

Status: Point in time view as at 01/04/2005.

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SCHEDULES

SCHEDULE 13

COMMUNITY SERVICE ORDERS—RECIPROCAL ARRANGEMENTS

PART III

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

Making an amendment of community service orders relating to persons residing in England and Wales

- 7 (1) Where a court in Northern Ireland considering the making of a community service order is satisfied that the offender resides, or will be residing when the order comes into force, in England or Wales, [^{F1}Part II of the Criminal Justice (Northern Ireland) Order 1996 shall have effect as if the following were substituted for Article 13(4)—
- “(4) A court shall not make a community service order in respect of any offender unless the offender consents and—
- (a) the court is satisfied after hearing (if the court thinks it necessary) a probation officer, that the offender is a suitable person to perform work under such an order; and
 - (b) it appears to the court that provision for the offender to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the [^{F2}local justice area] in England and Wales in which he resides or will reside.”]

(2) Where a community service order has been made by a court in Northern Ireland and—

 - (a) a court of summary jurisdiction acting for a petty sessions district in Northern Ireland for the time being specified in it is satisfied that the offender proposes to reside or is residing in England or Wales;
 - (b) it appears to that court that provision can be made for him to perform work under the community service order under the arrangements for persons to perform work under such orders which exist in the [^{F3}local justice area] in England or Wales in which he resides or will reside,

it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.

(3) A community service order made or amended in accordance with this paragraph shall—

 - (a) specify the [^{F4}local justice area] in England or Wales in which the offender resides or will be residing when the order or the amendment comes into force; and

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- (b) require the [^{F5}local probation board for that area (established under section 4 of the Criminal Justice and Court Services Act 2000) to appoint or assign an officer of the board] who will discharge in respect of the order the functions in respect of community service orders conferred on [^{F6}responsible officers by the ^{M1}Powers of Criminal Courts (Sentencing) Act 2000].

Textual Amendments

- F1** Words in Sch. 13 para. 7(1) substituted (1.1.1998) by S.I. 1996/3160 (N.I. 24), art. 58(1), **Sch. 5 para. 12(a)**; S.R. 1997/523, **art. 2(i)**
- F2** Words in Sch. 13 para. 7(1) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, **Sch. para. 42(a)**
- F3** Words in Sch. 13 para. 7(2)(b) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, **Sch. para. 42(a)**
- F4** Words in Sch. 13 para. 7(3)(a) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, **Sch. para. 42(a)**
- F5** Words in Sch. 13 para. 7(3)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 71**; S.I. 2001/919, **art. 2(f)(ii)**
- F6** Words in Sch. 13 para. 7(3) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 89(2)**

Marginal Citations

- M1** 2000 c. 6.

Making and amendment of community service orders relating to persons residing in Scotland

- 8 (1) Where a court in Northern Ireland considering the making of a community service order is satisfied that the offender resides, or will be residing when the order comes into force, in Scotland, [^{F7}Part II of the Criminal Justice (Northern Ireland) Order 1996 shall have effect as if the following were substituted for Article 13(4)—
- “(4) A court shall not make a community service order in respect of any offender unless the offender consents and—
- (a) the court is satisfied after hearing (if the court thinks it necessary) a probation officer, that the offender is a suitable person to perform work under such an order; and
- (b) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender resides, or will be residing when the order comes into force, to perform work under community service orders made under section 238 of the Criminal Procedure (Scotland) Act 1995; and it appears to the court that provision can be made for him to perform work under those arrangements.”]
- (2) Where a community service order has been made by a court in Northern Ireland and—
- (a) a court of summary jurisdiction acting for a petty sessions district in Northern Ireland for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland;
- (b) that court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender

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proposes to reside or is made under section 1 of the Community Service by Offenders (Scotland) Act 1978;

- (c) it appears to that court that provision can be made for him to perform work under the community service order under those arrangements,

it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.

- (3) A community service order made or amended in accordance with this paragraph shall—

- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or the amendment comes into force; and
- (b) require the regional or islands council in whose area the locality specified under paragraph (a) above is situated to appoint or assign an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the local authority officer by the ^{M2}Community Service by Offenders (Scotland) Act 1978.

Textual Amendments

- F7** Words in Sch. 13 para. 8(1) substituted (1.1.1998) by [S.I. 1996/3160 \(N.I. 24\)](#), [art. 58\(1\)](#), [Sch. 5 para. 12\(b\)](#); [S.R. 1997/523](#), [art. 2\(i\)](#)

Marginal Citations

- M2** 1978 c. 49.

Community service orders relating to persons residing in England and Wales or Scotland—General

- 9 (1) Where a community service order is made or amended in the circumstances specified in paragraph 7 or 8 above, the court which makes or amends the order shall send three copies of the order 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 paragraph—
- “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 [^{F8}acting in the local justice area] in which he resides or proposes to reside; and
- (b) if he resides in Scotland, or will be residing in Scotland at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside;
- “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 paragraph 7 or 8 above shall be treated, subject to the following provisions of this paragraph, 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

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the legislation relating to community service orders which has effect in that part of the United Kingdom shall apply accordingly.

- (4) Before making or amending a community service order in the circumstances specified in paragraph 7 or 8 above 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 Part of this Schedule; and
 - (c) its own powers under this Part of this Schedule,
- and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under [F⁹Article 13(7) of the Criminal Justice (Northern Ireland) Order 1996].
- (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 the part of the United Kingdom in which it has jurisdiction 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 whilst legislation relating to community service orders which has effect in one part of the United Kingdom applies by virtue of sub-paragraph (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 [F¹⁰acting in the local justice area] for the time being specified in the order;
 - (ii) if it is in Scotland, on evidence on oath from the local authority officer under the M³Community Service by Offenders (Scotland) Act 1978,

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 the offender or—
 - (i) if it is in England and Wales, of the [F¹¹responsible officer under the M⁴Powers of Criminal Courts (Sentencing) Act 2000]; and
 - (ii) if it is in Scotland, of the local authority officer,

that it would be in the interests of justice to exercise a power mentioned in sub-paragraph (5)(b) or (c) above,

the home court may require the offender to appear before the court by which the order was made.

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- (7) Where an offender is required to appear before a court by virtue of sub-paragraph (6) above, that court—
- (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.

Textual Amendments

- F8** Words in Sch. 13 para. 9(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 1, Sch. para. 42\(b\)](#)
- F9** Words in Sch. 13 para. 9(4) substituted (1.1.1998) for the words “Article 7(7) of the Treatment of Offenders (Northern Ireland) Order” by virtue of [S.I. 1996/3160 \(N.I. 24\), art. 58\(1\), Sch. 5 para. 12\(c\); S.R. 1997/523, art. 2\(i\)](#)
- F10** Words in Sch. 13 para. 9(6)(a) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 1, Sch. para. 42\(b\)](#)
- F11** Words in Sch. 13 para. 9(6)(b) substituted (25.8.2000) by [2000 c. 6, ss. 165\(1\), 168\(1\), Sch. 9 para. 89\(3\)](#)

Marginal Citations

- M3** 1978 c. 49.
- M4** 2000 c. 6.

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