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## SCHEDULES

### SCHEDULE 13

#### COMMUNITY SERVICE ORDERS—RECIPROCAL ARRANGEMENTS

#### PART II

##### RECIPROCAL ARRANGEMENTS (SCOTLAND)—PERSONS RESIDING IN ENGLAND AND WALES OR NORTHERN IRELAND

- 3 In sections 183(5A) and 384(5A) of the <sup>M1</sup>Criminal Procedure (Scotland) Act 1975 (requirement that probationer shall perform unpaid work), in paragraph (c)(i), for the words “and 6” there shall be substituted the words “, 6 and 6A”.

#### Marginal Citations

**M1** 1975 c. 21.

- 4 In section 6 of the <sup>M2</sup>Community Service by Offenders (Scotland) Act 1978 (community service orders relating to persons residing in England or Wales)—
- (a) in subsections (1) and (2) for the word “17” there shall be substituted the word “16”;
  - (b) in subsection (1)—
    - (i) in section 1(2)(b) as substituted by paragraph (a) of that subsection, at the beginning there shall be inserted the words “where the offender is under the age of 17 years,” and after the word “persons” there shall be inserted the words “of the offender’s age”;
    - (ii) in section 1(2)(d) as so substituted, for the words from “under the arrangements” to the end of paragraph (d) there shall be substituted the words “for the offender to perform work under the order made under subsection (1) above under the arrangements which exist in the petty sessions area in which he resides or will be residing for persons to perform work under community service orders made under section 14 of the <sup>M3</sup>Powers of Criminal Courts Act 1973;”;
    - (iii) at the end of paragraph (a) there shall be inserted the words “and as if for the words “such an order” in paragraph (c) of the said subsection (2) there were substituted the words “a community service order;”;
    - (iv) in paragraph (b), for the words “section 1(2)(b)” there shall be substituted the words “section 1(2)(d)”;
  - (c) in subsection (2)—
    - (i) at the beginning of paragraph (b) there shall be inserted the words “where the offender is under the age of 17 years;”;

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- (ii) after the word “persons” in paragraph (b) there shall be inserted the words “of the offender’s age”;
- (iii) in paragraph (c), for the words from “under those arrangements” to “section 1(1)” there shall be substituted the words “for the offender to perform work under the order made under the said section 1(1) under the arrangements which exist in the petty sessions area in which he proposes to reside or is residing for persons to perform work under community service orders made under section 14 of the Powers of Criminal Courts Act 1973”;
- (iv) for the words “paragraph (b)” there shall be substituted the words “paragraph (c)”;
- (d) after subsection (2) there shall be inserted the following subsection—
  - “(2A) community service order made under section 1(1) of this Act as amended by this section or amended in accordance with this section shall—
    - (a) specify the petty sessions area in England or Wales in which the offender resides or will be residing when the order or the amendment comes into force; and
    - (b) require the probation committee for that area to appoint or assign a probation officer who will discharge in respect of the order the functions in respect of community service orders conferred on relevant officers by the Powers of Criminal Courts Act 1973.”.

**Marginal Citations**

**M2** 1978 c. 49.

**M3** 1973 c. 42.

5 After section 6 of that Act there shall be inserted the following sections—

**“6A Community service orders relating to persons residing in Northern Ireland.**

- (1) Where a court is considering the making of a community service order under section 1(1) of this Act and it is satisfied that the offender has attained the age of 17 years and resides, or will be residing when the order comes into force, in Northern Ireland, then—
  - (a) the said section 1 shall have effect as if, in subsection (2) thereof—
    - (i) paragraph (b) were omitted;
    - (ii) for paragraph (d) there were substituted the following paragraph—
  - (d) it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under such an order; ;
  - (b) the order shall specify that the unpaid work required to be performed by order shall be performed under the provision made by the Probation Board for Northern Ireland and referred to in section 1(2) (d) of this Act as substituted by paragraph (a) above.

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- (2) Where a community service order has been made under the said section 1(1) and—
- (a) the appropriate court is satisfied that the offender has attained the age of 17 years and proposes to reside or is residing in Northern Ireland; and
  - (b) it appears to that court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order made under the said section 1(1),
- it may amend the order by specifying that the unpaid work required to be performed by the order shall be performed under the provision made by the Probation Board for Northern Ireland and referred to in paragraph (b) of this subsection.
- (3) A community service order made under section 1(1) of this Act as amended by this section or amended in accordance with this section shall—
- (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or the amendment comes into force; and
  - (b) require the Probation Board for Northern Ireland to select an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the relevant officer by the Treatment of Offenders (Northern Ireland) Order 1976.

#### **6B Community service orders relating to persons residing in England or Wales or Northern Ireland— general.**

- (1) Where a community service order is made or amended in the circumstances specified in section 6 or 6A of this Act, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (2) In this section—
- “home court” means—
- (a) if the offender resides in England or Wales, or will be residing in England or Wales at the relevant time, the magistrates’ court acting for the petty sessions area in which he resides or proposes to reside; and
  - (b) if he resides in Northern Ireland, or will be residing in Northern Ireland at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside; and
- “the relevant time” means the time when the order or the amendment to it comes into force.
- (3) A community service order made or amended in the circumstances specified in section 6 or 6A of this Act shall be treated, subject to the following provisions of this section, as if it were a community service order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and the legislation relating to community service orders which has effect in that part of the United Kingdom shall apply accordingly.

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- (4) Before making or amending a community service order in those circumstances the court shall explain to the offender in ordinary language—
- (a) the requirements of the legislation relating to community service orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;
  - (b) the powers of the home court under that legislation, as modified by this section; and
  - (c) its own powers under this section,
- and an explanation given in accordance with this section shall be sufficient without the addition of an explanation under section 1(4) of this Act.
- (5) The home court may exercise in relation to the community service order any power which it could exercise in relation to a community service order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in that part of the United Kingdom except—
- (a) a power to vary the order by substituting for the number of hours' work specified in it any greater number than the court which made the order could have specified;
  - (b) a power to revoke the order; and
  - (c) a power to revoke the order and deal with the offender for the offence in respect of which it was made in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (6) If at any time while legislation relating to community service orders which has effect in one part of the United Kingdom applies by virtue of subsection (3) above to a community service order made in another part—
- (a) it appears to the home court—
    - (i) if that court is in England or Wales, on information to a justice of the peace acting for the petty sessions area for the time being specified in the order; or
    - (ii) if it is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order,
 that the offender has failed to comply with any of the requirements of the legislation applicable to the order; or
  - (b) it appears to the home court on the application of—
    - (i) the offender; or
    - (ii) if that court is in England and Wales, the relevant officer under the Powers of Criminal Courts Act 1973; or
    - (iii) if that court is in Northern Ireland, the relevant officer under the Treatment of Offenders (Northern Ireland) Order 1976,
 that it would be in the interests of justice to exercise a power mentioned in subsection (5)(b) or (c) above,
- the home court may require the offender to appear before the court by which the order was made.
- (7) Where an offender is required by virtue of subsection (6) above to appear before the court which made a community service order, that court—

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- (a) may issue a warrant for his arrest; and
    - (b) may exercise any power which it could exercise in respect of the community service order if the offender resided in the part of the United Kingdom where the court has jurisdiction,
- and any enactment relating to the exercise of such powers shall have effect accordingly.”
- 6 In section 15 of that Act for subsection (5) there shall be substituted the following subsection—
- “(5) Section 6B and this section extend to England and Wales and Northern Ireland.”.

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