

SCHEDULES

SCHEDULE 3

Section 16.

RECIPROCAL ENFORCEMENT OF CERTAIN ORDERS

PART I

TRANSFER OF COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

Probation orders: Scotland

- 1 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 2 of the 1973 Act (probation orders) shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the regional or islands council in whose area he resides, or will be residing when the order comes into force.”
- (2) Where a probation order has been made and—
- (a) a magistrates' court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Scotland; and
 - (b) it appears to the court that suitable arrangements for his supervision can be made by the regional or islands council in whose area he proposes to reside or is residing,
- the power of the court to amend the order under Part IV of Schedule 2 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.
- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, Schedule 1A to the 1973 Act (additional requirements in probation orders) shall have effect as if—
- (a) any reference to a probation officer were a reference to an officer of the regional or islands council in whose area the offender resides or will be residing when the order or amendment comes into force;
 - (b) the reference in paragraph 2(5) to the probation committee for the area in which the premises are situated were a reference to the regional or islands council for that area;
 - (c) paragraph 3 (requirements as to attendance at probation centre) were omitted; and
 - (d) the reference in paragraph 5(3) to a mental hospital were a reference to a hospital within the meaning of the Mental Health (Scotland) Act 1984, not being a State hospital within the meaning of that Act.

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- (4) A probation 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 amendment comes into force; and
 - (b) specify as the appropriate court for the purposes of subsection (2) of section 183 or 384 of the Criminal Procedure (Scotland) Act 1975 a court of summary jurisdiction (which, in the case of an offender convicted on indictment, shall be the sheriff court) having jurisdiction in the locality specified under paragraph (a) above.

Probation orders: Northern Ireland

- 2 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 2 of the 1973 Act shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland.”
- (2) Where a probation order has been made and—
- (a) a magistrates' court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Northern Ireland; and
 - (b) it appears to the court that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland,
- the power of the court to amend the order under Part IV of Schedule 2 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.
- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, Schedule 1A to the 1973 Act shall have effect as if—
- (a) any reference to a probation officer were a reference to a probation officer assigned to the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force;
 - (b) the reference in paragraph 2(5) to the probation committee for the area in which the premises are situated were a reference to the Probation Board for Northern Ireland;
 - (c) references in paragraph 3 to a probation centre were references to a day centre within the meaning of section 2B of the Probation Act (Northern Ireland) 1950; and
 - (d) the reference in paragraph 5(3) to treatment as a resident patient in a mental hospital were a reference to treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of section 2 of the Probation Act (Northern Ireland) 1950.

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- (4) A probation order made or amended in accordance with this paragraph shall specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force.

Community service orders: Scotland

- 3 (1) Where a court considering the making of a community service order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 14 of the 1973 Act shall have effect as if for subsection (2A) there were substituted the following subsection—

“(2A) A court shall not make a community service order in respect of any offender unless—

- (a) 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 1 of the Community Service by Offenders (Scotland) Act 1978; and
- (b) 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 and—

- (a) a magistrates' court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland;
- (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 proposes to reside or is residing to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978; and
- (c) it appears to the 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 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 Community Service by Offenders (Scotland) Act 1978.

Community service orders: Northern Ireland

- 4 (1) Where a court considering the making of a community service order is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 14 of the 1973 Act shall have effect—

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- (a) in the case of an offender aged sixteen, as if the reference in subsection (1A) to 240 hours were a reference to 120 hours; and
- (b) in any case, as if for subsection (2A) there were substituted the following subsection—

“(2A) A court shall not make a community service order in respect of any offender unless it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order.”

- (2) Where a community service order has been made and—
 - (a) a magistrates' court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Northern Ireland; and
 - (b) it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order,
 it may amend the order by specifying that the unpaid work required to be performed by the order be so performed and, where the offender is aged sixteen, by making any such reduction in the aggregate number of hours specified in the order as is required by sub-paragraph (1)(a) above.
- (3) A community service order made or amended in accordance with this paragraph shall—
 - (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or 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.

Combination orders: Scotland

- 5 Paragraphs 1 and 3 above shall apply in relation to combination orders—
 - (a) in so far as they impose such a requirement as is mentioned in paragraph (a) of subsection (1) of section 11 of this Act, as if they were probation orders; and
 - (b) in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were community service orders.

General

- 6 (1) Where a community order is made or amended in any of the circumstances specified in this Schedule, 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) Where a community order is made or amended in any of the circumstances specified in this Schedule, then, subject to the following provisions of this paragraph—
 - (a) the order shall be treated as if it were a corresponding 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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- (b) the legislation relating to such orders which has effect in that part of the United Kingdom shall apply accordingly.
- (3) Before making or amending a community order in those circumstances the court shall explain to the offender in ordinary language—
- (a) the requirements of the legislation relating to corresponding 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 paragraph; and
 - (c) its own powers under this paragraph,
- and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under section 2(3) or 14(5) of the 1973 Act.
- (4) The home court may exercise in relation to the community order any power which it could exercise in relation to a corresponding 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, except the following, namely—
- (a) in the case of a probation order or a combination order, a power conferred by section 186(2)(b), 187, 387(2)(b) or 388 of, or paragraph 1 of Schedule 5 to, the Criminal Procedure (Scotland) Act 1975;
 - (b) in the case of a probation order, a power conferred by section 4(3)(d) or (4B) (d) or 6 of, or paragraph 1 of Schedule 2 to, the Probation Act (Northern Ireland) 1950; and
 - (c) in the case of a community service order—
 - (i) a power conferred by section 4(2)(b) or 5(1)(c) or (d) of the Community Service by Offenders (Scotland) Act 1978;
 - (ii) a power conferred by Article 9(3)(a) or (b) or (5)(b) or 10 of the Treatment of Offenders (Northern Ireland) Order 1976; or
 - (iii) a power to vary the order by substituting for the number of hours of work specified in it any greater number than the court which made the order could have specified.
- (5) If at any time while legislation relating to corresponding orders which has effect in Scotland or Northern Ireland applies by virtue of sub-paragraph (2) above to a community order made in England and Wales—
- (a) it appears to the home court—
 - (i) if that court is in Scotland, on evidence on oath from the local authority officer concerned; and
 - (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 the offender or—
 - (i) if that court is in Scotland, of the local authority officer concerned; and
 - (ii) if it is in Northern Ireland, of the probation officer concerned,

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that it would be in the interests of justice for a power conferred by paragraph 7 or 8 of Schedule 2 to this Act to be exercised,

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

(6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the community order, 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 order if the offender resided in England and Wales,

and any enactment relating to the exercise of such powers shall have effect accordingly, and with any reference to the responsible officer being construed as a reference to the local authority or probation officer concerned.

(7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the community order—

- (a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and
- (b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.

(8) In this paragraph—

“corresponding order”, in relation to a combination order, means a probation order including such a requirement as is mentioned in subsection (5A) of section 183 or 384 of the Criminal Procedure (Scotland) Act 1975;

“home court” means—

- (a) if the offender resides in Scotland, or will be residing there at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside; and
- (b) if he resides in Northern Ireland, or will be residing there at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside;

“the local authority officer concerned”, in relation to an offender, means the officer of a regional or islands council responsible for his supervision or, as the case may be, discharging in relation to him the functions assigned by the Community Service by Offenders (Scotland) Act 1978;

“the probation officer concerned”, in relation to an offender, means the probation officer responsible for his supervision or, as the case may be, discharging in relation to him the functions conferred by Part III of the Treatment of Offenders (Northern Ireland) Order 1976;

“the relevant time” means the time when the order or the amendment to it comes into force.

PART II

TRANSFER OF CORRESPONDING ORDERS FROM SCOTLAND

Probation orders

- 7 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended as follows.
- (2) In each of sections 183 and 384 (which provide, respectively, for probation orders in solemn and in summary proceedings), in subsection (1A) for the words “by the local authority in whose area he resides or is to reside” there shall be substituted the following paragraphs—
- “(a) in a case other than that mentioned in paragraph (b) below, by the local authority in whose area he resides or is to reside; or
 - (b) in a case where, by virtue of section 188(1) of this Act, subsection (2) of this section would not apply, by the probation committee for the area which contains the petty sessions area which would be named in the order”.
- (3) In each of sections 188 and 389 (which provide, respectively, for probation orders relating to persons residing in England being made in solemn and in summary proceedings)—
- (a) in subsection (1)—
 - (i) for the words “that the offender shall perform unpaid work” there shall be substituted the words “which, while corresponding to a requirement mentioned in paragraph 2 or 3 of Schedule 1A to the Powers of Criminal Courts Act 1973, would if included in a probation order made under that Act fail to accord with a restriction as to days of presentation, participation or attendance mentioned in paragraph 2(4)(a) or (6)(a), or as the case may be 3(3)(a), of that Schedule”;
 - (ii) for the word “17” there shall be substituted the word “16”
 - (iii) the word “and”, where it secondly occurs, shall cease to have effect; and
 - (iv) at the end there shall be added the words “; and where the order includes a requirement that the probationer perform unpaid work for a number of hours, the number specified shall not exceed one hundred.”;
 - (b) in subsection (2)—
 - (i) for the words “that the probationer has attained the age of 17 years and proposes to reside in or is residing in England” there shall be substituted the following paragraphs—
 - “(a) that the probationer has attained the age of 16 years;
 - (b) that he proposes to reside, or is residing, in England; and
 - (c) that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside”; and
 - (ii) after the word “section”, where it secondly occurs, there shall be inserted the words “or to vary any requirement for performance of

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unpaid work so that such hours as remain to be worked do not exceed one hundred”;

- (c) in subsection (3)—
 - (i) in paragraph (a), for the words “section 3(2) of” and “section 3 of” there shall be substituted, respectively, the words “paragraph 5(3) of Schedule 1A to” and “paragraph 5 of Schedule 1A to”; and
 - (ii) in paragraph (b), for the words “subsections (4) to (6) of section 3 of” there shall be substituted the words “sub-paragraphs (5) to (7) of paragraph 5 of Schedule 1A to”;
- (d) in subsection (4), for the words from “the Powers” to the end of the proviso there shall be substituted the words “Schedule 2 to the Criminal Justice Act 1991 shall apply to the order—
 - (a) except in the case mentioned in paragraph (b) below, as if that order were a probation order made under section 2 of the Powers of Criminal Courts Act 1973; and
 - (b) in the case of an order which contains a requirement such as is mentioned in subsection (5A) of section 183 or 384 of this Act, as if it were a combination order made under section 11 of the said Act of 1991:
 Provided that Part III of that Schedule shall not so apply; and sub-paragraphs (3) and (4) of paragraph 3 of that Schedule shall so apply as if for the first reference in the said sub-paragraph (3) to the Crown Court there were substituted a reference to a court in Scotland and for the other references in those sub-paragraphs to the Crown Court there were substituted references to the court in Scotland.”; and
- (e) in subsection (5), for the words from “for which” to “this section” there shall be substituted the words “named in a probation order made or amended under this section that the person to whom the order relates”.

- (4) Sections 189 and 390 (which make further provision as to probation orders in, respectively, solemn and summary proceedings) shall cease to have effect.

Community service orders

- 8 Section 6 of the Community Service by Offenders (Scotland) Act 1978 (community service orders relating to persons residing in England and Wales) shall be amended as follows—

- (a) in subsection (1)(a), for the words from “for paragraphs” to the end of paragraph (b) as substituted in section 1(2) of that Act there shall be substituted the words “, in subsection (2), paragraph (b) were omitted and for paragraph (d) there were substituted the following paragraph—
- (b) in subsection (2), paragraph (b) shall cease to have effect.

Supervision requirements

- 9 Section 72 of the Social Work (Scotland) Act 1968 (supervision of children moving to England and Wales or to Northern Ireland) shall be amended as follows—

- (a) in subsection (1)(b), for the words “to a juvenile court acting for the petty sessions area” there shall be substituted the following sub-paragraphs—

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- “(i) in the case of residence in England and Wales, to a youth court acting for the petty sessions area (within the meaning of the Children and Young Persons Act 1969);
 - (ii) in the case of residence in Northern Ireland, to a juvenile court acting for the petty sessions district (within the meaning of Part III of the Magistrates' Courts (Northern Ireland) Order 1981).”;
- (b) in subsection (1A)—
 - (i) for the words “The juvenile court in England or Wales” there shall be substituted the words “A youth court”;
 - (ii) after the word “12” there shall be inserted the words “, 12A, 12AA, 12B or 12C”; and
 - (iii) paragraph (a), and the word “and” immediately following that paragraph, shall cease to have effect;
- (c) in subsection (2), for the words “The juvenile court in Northern Ireland” there shall be substituted the words “A juvenile court”;
- (d) in subsection (3), after the words “by a” there shall be inserted the words “youth court or, as the case may be”; and
- (e) subsection (4) shall cease to have effect.

PART III

TRANSFER OF PROBATION ORDERS FROM NORTHERN IRELAND

- 10 (1) Where, in the case of an offender of or over the age of 16 years, a court in Northern Ireland considering the making of a probation order is satisfied that the offender resides in England and Wales, or will be residing there when the order comes into force, section 1 of the Probation Act (Northern Ireland) 1950 (probation orders) shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside.”
- (2) Where a probation order has been made by a court in Northern Ireland and—
- (a) a court of summary jurisdiction acting for the petty sessions district in Northern Ireland for the time being specified in the order is satisfied that the offender has attained the age of 16 years and proposes to reside or is residing in England and Wales; and
 - (b) it appears to the court that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside,
- the power of the court to amend the order under Schedule 2 to the Probation Act (Northern Ireland) 1950 shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.
- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, sections 2, 2A and 2B of the Probation Act (Northern Ireland) 1950 shall have effect as if—

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- (a) any reference to a probation officer were a reference to a probation officer assigned to the petty sessions area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force;
 - (b) the reference in section 2(2) to treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of that section were a reference to treatment as a resident patient in a mental hospital within the meaning of paragraph 5 of Schedule 1A to the 1973 Act;
 - (c) the reference in section 2A(5) to the Probation Board for Northern Ireland were a reference to the probation committee for the area in which the premises are situated; and
 - (d) references in section 2B to a day centre were references to a probation centre within the meaning of paragraph 3 of Schedule 1A to the 1973 Act.
- (4) A probation order made or amended in accordance with this paragraph shall specify the petty sessions area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force.
- 11 (1) Where a probation order is made or amended in any of the circumstances specified in paragraph 10 above, 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) Where a probation order is made or amended in any of the circumstances specified in paragraph 10 above, then, subject to the following provisions of this paragraph—
- (a) the order shall be treated as if it were a probation order made in England and Wales; and
 - (b) the provisions relating to such orders of the 1973 Act and Schedule 2 to this Act (except paragraphs 9 and 10) shall apply accordingly.
- (3) Before making or amending a probation order in the circumstances specified in paragraph 10 above the court shall explain to the offender in ordinary language—
- (a) the requirements of the 1973 Act relating to probation orders;
 - (b) the powers of the home court under that Act and Schedule 2 to this Act, as modified by this paragraph; and
 - (c) its own powers under this paragraph,
- and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under section 1(5) of the Probation Act (Northern Ireland) 1950.
- (4) The home court may exercise in relation to the probation order any power which it could exercise in relation to a probation order made by a court in England and Wales by virtue of the 1973 Act, except a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to this Act.
- (5) If at any time while the 1973 Act applies by virtue of sub-paragraph (2) above to a probation order made in Northern Ireland it appears to the home court—
- (a) on information to a justice of the peace acting for the petty sessions area for the time being specified in the order, that the offender has failed to comply with any of the requirements of the 1973 Act applicable to the order; or

- (b) on the application of the offender or the probation officer, that it would be in the interests of justice for the power conferred by paragraph 1 of Schedule 2 to the Probation Act (Northern Ireland) 1950 to be exercised,
the home court may require the offender to appear before the court which made the order.
- (6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the probation order, that court—
- (a) may issue a warrant for his arrest; and
 - (b) may exercise any power which it could exercise in respect of the probation order if the offender resided in Northern Ireland,
- and section 4(2) to (7) of the Probation Act (Northern Ireland) 1950 shall have effect accordingly.
- (7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the probation order—
- (a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and
 - (b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.
- (8) In this paragraph “home court” means, if the offender resides in England and Wales, or will be residing there at the time when the order or the amendment to it comes into force, the court of summary jurisdiction acting for the petty sessions area in which he resides or proposes to reside.