

*Status: Point in time view as at 30/11/2009.*

*Changes to legislation: Criminal Justice Act 1991, Part III is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### RECIPROCAL ENFORCEMENT OF CERTAIN ORDERS

##### Commencement Information

**II** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### PART III

#### TRANSFER OF PROBATION ORDERS FROM NORTHERN IRELAND

##### Commencement Information

**II** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

- 10 (1) Where <sup>F1</sup> . . . 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, [<sup>F2</sup>Article 10 of the Criminal Justice (Northern Ireland) Order 1996] (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 [<sup>F3</sup>local justice 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 <sup>F4</sup> . . . 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
- [<sup>F5</sup>(i) the local probation board for the area which contains the local justice area in which he resides or will reside or (as the case may be) a provider of probation services operating in the local justice area in which he resides or will reside, or
- (ii) a youth offending team established by a local authority for the area in which he resides or will reside,]

the power of the court to amend the order under Schedule 2 to the [<sup>F6</sup>Criminal Justice (Northern Ireland) Order 1996] shall include power to amend it by requiring him to be supervised in accordance with arrangements so made [<sup>F7</sup>or (as the case may

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be) by a provider of probation services operating in the local justice area in which he resides or will reside] .

(3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, [<sup>F8</sup>Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996] shall have effect as if—

- (a) any reference to a probation officer were a reference to
- [<sup>F9</sup>(i) an officer of a local probation board assigned to the local justice area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force or (as the case may be) an officer of a provider of probation services acting in the local justice area in which the offender resides or will then be residing, or
  - (ii) a member of a youth offending team established by a local authority for the area in England and Wales in which the offender resides or will then be residing;]
- (b) the reference in [<sup>F10</sup>paragraph 4(3)] 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 <sup>M1</sup>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 [<sup>F11</sup>hospital or mental nursing home within the meaning of the Mental Health Act 1983, not being hospital premises at which high security psychiatric services within the meaning of that Act are provided];
- (c) the reference in [<sup>F12</sup>paragraph 2(5)] to the Probation Board for Northern Ireland were a reference to the [<sup>F13</sup>local probation board] for the area in which the premises are situated [<sup>F14</sup>or to the provider of probation services operating in the local justice area in which the premises are situated]; and
- (d) [<sup>F15</sup> in paragraph 3 “day centre” meant] a [<sup>F16</sup>community rehabilitation centre] within the meaning of [<sup>F17</sup>section 201 of the Criminal Justice Act 2003][<sup>F18</sup>or an attendance centre provided under section 221 of that Act].

(4) A probation order made or amended in accordance with this paragraph shall specify the [<sup>F19</sup>local justice area] in England and Wales in which the offender resides or will be residing when the order or amendment comes into force.

#### Textual Amendments

- F1** Words in Sch. 3 para. 10(1) repealed (1.1.1998) by S.I. 1996/3161, **art. 2(d)(i)**; S.R. 1997/523, **art. 3**
- F2** Words in Sch. 3 para. 10(1) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(d)(ii)**; S.R. 1997/523, **art. 3**
- F3** Words in Sch. 3 para. 10(1) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), **art. 2, Sch. para. 48(a)**
- F4** Words in Sch. 3 para. 10(2) repealed (1.1.1998) by S.I. 1996/3161, **art. 2(d)(iii)**; S.R. 1997/523, **art. 3**
- F5** Words in Sch. 3 para. 10(2)(b) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 40(2)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F6** Words in Sch. 3 para. 10(2) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(d)(iv)**; S.R. 1997/523, **art. 3**
- F7** Words in Sch. 3 para. 10(2)(b) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), **art. 3, Sch. 1 para. 9(5)(a)(i)**
- F8** Words in Sch. 3 para. 10(3) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(d)(v)**; S.R. 1997/523, **art. 3**

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- F9** Words in Sch. 3 para. 10(3)(a) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 40(3)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F10** Words in Sch. 3 para. 10(3)(b) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(d)(vi)**; S.R. 1997/523, **art. 3**
- F11** Words in Sch. 3 Pt. III para. 10(3)(b)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 147(1)(2)(a)(b)**
- F12** Words in Sch. 3 para. 10(3)(c) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(d)(vii)**; S.R. 1997/523, **art. 3**
- F13** Words in Sch. 3 Pt. III para. 10(2)(b)(3)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 111(a)(i)**; S.I. 2001/919, **art. 2(f)(ii)**
- F14** Words in Sch. 3 para. 10(3)(c) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 9(5)(a)(iii)**
- F15** Words in Sch. 3 para. 10(3)(d) substituted (E.W.N.I.) (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, {Sch. 26 par. 29(6)(a)(7)}; S.I. 2008/2712, **art. 2**, Sch. para. 18(b) (subject to arts 3, 4)
- F16** Words in Sch. 3 Pt. III para. 10(3)(a)(d) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 111(a)(ii)(iii)**; S.I. 2001/919, **art. 2(f)(ii)**
- F17** Words in Sch. 3 para. 10(3)(d) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 304, {Sch. 32 Pt. 1 para. 64(2)}; S.I. 2005/950, **art. 2(1)**, Sch. 1 (subject to art. 2(2) and Sch. 2 (as amended by S.I. 2005/2122, art. 2))
- F18** Words in Sch. 3 para. 10(3)(d) inserted (E.W.N.I.) (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, {Sch. 26 par. 29(6)(b)(7)}; S.I. 2008/2712, **art. 2**, Sch. para. 18(b) (subject to arts 3, 4)
- F19** Words in Sch. 3 para. 10(4) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 48(a)**

#### Commencement Information

- I2** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

- M1** S.I. 1972/1265 (N.I. 14).

- 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 [<sup>F20</sup>an adult 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 [<sup>F21</sup>community order] made in England and Wales <sup>F22</sup>. . . ; and
- [<sup>F23</sup>(b) the provisions of Part 12 [<sup>F24</sup>of the Criminal Justice Act 2003](so far as relating to such orders) shall apply accordingly.]
- [<sup>F25</sup>(2A) Where a youth 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 youth rehabilitation order made in England and Wales, and
- (b) the provisions of Part 1 of the Criminal Justice and Immigration Act 2008 shall apply accordingly.]

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- (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—
- [<sup>F26</sup>[<sup>F27</sup>(a) the requirements of the legislation relating to community orders or, as the case may be, youth rehabilitation orders;]
- (b) the powers of the home court under [<sup>F28</sup>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 [<sup>F29</sup>Article 10(3) of the Criminal Justice (Northern Ireland) Order 1996].
- (4) The home court may exercise in relation to the probation order any power which it could exercise in relation to a [<sup>F30</sup>community order [<sup>F31</sup>or, as the case may be, a youth rehabilitation order] made by a court in England and Wales <sup>F32</sup>. . . , except a power conferred by paragraph 9(1)(b) or (c) or 13(2) of Schedule 8 [<sup>F33</sup>to the Criminal Justice Act 2003 or by paragraph 6(2)(c) or 11(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008]].
- (5) If at any time while [<sup>F34</sup>Part 12 of the Criminal Justice Act 2003 [<sup>F35</sup>or, as the case may be, Part 1 of the Criminal Justice and Immigration Act 2008]] applies by virtue of sub-paragraph [<sup>F36</sup>(2) or (2A) (as the case may be)] to a probation order made in Northern Ireland it appears to the home court—
- (a) on information to a justice of the peace [<sup>F37</sup>acting in the local justice area] for the time being specified in the order, that the offender has failed to comply with any of the requirements of [<sup>F38</sup>that Act] applicable to the order; or
- (b) on the application [<sup>F39</sup> of—
- (i) the offender, or the
- (ii) officer of a local probation board, officer of a provider of probation services or member of a youth offending team (as the case may be).]
- , that it would be in the interests of justice for the power conferred by [<sup>F40</sup>paragraph 7 or 8 of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996] 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 [<sup>F41</sup>Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996] 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

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- (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

[<sup>F42</sup>“adult probation order” means a probation order made in respect of an offender who was aged at least 18 when convicted of the offence in respect of which the order is made;

“community order” means an order made under section 177 of the Criminal Justice Act 2003;]

“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 [<sup>F43</sup>acting in the local justice area] in which he resides or proposes to reside.

[<sup>F44</sup>“youth probation order” means a probation order made in respect of an offender who was aged under 18 when convicted of the offence in respect of which the order is made;

“youth rehabilitation order” means an order made under section 1 of the Criminal Justice and Immigration Act 2008.]

#### Textual Amendments

- F20** Words in Sch. 3 para. 11(2) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(2)(a)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F21** Words in Sch. 3 para. 11(2)(a) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, {Sch. 32 para. 64(3)(a)}; S.I. 2005/950, **art. 2**, Sch. 1 para. 42(25) (subject to Sch. 2)
- F22** Words in Sch. 3 para. 11(2)(a) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(2)(b)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F23** Sch. 3 para. 11(2)(b) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, **Sch. 32 para. 64(3)(b)**; S.I. 2005/950, **art. 2**, Sch. 1 para. 42(25) (subject to Sch. 2)
- F24** Words in Sch. 3 para. 11(2)(b) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(2)(c)** (with Sch. 27, paras. 1, 5); SI 2009/3074, {art. 2(f)(p)(v)}
- F25** Sch. 3 para. 11(2A) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(3)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F26** Sch. 3 para. 11(3)(a)(b) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, {Sch. 32 para. 64(4)}; S.I. 2005/950, **art. 2**, Sch. 1 para. 42(25) (subject to Sch. 2)
- F27** Sch. 3 para. 11(3)(a) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(4)(a)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F28** Words in Sch. 3 para. 11(3)(b) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(4)(b)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F29** Words in Sch. 3 para. 11(3) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(e)(ii)**; S.R. 1997/523, **art. 3**
- F30** Words in Sch. 3 para. 11(4) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, {Sch. 32 para. 64(5)}; S.I. 2005/950, **art. 2**, Sch. 1 para. 42(25) (subject to Sch. 2)
- F31** Words in Sch. 3 para. 11(4) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(5)(a)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F32** Words in Sch. 3 para. 11(4) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(5)(b)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F33** Words in Sch. 3 para. 11(4) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(5)(c)**; S.I. 2009/3074, art. 2(f)(p)(v)
- F34** Words in Sch. 3 para. 11(5) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, {Sch. 32 para. 64(6)}; S.I. 2005/950, **art. 2**, Sch. 1 para. 42(25) (subject to Sch. 2)

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- F35** Words in Sch. 3 para. 11(5) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(6)(a)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F36** Words in Sch. 3 para. 11(5) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(6)(b)**; S.I. 2009/3074, **art. 2(f)(p)(v)**
- F37** Words in Sch. 3 para. 11(5) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 48(b)**
- F38** Words in Sch. 3 Pt. III para. 11(5) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 147(1)(3)(e)**
- F39** Words in Sch. 3 para. 11(5)(b) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(6)(c)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F40** Words in Sch. 3 para. 11(5)(b) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(e)(iii)**; S.R. 1997/523, **art. 3**
- F41** Words in Sch. 3 para. 11(6) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(e)(iv)**; S.R. 1997/523, **art. 3**
- F42** Sch. 3 para. 11(8): definitions inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(7)(a)** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(v)**
- F43** Words in Sch. 3 para. 11(8) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 48(b)**
- F44** Sch. 3 para. 11(8): definitions inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153, **Sch. 4 para. 41(7)(b)**; S.I. 2009/3074, **art. 2(f)(p)(v)**

#### **Commencement Information**

- I3** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 2**.

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