SCHEDULES

SCHEDULE 1

Article 14(1).

AMENDMENTS

The Explosive Substances Act 1883 (c. 3)

1. In section 4(1) for the words from "be guilty" to "two years" substitute "be guilty of an offence and on conviction on indictment shall be liable to imprisonment for a term not exceeding fourteen years".

The Probation Act (Northern Ireland) 1950 (c. 7 (N.I.))

2. In section 1(3) for "the next following section" substitute "sections 2, 2A and 2B" and for "sub-section (2) of section seven of this Act" substitute "Article 3 of the Criminal Justice (Northern Ireland) Order 1980".

3. In section 1(4)(*b*) for the words from the beginning to "required to reside" substitute "where the order contains any such requirements, the place where, and the period for which, he is required to reside".

4. In section 1(6) for "institution in which the probationer is required by the order to reside" substitute "place at which the probationer is required by the order to reside, present himself or attend".

5. In section 1(7) for "requirement as to residence in any institution" substitute "requirements relating to the residence of the offender".

6. In section 4 for subsections (3) and (4) substitute—

"(3) If it is proved to the satisfaction of the court of summary jurisdiction before which a probationer appears or is brought under this section that the probationer has failed to comply with any of the requirements of the probation order, that court may deal with him in respect of the failure in any one of the following ways, that is to say—

(a) it may impose on him a fine not exceeding £400;

(b) subject to subsection (7), it may make a community service order in respect of him;

(c) in a case to which section 135 of the Children and Young Persons Act (Northern Ireland) 1968 applies, it may make an order under that section requiring him to attend at an attendance centre;

(d) where the probation order was made by a court of summary jurisdiction, it may deal with him, for the offence in respect of which the probation order was made, in any manner in which it could deal with him if it had just convicted him of that offence;

(e) where the probation order was made by the Crown Court, it may commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the Crown Court.

(4) Where the court of summary jurisdiction deals with the case as provided in subsection (3)(*e*), the court shall send to the Crown Court a certificate signed by a resident magistrate, certifying that the probationer has failed to comply with such of the requirements of the probation order as may be specified in the certificate, together with such other particulars of the case as may be desirable, and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.

(4A) Where a court of summary jurisdiction has committed a probationer to custody under subsection (3)(*e*), that court or any other court of summary jurisdiction acting for the same petty sessions district as that court may at any time before the first sitting of the Crown Court to which he has been committed release him on bail (with or without sureties) until he can appear before the Crown Court.

(4B) Where by virtue of subsection (3)(*e*) the probationer is brought or appears before the Crown Court and it is proved to the satisfaction of that court that he has failed to comply with any of the requirements of the probation order, that court may deal with him in respect of the failure in any one of the following ways, that is to say—

(a) it may impose on him a fine not exceeding £400;

(b) subject to subsection (7), it may make a community service order in respect of him;

(c) in a case to which section 135 of the Children and Young Persons Act (Northern Ireland) 1968 applies, it may make an order under that section requiring him to attend at an attendance centre;

(d) it may deal with him, for the offence in respect of which the probation order was made, in any manner in which it could deal with him if it had just convicted him of that offence.

(4C) Any exercise by a court of its powers under subsection (3)(*a*), (*b*) or (*c*) or (4B)(*a*), (*b*) or (*c*) shall be without prejudice to the continuance of the probation order.”.

7. In section 8(1) for paragraph (*a*) substitute—

“(a) where the offender did not plead guilty or admit the offence charged he may appeal against his conviction—

(i) where he is convicted by the Crown Court, to the Court of Appeal in accordance with the provisions of the Criminal Appeal (Northern Ireland) Act 1980; or

(ii) where he is convicted by a magistrates' court, to the county court in accordance with the provisions of Part XII of the Magistrates' Courts (Northern Ireland) Order 1981; and”.

8. In Schedule 2 in paragraph 3 for “sections one and two” substitute “sections 1 to 2B” and for “in any institution” substitute “at any place”and in paragraph 4 for “Northern Ireland Hospitals Authority” substitute “health and social services board” and for “Authority” (twice) substitute “board”.

The Prison Act (Northern Ireland) 1953 (c. 18(N.I.))

9. In section 47, in subsection (1) omit the definition of “prison” and after that subsection insert—

“(1A) In this Act “prison” includes any prison or other institution for the treatment of offenders, not being—

(a) a young offenders centre;

(b) a remand centre;

(c) a remand home; or

(d) a training school,

but this Act, except sections 10, 23 and 46, shall have effect in relation to young offenders centres and remand centres and to persons detained therein as it has effect in relation to prisons and prisoners.".

10. In section 47(2) for "institution for the treatment of offenders" and "institution" substitute "prison".

The Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.))

11. In section 8(2) for "twenty-three" and "twenty-third" substitute "twenty-four" and "twenty-fourth" respectively.

12. In sections 18(3), 19(1), 19(4), 20(3) and 21(1) for "for which the court has power, or would, but for section 1, have power to sentence him to imprisonment" substitute "punishable with imprisonment in the case of a person aged twenty-one years or over".

13. In section 19(2) after "notwithstanding" insert "section 5(5) and (6) and".

14. In section 19(3) and in section 33(1) in the definition of "suspended sentence or order for detention" after "section 18(1)" insert "or (1A)".

The Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))

15. In section 51—

(a) in subsections (1)(i) and (2) for "prison" substitute "young offenders centre";

(b) omit subsection (3).

16. At the end of section 64(2) add "and the court does not exercise the power conferred by section 64A".

17. In section 75 after subsection (3) insert—

"(3A) Where a court commits a person to a remand home under this Article and at the time the warrant issued by the court for that committal falls to be executed that person is detained—

(a) in prison;

(b) in a young offenders centre;

(c) in any other place pursuant to the directions of the Secretary of State under section 73,

that committal shall have effect as if it were a committal to the prison, young offenders centre or other place in which he is detained, and thewarrant for the committal of that person to a remand home shall accordingly have effect as if it were for his committal to that prison, young offenders centre or place.".

18. In section 76(5) after "subsection (2)" insert "or (2A)".

19. In section 80(*a*) for "section 4(3)(*a*)" substitute "section 4(3)(*d*)".

The Treatment of Offenders (Northern Ireland) Order 1976 (NI 4)

20. In Article 3(1) for sub-paragraph (*b*) substitute—

"(b) the offence is punishable with imprisonment in the case of a person aged twenty-one years or over,".

21. In Article 5—

(a) in paragraph (1)(a) for the words from "mentioned in that Article" to the end substitute "so mentioned of an offence mentioned in Article 3(1)(b); and";

(b) in paragraph (2) for the words from "a court corresponding" to the end substitute "—

(a) where the offender was convicted as mentioned in paragraph (1)(*a*) on indictment, the Crown Court; and

(b) where the offender was so convicted by a magistrates' court, a magistrates' court acting for the same county court division as that court.;"

(c) after paragraph (2) insert—

"(2A) Where a person who has been convicted as mentioned in paragraph (1)(*a*) appears or is brought before a court under this Article, Articles 3 and 4 shall apply as if that person had just been so convicted by or before that court".

22. In Article 7(5) for "in paragraph (1)" substitute "specified in subparagraph (*b*)(i) or (ii) of paragraph (1A)".

23. In Article 7(9) for "paragraph (1)" substitute "paragraph (1A)" and for "specified in that paragraph" substitute "for the time being specified in sub-paragraph (*b*)(i) or (ii) of that paragraph".

The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)

24. In Article 2(3) after the definition of "children or young persons" insert—

""commit to custody" means commit to prison or, where any statutory provision authorises or requires committal to some other place of detention instead of committal to prison, to that other place;".

25. In Article 37(3)(*a*) for "prison" substitute "custody".

26. In Article 140(3) after "discharge" insert "or an order under section 135(1) of the Children and Young Persons Act (Northern Ireland) 1968 (attendance centre order)".

The Fines and Penalties (Northern Ireland) Order 1984 (NI 3)

27. In Article 17(2) after sub-paragraph (*g*) insert—

"(h) section 4(4B) of the Probation Act (Northern Ireland) 1950 (fine for failure to comply with probation order);".

The Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

28. In section 9(2)(*a*) and (*b*) after "section 18(1)" insert "or (1A)".