

SCHEDULES

SCHEDULE 13

TRANSFER OF SUSPENDED SENTENCE ORDERS TO SCOTLAND OR NORTHERN IRELAND

PART 1

SCOTLAND

- 1 (1) Where the court considering the making of a suspended sentence order is satisfied that the offender resides in Scotland, or will reside there when the order comes into force, the court may not make a suspended sentence order in respect of the offender unless it appears to the court—
- (a) in the case of an order imposing a requirement mentioned in sub-paragraph (2), that arrangements exist for persons to comply with such a requirement in the locality in Scotland in which the offender resides, or will be residing when the order comes into force, and that provision can be made for him to comply with the requirement under those arrangements, and
 - (b) in any case, that suitable arrangements for his supervision can be made by the local authority in whose area he resides, or will be residing when the order comes into force.
- (2) The requirements referred to in sub-paragraph (1)(a) are—
- (a) an unpaid work requirement,
 - (b) an activity requirement,
 - (c) a programme requirement,
 - (d) a mental health treatment requirement,
 - (e) a drug rehabilitation requirement,
 - (f) an alcohol treatment requirement, and
 - (g) an electronic monitoring requirement.
- (3) Where—
- (a) the appropriate court for the purposes of paragraph 14 of Schedule 12 (amendment by reason of change of residence) is satisfied that an offender in respect of whom a suspended sentence order is in force proposes to reside or is residing in Scotland, and
 - (b) it appears to the court that the conditions in sub-paragraph (1)(a) and (b) are satisfied,
- the power of the court to amend the order under Part 3 of Schedule 12 includes power to amend it by requiring it to be complied with in Scotland and the offender to be supervised in accordance with the arrangements referred to in sub-paragraph (1)(b).
- (4) For the purposes of sub-paragraph (3), any reference in sub-paragraph (1)(a) and (b) to the time when the order comes into force is to be treated as a reference to the time when the amendment comes into force.

Status: This is the original version (as it was originally enacted).

- (5) The court may not by virtue of sub-paragraph (1) or (3) require an attendance centre requirement to be complied with in Scotland.
- (6) The court may not provide for an order made in accordance with this paragraph to be subject to review under section 191 or 210; and where an order which is subject to review under either of those sections is amended in accordance with this paragraph, the order shall cease to be so subject.
- 2 A suspended sentence order made or amended in accordance with paragraph 1 must—
- (a) specify the local authority area in which the offender resides or will be residing when the order or amendment comes into force, and
 - (b) require the local authority for that area to appoint or assign an officer who will be responsible for discharging in relation to him the functions conferred on responsible officers by Part 12 of this Act;
- and section 216 (petty sessions area to be specified) does not apply in relation to an order so made or amended.
- 3 (1) Where a court makes or amends a suspended sentence order in accordance with paragraph 1, the court must provide the relevant documents to—
- (a) the local authority for the area specified in the order, and
 - (b) the sheriff court having jurisdiction in the locality in which the offender resides or proposes to reside;
- and paragraphs (b) to (d) of subsection (1) of section 219 (provision of copies of relevant orders) do not apply in relation to an order so made or amended.
- (2) In this paragraph, “the relevant documents” means—
- (a) a copy of the order as made or amended, and
 - (b) such other documents and information relating to the case as the court making or amending the order considers likely to be of assistance.
- 4 (1) In relation to the making or amendment of a suspended sentence order in accordance with paragraph 1, and (except for the purposes of paragraph 20) in relation to an order so made or amended, Chapter 4 of Part 12 of this Act has effect subject to the following modifications.
- (2) Any reference to the responsible officer has effect as a reference to the officer appointed or assigned under paragraph 2(b).
- (3) The following provisions are omitted—
- (a) subsection (7) of section 201 (activity requirement),
 - (b) subsection (7) of section 202 (programme requirement),
 - (c) subsection (4) of section 206 (residence requirement),
 - (d) subsection (4) of section 218 (availability of arrangements in local area).
- (4) In section 207 (mental health treatment requirement), for subsection (2)(a) there is substituted—
- “(a) treatment as a resident patient in a hospital within the meaning of the Mental Health (Care and Treatment) (Scotland) Act 2003, not being a state hospital within the meaning of that Act;”.
- (5) In section 215 (electronic monitoring requirement), in subsection (3), the words from “and” onwards are omitted.

- 5 In this Part of this Schedule “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39); and any reference to the area of such an authority is a reference to the local government area within the meaning of that Act.