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## SCHEDULES

### SCHEDULE 1

Section 5(6)

#### PROBATION TRUSTS: FURTHER PROVISIONS

##### *Name and status*

- 1 (1) A probation trust is a body corporate.
- (2) The name of the trust is that specified in the order establishing it.

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##### **Commencement Information**

**I1** Sch. 1 para. 1 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

- 2 A probation trust is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown (and, accordingly, its property is not to be regarded as property of, or property held on behalf of, the Crown).

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##### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

##### *Membership and terms of appointment*

- 3 (1) A probation trust shall consist of—
  - (a) a chairman and not less than four other members appointed by the Secretary of State; and
  - (b) the chief executive.
- (2) In the following provisions “appointed member” means a member of a probation trust appointed by the Secretary of State under sub-paragraph (1)(a) (including the chairman, where the context allows).
- (3) Where practicable, at least one of the appointed members of a probation trust must, when appointed, be a member of a relevant local authority.
- (4) For the purposes of sub-paragraph (3) “relevant local authority” means—
  - (a) a county council, district council or parish council in England, a London Borough council, the Common Council of the City of London or the Council of the Isles of Scilly; or
  - (b) a county council, county borough council or community council in Wales.

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**Commencement Information**

**I3** Sch. 1 para. 3 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

- 4 (1) An appointed member holds and vacates office (and may be removed from office) in accordance with the terms of his appointment.
- (2) An appointed member may resign by giving notice in writing to the Secretary of State.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

*Remuneration etc of members*

- 5 (1) The Secretary of State shall—
- (a) pay appointed members such remuneration, fees and expenses as may be determined by him; and
- (b) pay, or make provision for paying, any person who is or has been an appointed member such pensions, allowances or gratuities as may be so determined.
- (2) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as an appointed member (otherwise than on the expiration of his term of office) to receive compensation, the Secretary of State may pay an amount of compensation determined by him to that person.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

*Chief executive and other employees*

- 6 (1) A probation trust shall have a chief executive appointed by the appointed members.
- (2) The terms of employment of the chief executive are for the appointed members to determine.
- (3) Sub-paragraphs (1) and (2) do not apply to—
- (a) the appointment of the first chief executive of the trust, or
- (b) the determination of the terms of employment applicable to the first chief executive when his appointment takes effect,
- if the Secretary of State directs that the first chief executive is to be a person appointed by the Secretary of State on terms determined by the Secretary of State.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

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- 7 (1) A probation trust may appoint such employees (in addition to the chief executive) as it thinks appropriate.
- (2) The terms of employment of employees so appointed are for the trust to determine.

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**Commencement Information**

**I7** Sch. 1 para. 7 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

- 8 The determination of terms of employment under paragraph 6(2) or 7(2) relating to—
- (a) remuneration, fees or expenses, and
  - (b) pensions, allowances or gratuities,
- requires the approval of the Secretary of State.

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**Commencement Information**

**I8** Sch. 1 para. 8 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

*Proceedings and delegation*

- 9 A probation trust may regulate its own procedure (including quorum).

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**Commencement Information**

**I9** Sch. 1 para. 9 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

- 10 The validity of any proceedings of a probation trust is not affected by a vacancy among its members or by a defect in the appointment of any member.

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**Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

- 11 (1) A probation trust may authorise an appointed member, a committee, the chief executive or any other member of staff to do anything (including exercising the power under this paragraph) that the trust would otherwise have to do itself.
- (2) For this purpose “committee” means a committee or sub-committee of the trust, including one that includes persons who are not members of the trust.
- (3) Authorisation under this paragraph may be general or specific.

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**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

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### *General powers*

- 12 (1) A probation trust has power to do anything (including acquiring and disposing of property and accepting gifts) which appears to it to facilitate, or to be conducive or incidental to—
- (a) the achievement of its purposes; or
  - (b) the performance of any functions conferred on it by any enactment (whenever passed or made).
- (2) But a probation trust—
- (a) may not hold land (though it may manage land held by another);
  - (b) may not—
    - (i) borrow money, whether by way of overdraft or otherwise; or
    - (ii) invest sums not immediately required for achieving its purposes, without the approval of the Secretary of State.
- (3) Approval under sub-paragraph (2)(b) may be general or specific.
- (4) In this paragraph “enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### **Commencement Information**

**I12** Sch. 1 para. 12 in force at 1.3.2008 by S.I. 2008/504, art. 2(a)

### *Accounts and records*

- 13 (1) A probation trust must—
- (a) keep proper accounts and proper records in relation to the accounts;
  - (b) prepare in respect of each financial year a statement of accounts.
- [<sup>F1</sup>(2) The Comptroller and Auditor General may examine any accounts of a probation trust, any records relating to the accounts and any auditor’s report on them.]
- (3) The Auditor General for Wales may examine any accounts of a Welsh probation trust, any records relating to the accounts and any auditor's report on them.
- <sup>F2</sup>(4) . . . . .
- (5) In the Public Audit (Wales) Act 2004 (c. 23)—
- (a) in section 12(1) (local government bodies in Wales), after paragraph (i) there is inserted—
    - “(j) a Welsh probation trust (as defined by paragraph 13(6) of Schedule 1 to the Offender Management Act 2007).”;
  - (b) in section 24(2) (consideration of reports in public interest), after paragraph (d) there is inserted—
    - “(e) a probation trust.”; and
  - (c) in section 25(3) (procedure for consideration of reports etc), after paragraph (d) there is inserted—
    - “(e) a probation trust.”
- (6) In this paragraph—

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“financial year”, in relation to a probation trust, means a period of 12 months ending with 31st March (except that its first financial year is the period beginning with the date on which it is established and ending with the next following 31st March); and

“Welsh probation trust” means a probation trust which is for the time being designated as such by the order establishing it under section 5(1).

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**Textual Amendments**

- F1** Sch. 1 para. 13(2) substituted for Sch. 1 paras. 13(2)-(2B) (21.12.2017) by [The Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2017 \(S.I. 2017/1313\)](#), art. 1, **Sch. 1 para. 4**
- F2** Sch. 1 para. 13(4) omitted (with effect in accordance with art. 4(5) of the amending S.I.) by virtue of [The Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2012 \(S.I. 2012/854\)](#), arts. 1, **4(3)**
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**Commencement Information**

- I13** Sch. 1 para. 13 in force at 1.3.2008 by [S.I. 2008/504](#), art. 2(a)

*Duty to comply with directions*

- 14 (1) A probation trust must comply with any general or specific directions given to it by the Secretary of State in connection with the carrying on of any of its activities.
- (2) In particular, a probation trust must provide the Secretary of State with any information relating to the performance of its activities as he may from time to time direct.
- (3) Different directions may be given under this paragraph for different purposes and in relation to different probation trusts.

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**Commencement Information**

- I14** [Sch. 1 para. 14](#) in force at 1.3.2008 by [S.I. 2008/504](#), art. 2(a)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(2)(da) inserted by [2015 c. 2 Sch. 3 para. 15](#)