acts committed in one's own home or sentences after being in breach of community sentence etc., do not apply.

For this group of convicted persons, different forms of shared accommodation can also be approved as a suitable residence. If the convicted person cannot him/herself or with assistance from other public agencies obtain an activity offer while serving the sentence, the convicted person must always be offered employment in the form of community service or other activities under the direction of the probation office.

Approval of an application for electronic monitoring can also apply for the period after the convicted person has turned 18 years of age. At local level, an application for electronic monitoring can be approved for a period of up to six months. Applications for a longer execution period are decided at regional level, with the Directorate of Norwegian Correctional Service as the appeals body.

When the regional level receives a sentence for convicted persons under the age of 18, it must always be investigated as to whether it is possible to execute the sentence with electronic monitoring. When convicted persons under the age of 18 serve a sentence in prison, the Norwegian Correctional Service must regularly assess whether the convicted person can be transferred to execute the sentence with electronic monitoring.

If the applicant is under the age of 18, the application for electronic monitoring can be approved even if the convicted person resides in a county where a standard offer for this has not been established. In these instances, the regional level determines which probation office is responsible for processing the application and for execution of the sentence.

#### Section 7-3 of the Regulations. Preconditions for execution of a sentence with electronic monitoring

*The convicted person must accept the requirements and conditions stipulated by the Norwegian Correctional Service for execution of the sentence.*

*The convicted person must have access to a suitable residence with electricity installed and the possibility of a suitable telephone connection. The convicted person must be willing to accept visits to the residence by the Norwegian Correctional Service or others authorised by the Norwegian Correctional Service.*

*It is a precondition that all co-habitants over the age of 18 consent to the convicted persons being permitted execution of the sentence with electronic monitoring.*

*If this is considered inadvisable, execution of the sentence with electronic monitoring shall not be approved. In the instances in which the criminal offence in question was committed in one's own home or against members of the household, or this involved a violent or sexual offence, as a general rule, the convicted person shall not be permitted execution of the sentence with electronic monitoring. If the convicted person has been convicted for a violent or sexual offence against a person who the convicted person lived with or still lives together with, execution of the sentence with electronic monitoring shall not be approved.*

*Execution of the sentence with electronic monitoring shall not be approved if the purpose of the sentence or security reasons argue against this or there is reason to assume that the convicted person will evade execution of the sentence.*

#### *Consent from the convicted person*

Consent from the convicted person must be in writing and must be provided in connection with the suitability assessment. The specific requirements and conditions are stipulated in a

plan for execution of the sentence after the convicted person is permitted execution of the sentence with electronic monitoring, but prior to implementation.

#### *Suitable residence*

When assessing whether a residence is suitable for execution of the sentence with electronic monitoring, the decisive factor must be whether the Norwegian Correctional Service can carry out effective controls of the convicted person at the residence.

A suitable telephone connection means an installed landline telephone or satisfactory mobile telephone coverage.

It is not permitted to use extra services from the telecommunications provider or equipment that may disrupt the electronic monitoring.

If the convicted person shares necessary joint areas such as kitchen and bathroom or toilet with other people who cannot be considered co-habitants, the residence shall not, in principle, be considered suitable. Certain student accommodation, including hotels and hospices will therefore be unsuitable residences.

The residence must be permanent and not moveable, such as, for example, a caravan or houseboat. As a starting point, the convicted person must live in the same residence during the entire period in which the sentence is served. It may be accepted that the convicted person moves to another residence on condition that the requirements for a suitable residence remain satisfied.

Insofar as this is possible, the Norwegian Correctional Service should cooperate with other authorities, voluntary organisations etc. to assist the convicted person in finding a suitable residence.

#### *Co-habitants*

By co-habitant is meant any person in the household who has his/her main residence there and who the convicted person has a close and lasting relationship with. Close and lasting relationship means the relationship that exists between, for example, spouses, partners, relatives and friends.

Consent from co-habitants over the age of 18

Consent from co-habitants over the age of 18 must be obtained after a compulsory meeting between the Norwegian Correctional Service and co-habitant to ensure that the information has been understood and that the consent is genuine. Co-habitants shall be informed about what execution of the sentence involves and that consent can be withdrawn. The meeting can take place between the co-habitant alone or when the convicted person and co-habitant are together. Consent must be in writing.

Co-habitants can withdraw their consent at any time both before or during execution of the sentence with electronic monitoring.

If a co-habitant wishes to withdraw his/her consent after execution of the sentence has commenced, the Norwegian Correctional Service should have a meeting with the co-habitant to investigate the reason(s) for why consent has been withdrawn. When a co-habitant withdraws his/her consent, the Norwegian Correctional Service must, insofar as this is



possible, find other solutions, for example, assisting the convicted person with finding a new suitable residence, before any decision is made to transfer the convicted person to prison.

### *Children*

The regulatory framework for execution of a sentence with electronic monitoring must be read in context, such that the consideration of the best interests of the child will always be a relevant factor in decisions that impact on children, cf. Section 3, paragraph two of the Execution of Sentences Act and Section 1-3 of the Regulations.

If the convicted person has children, in the assessment of whether to approve execution of the sentence with electronic monitoring, consideration must be made to whether this type of execution of sentence will be in the child's best interests. This also applies in instances in which the nature of the criminal offence indicates that, as a starting point, the application should not be approved. Execution of a sentence with electronic monitoring must not be approved if it is assumed that execution of the sentence will have a negative impact on co-habiting children.

Insofar as this is possible, the Norwegian Correctional Service must ensure that co-habiting children will not suffer excessive strain due to execution of the sentence in the home. If there is any suspicion or doubt about whether execution of the sentence in the home could have a damaging effect on co-habiting children, professional advice concerning this must be obtained from the correct experts, cf. Section 7a, paragraph two (b) of the Execution of Sentences Act.

The convicted person shall be encouraged, but has no obligation, to inform children in the household that execution of the sentence with electronic monitoring will occur in the home.

Children who are aware that the sentence will be served in the home are entitled to express their opinions, cf. Section 1-3 of the Regulations. The child's opinion must be assigned greater weight in relation to the child's age and level of maturity. When the child has turned 12 years of age, major emphasis must be placed on the views of the child.

A convicted person who lives with a child, but does not live together with the child's other parent, shall be encouraged to inform the person in question that he/she shall serve the sentence with electronic monitoring in the child's home.

### *Assessment of inadvisability*

#### General information about the assessment of inadvisability

When assessing whether execution of a sentence with electronic monitoring is inadvisable, particular consideration must be made to the type of criminal act the convicted person has been sentenced for. Consideration must also be made to the severity of the offence, who it was committed against and the general sense of justice. When making the assessment, emphasis must be placed on the length of time that has passed since the criminal act was committed. Particular consideration shall be made to the aggrieved person and next of kin, for example, if some of these people live in the convicted person's neighbourhood. The need for community protection must be assigned major emphasis and must be an important part of the assessment.

Emphasis must also be placed on the convicted person's criminal history. Among other things, consideration must be made to whether the convicted person was previously convicted of a criminal act that would prevent execution of the sentence with electronic monitoring.

If the convicted person is young or there is reason to believe that the convicted person will not be able to serve the sentence in prison due to his/her health situation, this must be assigned major emphasis. As a general rule, a convicted person who acts in a threatening manner during preparatory proceedings, is intoxicated or fails in any other way to assist with preparatory proceedings, shall be deemed to be unsuitable for execution of the sentence with electronic monitoring.

#### Criminal offences committed in or from the home

If the relevant criminal offence was committed in or from the home, as a general rule, execution of the sentence with electronic monitoring shall not be approved. When assessing whether the convicted person who has committed the criminal offence in or from his/her own home may still serve the sentence with electronic monitoring, consideration must be made to the general sense of justice and whether there is a particular risk of recurrence due to the sentence being served in the home. Emphasis must also be placed on the severity of the crime.

In the event of full execution, an exception to the general rule can be made for young offenders and when there are particularly compelling reasons that warrant such an exception being made. In the assessment, particular emphasis must be placed on whether the convicted person is in a rehabilitation situation and whether he/she is receiving education/training. Consideration must also be made to the length of the prison sentence. The younger the convicted person is, the greater the right to make an exception, particularly if the convicted person is up to 23 years of age.

An exception can also be made for partial execution when the convicted person has already served part of the prison sentence and it is considered appropriate for the convicted person's rehabilitation and return to society that he/she serves the final part of the sentence with electronic monitoring. Emphasis must be placed on how much of the prison sentence the convicted person has served and the length of time since the criminal offence was committed.

#### Violent and sexual offences

As a general rule, a convicted person who has, in the relevant case, been convicted of a violent or sexual offence shall not be permitted to execute the sentence with electronic monitoring. Execution of a sentence with electronic monitoring shall not be approved if the violent or sexual offence was directed against a person the convicted person lived with or still lives together with, regardless of whether a possible co-habitant grants his/her consent.

In the event of full execution, an exception to the general rule can be made for young offenders and when there are particularly compelling reasons that warrant this. In the assessment, particular emphasis must be placed on whether the convicted person is in a rehabilitation situation and whether he/she is receiving education/training. The younger the convicted person is, the greater the right to make an exception, particularly if the convicted person is up to 23 years of age. If violent offences have been committed, less shall be required for an exception to be made to the general rule if an unconditional prison sentence of up to 60 days has been imposed.

An exception can be made for partial execution, when the convicted person has already served parts of the prison sentence and it is considered appropriate for the convicted person's rehabilitation and return to society that he/she serves the final part of the sentence with



electronic monitoring. Emphasis must be placed on how much of the prison sentence the convicted person has served and the length of time since the criminal offence was committed.

#### *Purpose of the sentence, security reasons and risk of evasion*

In the assessment of security conditions, emphasis can be placed on, among other things, that the convicted person committed the crime while serving a previous sentence. Furthermore, emphasis can also be placed on whether the convicted person has breached the conditions for community sentence, duty to appear or other execution of a sentence outside prison, and whether the person in question has evaded execution of the sentence or failed to appear to serve the sentence.

#### *Section 7-4 of the Regulations. Requirements for the convicted person during execution of the sentence*

*The convicted person is obligated to follow the plan for execution of the sentence that has been prepared by the Norwegian Correctional Service.*

*The convicted person must be employed during execution of the sentence. A condition for employment being approved is that the convicted person can be adequately monitored. Employment outside of Norway is not permitted.*

*The convicted person shall be ordered to meet with the Norwegian Correctional Service or other public authority, person or organisation designated by the Norwegian Correctional Service, twice a week.*

*The convicted person is obligated to abstain from using intoxicating substances during the entire execution of the sentence. Upon commencing execution of the sentence, the convicted person must always provide a urine sample.*

#### *Implementation*

For full execution, the execution of the sentence is deemed to have commenced when the ankle bracelet is attached to the convicted person and the other technical equipment is installed in the convicted person's home. For partial execution, transfer to execution of the sentence with electronic monitoring is deemed to commence from the same date.

#### *Prohibition against leaving the residence*

Other than the approved stays outside the residence, the convicted person must remain at home during the entire execution of the sentence. In this context, the residence includes the indoor area and possibly a smaller restricted outdoor area that is directly connected to the residence. The convicted person is not permitted to use any garden the residence may have. If the convicted person's residence is very large, the Norwegian Correctional Service can limit the indoor area the convicted person may use during execution of the sentence.

#### *Plan for execution of the sentence*

A plan for execution of the sentence must include the requirements and conditions that are stipulated for execution of the sentence, including a detailed activity form stating all comings and goings to and from the home. The plan for execution of the sentence must also include the control measures that can be implemented and the consequences of breach of conditions.

The plan of execution must also state the address at which the convicted person will reside during execution of the sentence, when execution of the sentence can be initiated or transfer from prison can occur and must state the convicted person's contact at the Norwegian Correctional Service. The cooperative partners involved in the execution of the sentence shall also be stated, for example, school, employer, treatment institution etc.

Based on his/her preconditions, the convicted person must him/herself actively contribute to complying with the requirements that are set for execution of the sentence with electronic monitoring. The Norwegian Correctional Service shall assist the convicted person with this. The plan of execution must take into consideration each convicted person's preconditions and requirements. The convicted person should be involved in the formulation of the plan for execution of the sentence as much as possible.

Employment and the residence should be clarified for the entire period in which the sentence will be served. The Norwegian Correctional Service can approve a change of residence or change to the type of employment during execution of the sentence.

#### *Activity form*

As part of the plan for execution of the sentence, an activity plan shall be prepared in the cooperation between the convicted person and the Norwegian Correctional Service showing stipulated stays outside the home.

Stays outside the home, including the time and purpose, must be agreed before execution of the sentence commences, either for full execution or for a defined period. In exceptional circumstances, it is possible to agree to changes in the activity form during execution of the sentence.

Travel time to and from activities and employment and travel for other purposes, must be included when time spent away from the residence is determined. An assessment must be made of the amount of time necessary based on the relevant travel distance and the form of transport used in order for the convicted person to have a reasonable amount of time to travel to and from the destination within the stipulated time frames. For convicted persons who are responsible for the care of children, time spent dropping off and collecting them may be included when determining travel time to and from employment. An extension of the travel time for this purpose may be approved after an overall assessment of the convicted person's family situation, including the child's need to be accompanied by an adult and whether there are others in family who can perform this task.

If unforeseen situations arise that mean that the convicted person will not be able to comply with the stipulated activity form, the convicted person must inform the Norwegian Correctional Service of this immediately. Changes to the activity form are not an individual decision.

When the activity form is prepared, consideration must be made to the aggrieved person(s) in the case or next of kin. For example, leisure activities should not be arranged close to the residence of the aggrieved person(s) or next of kin. Provisions intended to protect the aggrieved person, such as restrictions on the convicted person's contact with the aggrieved person, can be stipulated as special conditions for execution of the sentence.

#### Deviations from the activity form due to illness

Deviations from the activity form if the convicted person is sick or his/her child is sick must be documented from the first day of absence through a medical certificate. The medical certificate must be presented to the Norwegian Correctional Service within three days from the first day of absence.

As a general rule, an illness that results in the convicted person not being able to comply with the conditions for execution of the sentence with electronic monitoring and which extends for more than seven days will entail that execution of the sentence has been interrupted, cf. Section 35 of the Execution of Sentences Act.

If the convicted person is admitted to hospital during execution of the sentence with electronic monitoring, the Norwegian Correctional Service will assess whether the convicted person shall be transferred to execution of the sentence pursuant to Section 13 of the Execution of Sentences Act.

### *Employment*

#### Purpose of employment

An important objective of employment is that the convicted person is able to meet his/her financial obligations. Another important objective is that the convicted person is given the opportunity to fulfil his/her social obligations and spend time outside the home. It is therefore not a requirement that the employment must be paid.

#### What can be approved as employment?

The Norwegian Correctional Service must approve the employment.

Employment refers to work, training or other initiatives that keep the convicted person engaged in an appropriate activity. Other measures can be, for example, outpatient treatment under the direction of the health authorities or voluntary work for an organisation. An activity that is approved as being of benefit to society while serving a community sentence, can be employment during execution of the sentence with electronic monitoring.

Work in one's own business or as self-employed can be approved as employment. The same applies for the care of own children or relatives who require nursing care. The Norwegian Correctional Service cannot approve a form of employment or a place of employment that is considered too closely connected to the enterprise where the criminal act was committed.

In the instances in which the convicted person shall perform unpaid work, this can only be for government activities, government supported activities or voluntary activities.

For pensioners, people on sick leave and people with disabilities, day centres or equivalent organised activities may, for example, be approved. In these instances, employment must be adapted to the preconditions of each person. After consent from the convicted person, the Norwegian Correctional Service may contact his/her NAV (Norwegian Labour and Welfare Administration) office, general practitioner or others to discuss the form and scope of the employment.

The Norwegian Correctional Service shall make arrangements to ensure that language problems will not prevent execution of the sentence with electronic monitoring. Norwegian language lessons can be considered employment.

If the convicted person does not have work or does not attend school or study, the Norwegian Correctional Service shall assist in establishing contacts and investigating possibilities of finding suitable employment, cf. Section 18 of the Execution of Sentences Act. One possibility is to offer unpaid community service or different initiatives under the direction of NAV.

### Scope of employment

The convicted person must be employed for a minimum of 20 hours and a maximum of 45 hours per week. The frameworks may be averaged out if this is necessary due to shift work, rotations and the like. In special instances, more or fewer hours can be approved, but not less than 15 hours per week.

For convicted persons who are pensioners, on sick leave or are disabled, the opportunity of employment for less than 20 hours can be granted. Requirements for activation can be deviated from in their entirety if the disability or other circumstances relating to the convicted person make activation impossible.

As a starting point, employment must be outside the home. If the employment is in the home, the convicted person must also be involved with other employment outside the home for a minimum of 15 hours a week.

If required, the imposed level of employment can be achieved through a combination of work, schooling, studies, specially arranged employment, employment promoting service, outpatient treatment or other initiatives.

Evening, night or shift work can be approved. Beyond this, the employment must not be of such a scope that it requires night time stays outside the residence. As a general rule, overtime work shall not be approved.

In weeks with public holidays, an exception can be made with regard to the requirement for the number of hours of employment.

### *Information to the place of employment*

The convicted person must inform a superior at the place of employment about the execution of the sentence.

### Contact person

A contact person shall be appointed at the place of employment, and who, as a general rule, will be the convicted person's superior. The person in question must inform the Norwegian Correctional Service in the event of any unauthorised absence or other irregularities in connection with the employment. A subordinate colleague, relative, or person who is in a close personal relationship with the convicted person must not be the contact person.

If it is not possible in practice to have a contact person at the place of employment, there does not have to be a contact person on condition that the Norwegian Correctional Service can monitor the convicted person in some other manner. Fear of losing one's job is not sufficient grounds for failing to have a contact person.

If an exception is made and employment is approved without a contact person, this must be compensated through additional use of other approved control measures.

### *Meetings with the Norwegian Correctional Service*

Execution of a sentence with electronic monitoring must occur subject to close follow-up by the

Norwegian Correctional Service. Meetings must be held with the convicted person twice per week on average. At least one of the meetings must be with the Norwegian Correctional Service. The other meeting can be with the Norwegian Correctional Service or with someone approved by the Norwegian Correctional Service. If the convicted person is ordered to meet with another public authority or organisation approved by the Norwegian Correctional Service, a control arrangement must be established.

The meetings with the Norwegian Correctional Service can consist of programme activities, follow-up talks, group participation, treatment programmes or other individually arranged services that are intended to prevent new criminality.

The meetings should primarily take place when the convicted person would otherwise have been at home and must at no stage affect the hours in which the convicted person has been granted leave. In principle, the meetings will be in addition to employment, but can take place within employment time if this is deemed appropriate. The meetings can take place in the convicted person's home or at other locations if this is considered appropriate. For meetings in the convicted person's home, there must be two people from the Norwegian Correctional Service in attendance.

When concerning convicted persons who are serving a sentence with electronic monitoring of more than two months, halfway through the sentence an assessment must be made of the execution of the sentence up to that point. In such a midpoint conversation, the Norwegian Correctional Service shall, together with the convicted person, assess the plan for execution of the sentence and the convicted person must be given the opportunity to state his/her opinion about the execution of the sentence.

An equivalent final conversation must be carried out for everyone who executes a sentence with electronic monitoring in connection with release, or possibly upon transfer to prison. Any co-habitants should also be consulted.

The midpoint and final conversations must be conducted instead of the the two weekly meetings with the Norwegian Correctional Service and the conversations can take place at the convicted person's home if this makes it easier for any co-habitants to participate.

#### *Intoxicants*

The convicted person will be obligated to report any use of legal medicines that may have an effect on the test results. The convicted person shall be required to present relevant documentation.

#### Urine sample and breathalyser test upon implementation

A urine sample and breathalyser test must be provided/taken on the same day execution of the sentence is implemented.

For full execution, the samples/tests must be provided/taken immediately after execution of the sentence has been initiated. For partial execution, it may also be permitted that the convicted person provides a urine sample in the prison.

The standard rules for providing samples, cf. Section 29 of the Execution of Sentences Act with the accompanying provisions, apply correspondingly. If a urine sample is provided while under supervision, this can occur at the convicted person's home.

#### Consequences of positive urine test or breathalyser test upon implementation

For full execution, the first urine sample shall be used as a basis for comparison for subsequent urine tests. If the breathalyser test is positive, the Norwegian Correctional Service must assess whether implementation shall be postponed until the test is negative. The same applies for a positive urine test, if there is doubt about the convicted person's ability and willingness to refrain from using intoxicants during execution of the sentence.

For partial execution, the convicted person is already serving the sentence and if the first urine sample or breathalyser test is positive, this will result in transfer to prison.

#### Section 7-5 of the Regulations. Controls

*The Norwegian Correctional Service must monitor that the stipulated conditions are complied with and that the plan for execution of the sentence is followed.*

*The Norwegian Correctional Service can carry out unannounced control visits to the home or at the place of employment to monitor that the conditions for execution of the sentence with electronic monitoring are being complied with.*

#### *The purpose and content of the controls*

The person who serves a sentence with electronic monitoring is to be considered to be in detention. Execution of a sentence with electronic monitoring presupposes that effective controls can be carried out to ensure that the necessary conditions are being complied with. The controls must be organised such that breaches of the conditions can be detected and that the Norwegian Correctional Service can initiate measures 24 hours a day, seven days a week.

The level of control during execution of the sentence must be high, but also individually adapted to the situation of each convicted person. The need for controls shall be assessed in connection with the suitability assessment, when execution of the sentence commences and on an ongoing basis during execution of the sentence.

In addition to the electronic monitoring, controls will include unannounced control visits to the home and place of employment, cooperation with the contact person at the place of employment and substance abuse checks.

Appropriate control routines must be based on a good level of knowledge about the convicted person, about the applicable regulatory framework and about how the technical equipment functions. The Norwegian Correctional Service must prepare routines with respect to incident-driven control visits being able to be made when required.

Controls of the convicted person must occur in a discreet and respectful manner.

#### *Unannounced control visits*

A minimum of two unannounced control visits shall be made per week and the visits shall be divided equally between the convicted person's home and place of employment. When required, other departures from the residence can be subject to controls. The purpose of the unannounced control visits is to conduct checks and they should normally be brief.

In the event of unannounced control visits to the home, there must always be two employees in attendance, who are from either the Norwegian Correctional Service or external inspectors.



In the event of such visits, the convicted person should be notified by telephone a short time in advance.

When required, the Norwegian Correctional Service must cooperate with the police when concerning home visits in connection with irregularities and upon transfer to prison.

Controls at the place of employment may be intensified or replaced with telephone contact with the contact person at the place of employment if this is deemed necessary or appropriate.

#### *Substance abuse checks*

The Norwegian Correctional Service shall carry out checks that will enable the detection of possible substance abuse. The general rules for substance abuse checks in the Execution of Sentences Act apply correspondingly, cf. Section 29 of the Execution of Sentences Act with accompanying provisions. The convicted person shall take a breathalyser test in connection with control visits to the home, when meeting with the Norwegian Correctional Service and otherwise when such testing is demanded. Personnel from the Norwegian Correctional Service or an external inspector will be responsible for taking samples/testing.

#### *External inspectors*

If considered necessary for conducting efficient controls, the Norwegian Correctional Service may appoint an inspector who is not employed with the Norwegian Correctional Service (external inspector).

It is particularly relevant to use this type of arrangement in the instances in which the convicted person lives a long distance from the closest local Norwegian Correctional Service entity. An external inspector may also be used if the convicted person has inadequate language skills or special needs that can be better attended to through assistance from an external inspector. The Norwegian Correctional Service shall ensure that the inspector has the expertise necessary for the assignment. External inspectors must present an expanded criminal record certificate and are subject to a duty of confidentiality.

A written agreement must be entered into that stipulates the tasks and areas of responsibility. External inspectors should not normally take urine samples.

A person who is in a close and personal relationship with the convicted person must not be used as an external inspector for the person in question.

External inspectors can conduct checks of the convicted person without personnel from the Norwegian Correctional Service being in attendance. However, the external inspector cannot, at his/her own initiative, change the plan for execution of the sentence. External inspectors must be able to identify themselves as representatives of the Norwegian Correctional Service when dealing with the convicted person.

#### *Section 7-6 of the Regulations. Leave*

*As a starting point, the convicted person is obligated to remain in the home during the entire execution of the sentence, except for when leaving the home for employment.*

*If there are no security reasons that would argue against this, the Norwegian Correctional Service may grant the convicted person leave for a short period of time when this is considered appropriate.*

### *Purpose of leave*

The intention of leave from execution of a sentence with electronic monitoring is to contribute to supporting the convicted person's rehabilitation and compliance with social obligations, but must not be so extensive that the purpose of execution of the sentence is undermined.

### *Leave*

If considered appropriate for executing the sentence, the convicted person may be granted up to 5 hours of leave per week. In particular, the leave must contribute towards the convicted person maintaining his/her social obligations and requirements and promoting the convicted person's adjusting to society. For example, the leave can be used for making purchases, washing clothes, following-up children and other personal tasks.

Convicted persons who serve parts of the sentence with electronic monitoring may also be granted ordinary leave of up to one day per month if the conditions for leave have been satisfied.

The standard rules relating to leave otherwise apply, cf. Section 33 of the Execution of Sentences Act, cf. Section 36.

When assessing whether short-term leave or compassionate leave should be granted, consideration must be made to whether the purpose of the leave can be safeguarded during the entire period in which the convicted person is outside the residence. It should be encouraged to add some of the leave to non-work days. Leave shall normally only be permitted between 6am and 10pm.

### *Section 7-7 of the Regulations. Breach*

*In the event of breach of the requirements and conditions that have been set by the Norwegian Correctional Service for execution of the sentence, the Norwegian Correctional Service can decide to transfer the convicted person to prison or issue a written reprimand as stated in Section 14, paragraph seven and Section 40, paragraph three of the Execution of Sentences Act.*

*The response that is employed will depend on an individual assessment of the severity of the breach and the circumstances relating to the breach.*

The guidelines to Section 3.43 of the Execution of Sentences Act concerning "Breach when the sentence is executed outside prison in accordance with Section 16 of the Execution of Sentences Act" apply correspondingly.

### *Decision to transfer to prison*

As a general rule, serious or repeated breach of the plan for execution of the sentence, including the activity form, shall result in the convicted person being transferred to prison. However, the Norwegian Correctional Service can evaluate whether the convicted person can continue execution of the sentence with increased monitoring, principally by intensifying the contact with the convicted person.

The Norwegian Correctional Service shall hand down a decision to transfer to prison when the convicted person has been under the influence of alcohol, drugs, performance enhancing drugs, or medicines that have not been agreed for use with the Norwegian Correctional Service. The same applies if the convicted person refuses to cooperate in taking breathalyser

tests or in providing urine or blood samples, unless there are medical or other compelling reasons for doing so.

The Norwegian Correctional Service can also decide to transfer to prison when the convicted person exhibits other unacceptable behaviour and does not alter his/her behaviour despite a written reprimand.

If the convicted person intentionally damages or attempts to manipulate the technical equipment, this may be grounds for handing down a decision to transfer him/her to prison.

If the Norwegian Correctional Service fails to establish contact with the convicted person via the electronic equipment or in some other manner, a decision can be made to transfer him/her to prison and the convicted person will be listed as wanted by the police. If a decision has already been handed down to grant parole when the convicted person is transferred to prison, the right to reverse a decision pursuant to Section 7 (g) of the Execution of Sentences Act shall apply.

#### Section 7-9 of the Regulations. Procedure

*The Norwegian Correctional Service shall inform the convicted person of the possibility of applying for execution of the sentence with electronic monitoring. The convicted person must submit the application within 14 days after an information sheet from the Norwegian Correctional Service has been received.*

#### *Formal requirements*

The application for execution of the sentence with electronic monitoring must be in writing.

#### *Full execution*

For full execution, information about execution of the sentence with electronic monitoring must be sent to the convicted person who has received an unconditional prison sentence of up to four months and who lives in a county where the arrangement has been introduced. The information is sent to the address provided by the police.

The deadline to apply for full execution with electronic monitoring is 14 days after the convicted person has received information from the Norwegian Correctional Service. In special instances, it will be possible to apply at a later date.

Applications to execute a sentence with electronic monitoring must be sent to the regional administration where the convicted person resides or will reside.

An application to execute a sentence with electronic monitoring does not entail delayed implementation of the notice of execution of sentence.

#### *Partial execution*

If an inmate requests to be transferred to execution of the sentence with electronic monitoring, the prison must assist with the application being in place in sufficient time before any transfer is relevant.

When required, the prison shall assist the convicted person with writing the application. Furthermore, the prison shall assist in making arrangements for transfer to execution of the sentence with electronic monitoring.

The convicted person may be granted compassionate leave pursuant to Section 33 of the Execution of Sentences Act in connection with time spent outside of prison as part of preparatory proceedings and upon transfer from prison to electronic monitoring, when security reasons do not argue otherwise.

The prison must provide a statement in the case and address whether the application should be approved. The statement must also include information about how the convicted person's serving of the sentence has proceeded and a description of factors that are relevant in the event of a potential transfer. The convicted person's application and the prison's statement are sent to the probation office in the area where the convicted person will reside during execution of the sentence. The probation office will then carry out a suitability assessment in the same manner as for full execution.

#### *Suitability assessment*

The probation office shall investigate whether the preconditions for execution of sentence with electronic monitoring are in place and a suitability assessment of the convicted person must be carried out. Based on the suitability assessment, the person who carries out the assessment shall provide a recommendation about whether the application should be approved. The same executive officer must not be involved in the work with both the suitability assessment and final decision regarding the application.

The suitability assessment must include an assessment of the convicted person and his/her suitability for execution of the sentence outside of prison. For partial execution, the assessment must also contain a statement from the prison where the person in question is an inmate.

In connection with the suitability assessment, the Norwegian Correctional Service shall carry out at least one home visit to investigate the convicted person's living conditions, including the technical requirements for electronic monitoring, as well as speak to any co-habitants. The convicted person must be informed of the requirements and conditions that apply for execution of sentence.

The suitability assessment should take place as soon as possible after the Norwegian Correctional Service has received the convicted person's application. The implementation date for execution of sentence should be in place as soon as possible after the application has been approved and preferably within a month from when the decision was handed down.

The convicted person's substance abuse situation must appear in the suitability assessment. It must also be stated as to what measures have been initiated during a possible period of incarceration to prevent abuse. If the convicted person does not exhibit the motivation, willingness or ability to cease ongoing active substance abuse during the period in which the sentence will be served, the convicted person should be deemed unsuitable for execution of the sentence with electronic monitoring.

For convicted persons who are responsible for children under the age of 18, it should be investigated as to how he/she will attend to his/her responsibility for the child/children in the event of being transferred to prison.

If necessary, an interpreter shall be used in connection with this assessment, for example, if the convicted person has serious hearing or speaking difficulties or does not speak Norwegian. The convicted person's need for an interpreter during execution of the sentence shall be assessed.

As a general rule, convicted persons who act in a threatening manner during preparatory proceedings or who are intoxicated, or who fail to assist in the preparatory proceedings in some other manner, shall be deemed unsuitable for execution of the sentence with electronic monitoring.

#### *Plan for execution of the sentence*

If an application for execution of sentence with electronic monitoring is approved, a plan for execution of the sentence must be prepared.

#### *Altered preconditions for execution of sentence*

If a co-habitant who has previously consented to execution of the sentence withdraws his/her consent, this must be investigated as soon as possible.

If the person who the relevant criminal act was committed against moves in together with the convicted person during execution of the sentence, then execution of the sentence with electronic monitoring shall cease.

Circumstances that entail that the electronic monitoring cannot function, for example, fire, power outage or similar, can result in the convicted person having to be transferred to prison or interruption of execution of the sentence.

#### *Decision-making authority*

The local probation office hands down decisions to approve or reject applications for execution of sentence with electronic monitoring. If, for an application for partial execution, there is disagreement between the probation office and the prison when concerning whether the application should be approved, the application shall be decided at regional level.

When the convicted person is sentenced to imprisonment for a term exceeding 10 years, the decision is made at regional level. However, the local level is granted the authority to reject applications in cases in which the convicted person has been sentenced to imprisonment for a term exceeding 10 years, cf. Section 2-1 of the Regulations.

#### *Right of appeal*

An individual decision can be appealed to the immediate superior authority within 7 days after the convicted person has received the decision.

Individual decisions by the probation office during execution of the sentence, including changes to conditions, responses to breach, transfer to prison, interruption of the sentence, release etc. can be appealed to the regional level.

An appeal will not normally result in postponed implementation.

#### *Reversal of a decision*

If the necessary preconditions for execution of sentence with electronic monitoring are changed or become void before the decision is implemented, a decision to approve execution

of sentence with electronic monitoring can be reversed by the Norwegian Correctional Service, cf. Section 35, paragraph five of the Public Administration Act. Decisions can otherwise be reversed in accordance with Section 7 (g) of the Execution of Sentences Act, if there are special reasons for doing so.

#### *Preparation for release*

After execution of a sentence with electronic monitoring has commenced, the Norwegian Correctional Service must make preparations for release, cf. Section 41 of the Execution of Sentences Act.

#### *Release*

Decisions relating to release pursuant to Section 42 and 43 of the Execution of Sentences Act are handed down by the probation office. When the convicted person is released or paroled, the Norwegian Correctional Service shall remove the electronic equipment from the convicted person's residence.

#### *Administrative cooperation*

For execution of a sentence with electronic monitoring, the Norwegian Correctional Service must ensure that cooperating agencies are able to provide their statutory services to the convicted person and that the convicted person shall partake of these services. If the convicted person requires treatment for psychological or physical problems, contact should be established with social services and health authorities. As a starting point, such inquiries should be directed to the person in question's general practitioner or to the prison health service.

For partial execution, the Norwegian Correctional Service must actively assist in arranging contact between the convicted person and authorities and voluntary organisations that can assist in easing the transition from prison to freedom. If such contact has already been established, it should be assessed whether to reinforce this through transfer to execution of the sentence with electronic monitoring.

#### Financial situation

The starting point is that the convicted person shall have work or other employment and thereby be able to support him/herself. If the convicted person, whether fully or in part, has insufficient funds to support him/herself, the Norwegian Correctional Service shall assist with the convicted person establishing contact with the relevant authorities who can contribute to a residence, possible expenses for furnishing the residence, support for basic subsistence and necessary funds in connection with employment.

Execution of the sentence with electronic monitoring shall not result in a reduction or curtailment in public benefits that the convicted person receives or may claim. The convicted person has the right to claim any unemployment benefits, work assessment allowance, age pension, sickness benefits etc. during execution of the sentence. A condition for being entitled to certain government benefits is that one is available to accept work at any location in Norway. In such individual instances, execution of the sentence with electronic monitoring may also be established in counties where a standard offer for this form of serving a sentence has not been established. The regional level will determine which probation office may process the application and be responsible for the execution of the sentence in such instances. If necessary, the Norwegian Correctional Service may obtain information about financial contributions which the convicted person receives from the state.



The convicted person will normally not receive financial compensation for any expenses in connection with execution of the sentence. This entails that the convicted person him/herself must cover the telephone costs that electronic monitoring entails. In addition, the convicted person him/herself must bear any expenses from lost earnings in connection with the suitability assessment and different activities in the plan for execution of the sentence, and for travel to and from the suitability assessment and relevant activities.

If the convicted person does not have the funds for telephone expenses or for transport to and from activities stipulated in his/her plan for execution of the sentence, the Norwegian Correctional Service may still cover such expenses after an application has been submitted by the convicted person.

The Norwegian Correctional Service shall cover expenses in connection with the suitability assessment, technical equipment, controls and supervision, programme activities or other activities under the direction of the Norwegian Correctional Service. The same applies to measures and equipment in connection with substance abuse checks. Transport expenses in connection with the transfer of the convicted person to or from prison are covered by the entity that the convicted person is transferred from.

If the convicted person has caused damage to or lost all or parts of the technical equipment, the general rules pertaining to compensation will apply, cf. the guidelines to Section 3.44 of the Execution of Sentences Act.