

SCHEDULES

SCHEDULE 4

TRANSFER OF CERTAIN COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

Probation, community service and combination orders: general provisions

- 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
 - (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.
- (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 232(2)(b) or 233 of, or paragraph 1 of Schedule 6 to, the Criminal Procedure (Scotland) Act 1995;
 - (b) in the case of a probation order, a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996; and
 - (c) in the case of a community service order—
 - (i) a power conferred by section 239(5)(b) or 240(1)(c) or (d) of the Criminal Procedure (Scotland) Act 1995;
 - (ii) a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996; or

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(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 information from the local authority officer concerned, 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—

(i) if that court is in Scotland, on the application of the offender or of the local authority officer concerned, or

(ii) if it is in Northern Ireland, on the application of the offender or of the probation officer concerned,

that it would be in the interests of justice for a power conferred by paragraph 10 or 11 of Schedule 3 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 officer 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 section 229(4) of the Criminal Procedure (Scotland) Act 1995;

“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 council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 responsible for his supervision or, as the case may be, discharging in relation to him the functions in respect of community service orders assigned by sections 239 to 245 of the Criminal Procedure (Scotland) Act 1995;

“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 II of the Criminal Justice (Northern Ireland) Order 1996;

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