

## SCHEDULES

### SCHEDULE 1

#### TRANSFER OF PRISONERS WITHIN THE BRITISH ISLANDS

#### PART II

#### EFFECT OF TRANSFERS

##### *Preliminary*

- 6 (1) For the purposes of this Part of this Schedule, a transfer under Part I of this Schedule—
- (a) is a restricted transfer if it is subject to a condition that the person to whom it relates is to be treated for the relevant purposes as if he were still subject to the provisions applicable for those purposes under the law of the place from which the transfer is made; and
  - (b) is an unrestricted transfer if it is not so subject.
- (2) In this Part of this Schedule “the relevant purposes” means—
- (a) in relation to the transfer of a person under paragraph 1(1)(a) or (2)(a), 2(1)(a) or (2)(a) or 3(1)(a) or (2)(a) above, the purposes of his remand in custody and, where applicable, the purposes of his detention under and release from any sentence of imprisonment that may be imposed;
  - (b) in relation to the transfer of a person under paragraph 1(1)(b) or (2)(b), 2(1)(b) or (2)(b) or 3(1)(b) or (2)(b) above, the purposes of his detention under and release from his sentence and, where applicable, the purposes of his supervision and possible recall following his release; and
  - (c) in relation to the transfer of a person’s supervision under paragraph 4(1) or (2) above, the purposes of his supervision and possible recall.
- (3) In this paragraph “recall” means—
- (a) in relation to a person who is supervised in pursuance of an order made for the purpose, being sentenced to imprisonment, or being recalled to prison, for a breach of any condition of the order;
  - (b) in relation to a person who is supervised in pursuance of a condition contained in a licence, being recalled to prison under the licence, whether for a breach of any condition of the licence or otherwise.

##### *Restricted transfers: general*

- 7 (1) Where—
- (a) a person’s transfer under paragraph 1, 2 or 3 above; or
  - (b) a transfer under paragraph 4 above of a person’s supervision,

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is a restricted transfer, that person or, as the case may be, his supervision may by order be transferred back to the country or island from which he or it was transferred.

- (2) Where a person's transfer under paragraph 1 or 2 above is a restricted transfer, that person shall while in the country or territory to which he is transferred be kept in custody except in so far as the Secretary of State may in any case or class of case otherwise direct.

*Restricted transfers from England and Wales to Scotland*

- 8 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from England and Wales to Scotland is a restricted transfer—
- (a) regulations made under section 22 of the Prosecution of Offences Act 1985 (time limits in relation to preliminary stages of proceedings) shall apply to him in place of the corresponding provisions of the law of Scotland; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Scotland.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from England and Wales to Scotland is a restricted transfer—
- (a) sections 10, 12, 16, 17(1) to (4) and (6), 18(1) and (2), 19(1), (2), (6)(a) and (8) to (10), 20(1) and (2), 21(1) and (2), 23 and 27 of this Act or, as the case may require, sections 28 to 32 and 34 of this Act shall apply to him in place of the corresponding provisions of the law of Scotland; but
  - (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in Scotland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from England and Wales to Scotland is a restricted transfer—
- (a) sections 16, 17(1) to (4) and (6), 18(1) and (2), 19(1), (2), (6)(a) and (8) to (10), 20(1) and (2), 21(1) and (2) and 27 of this Act or, as the case may require, sections 31, 32 and 34 of this Act shall apply to him in place of the corresponding provisions of the law of Scotland; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Scotland.
- (5) Any provision of Part II of this Act which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

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TABLE

<i>Expression</i>	<i>Substituted expression</i>
Crown Court	High Court of Justiciary
Information on oath	Evidence on oath
Magistrates' court	Sheriff
Probation officer	Relevant officer within the meaning given by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993

*Restricted transfers from England and Wales to Northern Ireland*

- 9 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from England and Wales to Northern Ireland is a restricted transfer—
- (a) sections 13 and 15 of this Act shall apply to him as if they were part of the law of Northern Ireland; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Northern Ireland.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from England and Wales to Northern Ireland is a restricted transfer—
- (a) sections 10 to 12, 14, 16, 17(1), (2), (4) and (6), 18, 19(1), (2), (4), (6) and (8) to (10), 20(1) and (2), 21(1) and (2), 23 and 27 of this Act or, as the case may require, sections 28 to 32 and 34 of this Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
  - (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in Northern Ireland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from England and Wales to Northern Ireland is a restricted transfer—
- (a) sections 16, 17(1), (2), (4) and (6), 18, 19(1), (2), (6) and (8) to (10), 20(1) and (2), 21(1) and (2) and 27 of this Act or, as the case may require, sections 31, 32 and 34 of this Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Northern Ireland.
- (5) In sub-paragraph (2) above, the reference to section 11 of this Act includes a reference to any rules under section 47 of the Prison Act 1952 which prescribe a minimum standard of behaviour for the purposes of the said section 11.

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- (6) Any provision of Part II of this Act which is applied by sub-paragraph (1), (2) or (4) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted expression</i>
Community home	Training School
Information on oath	Complaint on oath
Prison rules	Rules made under section 13 of the Prison Act (Northern Ireland) 1953
Section 8 of the Police and Criminal Evidence Act 1984	Article 10 of the Police and Criminal Evidence (Northern Ireland) Order 1989
Social worker of a local authority social services department	Officer of a Board or an authorised Health and Social Services (HSS) Trust

*Restricted transfers from Scotland to England and Wales*

- 10 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Scotland to England and Wales is a restricted transfer—
- (a) sections 65 and 147 of the Criminal Procedure (Scotland) Act 1995 (time limits for solemn and summary prosecutions where prisoner remanded in custody) shall apply to him in the place of the corresponding provisions of the law of England and Wales; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in England and Wales.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) from Scotland to England and Wales is a restricted transfer—
- (a) sections 15, 18 and 19 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") and sections 33(5), 34, 37 and 39 of the Crime and Punishment (Scotland) Act 1997 ("the 1997 Act") or, as the case may require, sections 1(4), 2, 3, 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of England and Wales; but
  - (b) subject to that, to sub-paragraphs (3) and (4) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in England and Wales.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he is transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Notwithstanding anything contained in sub-paragraph (2)(b) above, sections 16 to 18 of this Act shall not apply to a person whose transfer from Scotland to England and Wales is a restricted transfer.

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- (5) Where a transfer under paragraph 4(1) above of a person's supervision from Scotland to England and Wales is a restricted transfer—
- (a) sections 15, 18 and 19 of the 1993 Act and sections 33(5) and 37 of the 1997 Act or, as the case may require, sections 2(4), 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of England and Wales; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in England and Wales.
- (6) Any reference in—
- (a) sub-paragraphs (2) and (5) above to sections 15, 18 and 19 of the 1993 Act is a reference to those sections so far as relating to supervised release orders;
  - (b) in the said sub-paragraph (2)—
    - (i) to section 34 of the 1997 Act includes a reference to any rules under section 39 of the Prisons (Scotland) Act 1989 made by virtue of subsections (13) to (16) of that section; and
    - (ii) to section 39 of the 1997 Act is a reference to that section so far as it relates to section 37 of that Act.
- (7) Any provision of Part I of the 1993 Act or Part III of the 1997 Act which is applied by sub-paragraph (2) or (5) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted expression</i>
Chief social work officer	Chief social worker of a local authority social services department
Young offenders institution	Young offender institution

*Restricted transfers from Scotland to Northern Ireland*

- 11 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Scotland to Northern Ireland is a restricted transfer—
- (a) sections 65 and 147 of the Criminal Procedure (Scotland) Act 1995 (time limits for solemn and summary prosecutions where prisoner remanded in custody) shall apply to him as if they were part of the law of Northern Ireland; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Northern Ireland.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) from Scotland or Northern Ireland is a restricted transfer—
- (a) sections 15, 18 and 19 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") and sections 33(5), 34, 37 and 39 of the Crime and Punishment (Scotland) Act 1997 ("the 1997 Act") or, as the case may

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- require, sections 1(4), 2, 3, 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in Northern Ireland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he is transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from Scotland to Northern Ireland is a restricted transfer—
- (a) sections 15, 18 and 19 of the 1993 Act and sections 33(5) and 37 of the 1997 Act or, as the case may require, sections 2(4), 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
- (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Northern Ireland.
- (5) Sub-paragraph (5) of paragraph 10 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.
- (6) Any provision of Part I of the 1993 Act or Part III of the 1997 Act which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted expression</i>
Chief social work officer	Chief Officer of a Board or an authorised Health and Social Services (HSS) Trust
Justices for a petty sessions area	Probation Board for Northern Ireland
Young offenders institution	Young offenders centre

*Restricted transfers from Northern Ireland to England and Wales*

- 12 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Northern Ireland to England and Wales is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in England and Wales.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from Northern Ireland to England and Wales is a restricted transfer—
- (a) sections 13(7), 23 and 24 of the Prison Act (Northern Ireland) 1953, Articles 3 to 6 of the Treatment of Offenders (Northern Ireland) Order 1976 and Articles 26 to 28 of the Criminal Justice (Northern Ireland) Order 1996 or, as the case may require, section 1 of the Northern Ireland (Remission

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- of Sentences) Act 1995 shall apply to him in place of the corresponding provisions of the law of England and Wales; but
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in England and Wales.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) of a person's supervision from Northern Ireland to England and Wales is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in England and Wales.
- (5) Any provision of the Prison Act (Northern Ireland) 1953, the Treatment of Offenders (Northern Ireland) Order 1976, the Criminal Justice (Northern Ireland) Order 1996 or the Northern Ireland (Remission of Sentences) Act 1995 which is applied by sub-paragraph (2) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted Expression</i>
Complaint on oath	Information on oath
Court of summary jurisdiction	Magistrates' court
Prison rules	Rules made under section 47 of the Prison Act 1952

*Restricted transfers from Northern Ireland to Scotland*

- 13 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Northern Ireland to Scotland is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Scotland.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from Northern Ireland to Scotland is a restricted transfer—
- (a) sections 13(7), 23 and 24 of the Prison Act (Northern Ireland) 1953, Articles 3 to 6 of the Treatment of Offenders (Northern Ireland) Order 1976 and Articles 26 to 28 of the Criminal Justice (Northern Ireland) Order 1996 or, as the case may require, section 1 of the Northern Ireland (Remission of Sentences) Act 1995 shall apply to him in place of the corresponding provisions of the law of Scotland; but
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in Scotland.

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- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from Northern Ireland to Scotland is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Scotland.
- (5) Any provision of the Prison Act (Northern Ireland) 1953, the Treatment of Offenders (Northern Ireland) Order 1976, the Criminal Justice (Northern Ireland) Order 1996 or the Northern Ireland (Remission of Sentences) Act 1995 which is applied by sub-paragraph (2) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted Expression</i>
Complaint on oath	Evidence on oath
Court of summary jurisdiction	Sheriff
Crown Court	High Court of Justiciary
Prison rules	Rules made under section 39 of the Prisons (Scotland) Act 1989
Probation officer	Relevant officer within the meaning of section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993

*Restricted transfers between the United Kingdom and the Channel Islands*

- 14 (1) Her Majesty may by Order in Council make, in relation to restricted transfers under Part I of this Schedule between any part of the United Kingdom and any of the Channel Islands, provision broadly corresponding to that made by any of paragraphs 8 to 13 above.
- (2) An Order in Council under this paragraph may make such consequential, incidental, transitional and supplementary provision as Her Majesty considers appropriate.
- (3) An Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Unrestricted transfers: general*

- 15 (1) Where a person's transfer under paragraph 1(1)(a) or (2)(a), 2(1)(a) or (2)(a) or 3(1)(a) or (2)(a) above to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in the place to which he is transferred.



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- (2) Subject to sub-paragraph (3) below, where a person's transfer under paragraph 1(1) (b) or (2)(b), 2(1)(b) or (2)(b) or 3(1)(b) or (2)(b) above to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in the place to which he is transferred.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) or (2) above of a person's supervision to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer—
  - (a) that person shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in the place to which he is transferred; and
  - (b) any functions of the Secretary of State under any provision of the law of that place which applies for those purposes shall be exercisable in relation to that person by any person appointed by the Secretary of State for the purpose.
- (5) Where the relevant purposes in relation to a transfer to Scotland which is an unrestricted transfer include supervision, the person to whom the transfer relates shall be treated as if a supervised release order had been made in respect of him by such court as the Secretary of State may specify.

*Transfers ceasing to be restricted*

- 16           Where a transfer under Part I of this Schedule ceases to be a restricted transfer at any time by reason of the removal of such a condition as is mentioned in paragraph 6(1)(a) above, paragraph 15 above shall apply as if the transfer were an unrestricted transfer and had been effected at that time.