

## SCHEDULES

### SCHEDULE 1

Section 41.

#### TRANSFER OF PRISONERS WITHIN THE BRITISH ISLANDS

##### PART I

##### POWERS OF TRANSFER

###### *Transfer of prisoners: general*

- 1 (1) The Secretary of State may, on the application of—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence; or
  - (b) a person serving a sentence of imprisonment in any part of the United Kingdom,
- make an order for his transfer to another part of the United Kingdom or to any of the Channel Islands, there to be remanded in custody pending his trial for the offence or, as the case may be, to serve the whole or any part of the remainder of his sentence, and for his removal to an appropriate institution there.
- (2) Where—
- (a) a person is remanded in custody in any of the Channel Islands in connection with an offence; or
  - (b) a person has been sentenced to imprisonment in any of the Channel Islands,
- the Secretary of State may, without application in that behalf, make an order for his transfer to any part of the United Kingdom, there to be remanded in custody pending his trial for the offence or, as the case may be, to serve the whole or any part of his sentence or the remainder of his sentence, and for his removal to an appropriate institution there.
- (3) In this paragraph “appropriate institution”—
- (a) in relation to a person remanded in custody, means any prison or other institution;
  - (b) in relation to a person sentenced to imprisonment, means, subject to sub-paragraph (4) below, any institution which would be appropriate for the detention of an offender of the same age serving an equivalent sentence passed by a court in the country or island to which he is transferred.
- (4) Sub-paragraph (3)(b) above shall have effect in relation to a person serving a sentence of a length which could not have been passed on an offender of his age by a court in the place to which he has been transferred as if it defined “appropriate institution” as meaning such place as the Secretary of State may direct.

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*Transfer of prisoners for trial*

- 2 (1) If it appears to the Secretary of State that—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence; or
  - (b) a person serving a sentence of imprisonment in any part of the United Kingdom,
- should be transferred to another part of the United Kingdom or to any of the Channel Islands for the purpose of attending criminal proceedings against him there, the Secretary of State may make an order for his transfer to that other part or that island and for his removal to a prison or other institution there.
- (2) If it appears to the Secretary of State that—
- (a) a person remanded in custody in any of the Channel Islands in connection with an offence; or
  - (b) a person serving a sentence of imprisonment in any of the Channel Islands,
- should be transferred to a part of the United Kingdom for the purpose of attending criminal proceedings against him there, the Secretary of State may make an order for his transfer to that part and for his removal to a prison or other institution there.
- (3) Where a person has been transferred under sub-paragraph (1)(a) or (2)(a) above for the purpose of any proceedings, the Secretary of State may, if that person is not sentenced to imprisonment in those proceedings, make an order for his return to the country or island from which he was transferred under that sub-paragraph.
- (4) Where a person has been transferred under sub-paragraph (1)(b) or (2)(b) above for the purpose of any proceedings, the Secretary of State may—
- (a) if that person is sentenced to imprisonment in those proceedings, make an order under paragraph 1(1)(b) or (2)(b) above (but without application in that behalf) transferring him back to the country or island from which he was transferred under that sub-paragraph;
  - (b) if he is not so sentenced, make an order for his return to the said country or island, there to serve the remainder of the sentence referred to in that sub-paragraph.

*Transfer of prisoners for other judicial purposes*

- 3 (1) If the Secretary of State is satisfied, in the case of—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence;
  - (b) a person serving a sentence of imprisonment in any part of the United Kingdom; or
  - (c) a person not falling within paragraph (a) or (b) above who is detained in a prison in any part of the United Kingdom,
- that the attendance of that person at any place in that or any other part of the United Kingdom or in any of the Channel Islands is desirable in the interests of justice or for the purposes of any public inquiry, the Secretary of State may direct that person to be taken to that place.
- (2) If the Secretary of State is satisfied, in the case of—
- (a) a person remanded in custody in any of the Channel Islands in connection with an offence;

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- (b) a person serving a sentence of imprisonment in any of the Islands; or
- (c) a person not falling within paragraph (a) or (b) above who is detained in a prison in any of the Channel Islands,

that the attendance of that person at any place in the United Kingdom is desirable in the interests of justice or for the purposes of any public inquiry, the Secretary of State may direct that person to be taken to that place.

- (3) Where any person is directed under this paragraph to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison or other institution or place in which he is required in accordance with law to be detained.

#### *Transfer of supervision of released prisoners*

- 4 (1) The Secretary of State may, on the application of a person undergoing or about to undergo supervision in any part of the United Kingdom, make an order for the transfer of his supervision to another part of the United Kingdom or to any of the Channel Islands, that is to say, an order—
  - (a) for his supervision or, as the case may be, the remainder of his supervision to be undergone in that country or island; and
  - (b) for responsibility for his supervision to be transferred to an appropriate person there.
- (2) The Secretary of State may, on the application of a person undergoing or about to undergo supervision in any of the Channel Islands, make an order for the transfer of his supervision to any part of the United Kingdom, that is to say, an order—
  - (a) for his supervision or, as the case may be, the remainder of his supervision to be undergone in that country; and
  - (b) for responsibility for his supervision to be transferred to an appropriate person there.

#### *Conditions of transfers*

- 5 (1) A transfer under this Part shall have effect subject to such conditions (if any) as the Secretary of State may think fit to impose.
- (2) Subject to sub-paragraph (3) below, a condition imposed under this paragraph may be varied or removed at any time.
- (3) Such a condition as is mentioned in paragraph 6(1)(a) below shall not be varied or removed except with the consent of the person to whom the transfer relates.

## **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

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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,

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

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- 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.

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

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- 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.
- (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

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- 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.
- (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.

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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 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.



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- (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 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.

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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.
- (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

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<i>Expression</i>	<i>Substituted Expression</i>
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.
- (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

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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.

**PART III**

SUPPLEMENTAL

*Prisoners unlawfully at large*

- 17 (1) The following enactments (relating to the arrest and return of prisoners and other persons unlawfully at large), namely—
- (a) section 49(1) of the Prison Act 1952;
  - (b) section 40(1) of the Prisons (Scotland) Act 1989; and
  - (c) section 38(1) of the Prison Act (Northern Ireland) 1953,
- shall extend throughout the United Kingdom and the Channel Islands.
- (2) Any reference in those enactments to a constable shall include a reference—
- (a) to a person being a constable under the law of any part of the United Kingdom;
  - (b) to a police officer within the meaning of the Police Force (Jersey) Law 1974 or any corresponding law for the time being in force; and
  - (c) to an officer of police within the meaning of section 31(4) of the Theft (Bailiwick of Guernsey) Law 1983 or any corresponding law for the time being in force.
- (3) Those enactments shall also apply to persons who, being unlawfully at large under the law of any of the Channel Islands, are for the time being within the United Kingdom as they apply to persons unlawfully at large under the law of any part of the United Kingdom.
- (4) Any person arrested in the United Kingdom under those enactments as applied by sub-paragraph (3) above may be taken to the place in the Channel Islands in which he is required in accordance with the law in force there to be detained.
- (5) Where a person who, having been sentenced to imprisonment, is unlawfully at large during any period during which he is liable to be detained in a prison in any part of the United Kingdom is sentenced to imprisonment by a court in another part of the United Kingdom—
- (a) the provisions of Part II of this Schedule relating to the treatment of persons transferred under sub-paragraph (1)(b) of paragraph 1 above shall apply to him, while he remains in that other part of the United Kingdom, as if he had been transferred there under that sub-paragraph immediately before he was so sentenced; and

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- (b) the Secretary of State may, if he thinks fit, make an order under that subparagraph (but without application in that behalf) transferring him back to the part of the United Kingdom from which he was unlawfully at large.
- (6) In the following provisions, namely—
- (a) paragraph (a) of the proviso to section 49(2) of the Prison Act 1952 (which in effect enables a person who is unlawfully at large during the currency of his original sentence to count towards that sentence any period during which he is detained in pursuance of a sentence of any court);
  - (b) the proviso to section 40(2) of the Prisons (Scotland) Act 1989 (which contains corresponding provisions for Scotland); and
  - (c) section 38(3) of the Prison Act (Northern Ireland) 1953 (which contains corresponding provisions for Northern Ireland),
- references to a court shall include references to any court in the United Kingdom.

*Subsequent sentence in case of transferred prisoners*

- 18 (1) The power of a court in any part of the United Kingdom to order that the term of any sentence of imprisonment passed by the court shall commence at or before the expiration of another term of imprisonment shall include power to make such an order where that other term was imposed by sentence of a court elsewhere in the United Kingdom or in any of the Channel Islands if the offender—
- (a) is serving that other sentence in that part of the United Kingdom; or
  - (b) is for the time being present in that part of the United Kingdom,
- by virtue of an order under this Schedule, or is unlawfully at large under the law of the country or island in which that other sentence was passed.
- (2) The provisions of this paragraph shall be without prejudice to the powers exercisable by any court apart from those provisions.

*Application to the Isle of Man*

- 19 (1) Her Majesty may by Order in Council direct that any of the foregoing provisions of this Schedule which extend to, or apply in relation to, the Channel Islands shall extend to, or apply in relation to, the Isle of Man with such modifications (if any) as Her Majesty considers appropriate.
- (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.

*Interpretation*

- 20 (1) In this Schedule—
- “prison”, unless the context otherwise requires, includes a young offender institution, a young offenders institution, a young offenders centre and a remand centre;
  - “sentence of imprisonment” includes any sentence of detention and a sentence of custody for life under section 8 of the 1982 Act, and cognate expressions shall be construed accordingly;

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

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“supervision” means supervision in pursuance of an order made for the purpose or, in the case of a person released from prison on licence, in pursuance of a condition contained in his licence.

- (2) References in this Schedule to a person being remanded in custody are references to his being remanded in or committed to custody by an order of a court.
- (3) In determining, in relation to any person serving a sentence of imprisonment, the time which is to be served in respect of an equivalent sentence treated as passed in another country or island, regard shall be had, not only to any time already served by him, but also to—
- (a) any periods for which he has been remanded in custody, being either—
    - (i) periods by which his sentence falls to be reduced; or
    - (ii) periods which have been directed to count as time served as part of his sentence; and
  - (b) any early release or additional days awarded to him.

## SCHEDULE 2

Section 42.

### REPATRIATION OF PRISONERS TO THE BRITISH ISLANDS

#### *Preliminary*

- 1 Any reference in this Schedule to prisoners repatriated to any part of the United Kingdom is a reference to prisoners transferred there in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 (“the 1984 Act”).

#### *Prisoners repatriated to England and Wales*

- 2 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to England and Wales before 25th October 1996 who were still serving their sentences on that date; and
  - (b) prisoners repatriated to England and Wales on or after that date and before the commencement of this Schedule.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the omission of sub-paragraph (1A) and the insertion after sub-paragraph (2) of the following sub-paragraphs—
- “(3) The following questions, namely—
- (a) whether the prisoner is a short-term or long-term prisoner for the purposes of the enactments relating to release on licence; and
  - (b) whether or not he is an existing prisoner for the purposes of paragraph 8 of Schedule 12 to the 1991 Act,
- shall be determined by reference to the length or, as the case may require, commencement of the sentence imposed in the country or territory from which he is transferred.
- (4) In this paragraph—

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“the enactments relating to release on licence” means sections 33(1)(b) and (2), 34(3) and (5), 35(1) and 37(1) and (2) of the Criminal Justice Act 1991;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

- 3 (1) This paragraph applies in relation to prisoners repatriated to England and Wales after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed for offences committed before the commencement of Chapter I of Part II of this Act.

- (2) In paragraph 2 of the Schedule to the 1984 Act, for sub-paragraphs (1A) and (2) there shall be substituted the following sub-paragraphs—

“(2) If the warrant specifies a period to be taken into account for the purposes of sections 34(3) and (5) and 35(1) of the Criminal Justice Act 1991—

- (a) the amount of time the prisoner has served; and
- (b) where his sentence is a determinate one, his sentence,

shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.

- (3) The following questions, namely—

- (a) whether the prisoner is a long-term prisoner for the purposes of the enactments relating to release on licence; and
- (b) whether or not he is an existing prisoner for the purposes of paragraph 8 of Schedule 12 to the 1991 Act,

shall be determined by reference to the length or, as the case may require, commencement of the sentence imposed in the country or territory from which he is transferred.

- (4) In this paragraph—

“the enactments relating to release on licence” means sections 33(1)(b) and (2), 34(3) and (5), 35(1) and 37(1) and (2) of the Criminal Justice Act 1991;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

- 4 (1) This paragraph applies in relation to prisoners repatriated to England and Wales after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed for offences committed after the commencement of Chapter I of Part II of this Act.

- (2) In section 2 of the 1984 Act (transfer of prisoners out of United Kingdom), in subsection (4)(b), for sub-paragraph (i) there shall be substituted the following sub-paragraph—

“(i) subject to a release supervision order under section 16 of the Crime (Sentences) Act 1997, or released on licence under section 28(5) or 29(1) of that Act;”.

- (3) In section 3 of the 1984 Act (transfer of prisoners into United Kingdom), in subsection (9)—

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- (a) for the words “section 48 of the Criminal Justice Act 1991 (discretionary life prisoners transferred to England and Wales)” there shall be substituted the words “section 33 of the Crime (Sentences) Act 1997 (life prisoner transferred to England and Wales)”; and
  - (b) for the words “section 34 of that Act (duty of Secretary of State to release discretionary life prisoners)” there shall be substituted the words “section 28 of that Act (duty to release certain life prisoners)”.
- (4) For paragraph 2 of the Schedule to the 1984 Act there shall be substituted the following paragraph—

*“Early release*

- 2 (1) Subject to sub-paragraph (2) below, the prisoner’s sentence, that is to say, the provision included in the warrant which is equivalent to a sentence, shall be deemed—
- (a) for the purposes of Chapter I of Part II of the Crime (Sentences) Act 1997, to have been imposed on the day on which the relevant provisions take effect;
  - (b) for the purposes of Chapter II of that Part, to have been imposed on the same day as the sentence imposed in the country or territory from which he is transferred.
- (2) The question whether—
- (a) section 11 of the Crime (Sentences) Act 1997 (award of early release days for good behaviour); or
  - (b) section 12 of that Act (release on Parole Board recommendation),
- applies in the case of the prisoner shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.”
- (5) For paragraph 3 of that Schedule there shall be substituted the following paragraph—

*“Life imprisonment*

- 3 Where the relevant provisions include provision equivalent to a sentence in relation to which subsection (1) of section 29 of the Crime (Sentences) Act 1997 (power to release certain life prisoners etc.) applies, that subsection shall have effect as if the reference to consultation with the trial judge if available were omitted.”

*Prisoners repatriated to Scotland*

- 5 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed before 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
  - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date.



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- (2) Paragraph 2 of the Schedule to the 1984 Act, as originally enacted, shall have effect, and shall be deemed to have had effect since 16th February 1990, as if—
- (a) in sub-paragraph (1), for the words “section 60 of the Criminal Justice Act 1967” there were substituted the words “section 22 of the Prisons (Scotland) Act 1989”; and
  - (b) at the end there were added the following sub-paragraph—

“(3) In this paragraph “sentence” means the provision included in a warrant which is equivalent to a sentence.”
- 6 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed on or after 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
  - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date and before the commencement of this Schedule.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the omission of sub-paragraph (1A) and the insertion after sub-paragraph (2) of the following sub-paragraphs—
- “(3) The question whether the prisoner is a short-term or long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.
  - (4) For the purposes of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.
  - (5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”
- 7 (1) This paragraph applies in relation to prisoners repatriated to Scotland after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed on or after 1st October 1993 for offences committed before the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997.
- (2) In paragraph 2 of the Schedule to the 1984 Act, for sub-paragraphs (1A) and (2) there shall be substituted the following sub-paragraphs—
- “(2) If the warrant specifies a period to be taken into account for the purposes of sections 1(3) and 2(2) and (7) of the Prisoners and Criminal Proceedings (Scotland) Act 1993—
    - (a) the amount of time the prisoner has served; and
    - (b) where his sentence is a determinate one, his sentence,

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

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shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.

- (3) The question whether the prisoner is a long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.
- (4) For the purposes of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner's sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.
- (5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

- 8 (1) This paragraph applies in relation to prisoners repatriated to Scotland after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed for offences committed after the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997.
- (2) For paragraph 2 of the Schedule to the 1984 Act there shall be substituted the following paragraph—

*“Early release*

- 2 The prisoner's sentence, that is to say, the provision included in the warrant which is equivalent to a sentence, shall be deemed—
  - (a) for the purposes of Chapter I of Part III of the Crime and Punishment (Scotland) Act 1997, to have been imposed on the day on which the relevant provisions take effect;
  - (b) for the purposes of section 2(2) and (7) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, to have been imposed on the same day as the sentence imposed in the country or territory from which he is transferred.”

- (3) For paragraph 3 of that Schedule there shall be substituted the following paragraph—

*“Life imprisonment*

- 3 Where the relevant provisions include provision equivalent to a sentence in relation to which subsection (4) of section 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (power to release certain life prisoners etc.) applies, that subsection shall have effect as if the reference to consultation with the trial judge if available were omitted.”

*Prisoners repatriated to Northern Ireland*

- 9 (1) This paragraph applies in relation to—

- (a) prisoners repatriated to Northern Ireland before 25th October 1996 who were still serving their sentences on that date; and
  - (b) prisoners repatriated to Northern Ireland on or after that date.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the insertion after sub-paragraph (2) of the following sub-paragraph—
- “(3) In this paragraph “sentence” means the provision included in the warrant which is equivalent to a sentence.”
- 10 (1) This paragraph applies in relation to prisoners repatriated to Northern Ireland after the commencement of this Schedule.
- (2) For paragraph 3 of the Schedule to the 1984 Act there shall be substituted the following paragraph—

*“Life imprisonment*

- 3 Where the relevant provisions include provision equivalent to a sentence in relation to which subsection (3) of section 1 of the Northern Ireland (Emergency Provisions) Act 1973 (power to release certain life prisoners etc.) applies, that subsection shall have effect as if the reference to consultation with the trial judge if available were omitted.”

*Prisoners repatriated to the Islands*

- 11 (1) This paragraph applies where any Order in Council under section 9(4) of the 1984 Act extends the provisions of that Act to any of the Channel Islands or the Isle of Man.
- (2) The modifications of that Act made by the Order may include modifications broadly corresponding to those made by any of paragraphs 1 to 10 above.

## SCHEDULE 3

Section 48.

TRANSFERS WITHIN THE BRITISH ISLANDS OF RESPONSIBILITY  
FOR OFFENDERS CONDITIONALLY DISCHARGED FROM HOSPITAL**PART I**

## AMENDMENTS OF THE 1983 ACT

*Transfers from England and Wales to Scotland*

- 1 After section 80 of the 1983 Act there shall be inserted the following section—

**“80A Transfer of responsibility for patients to Scotland**

- (1) If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order under section 41 above; and

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(b) has been conditionally discharged under section 42 or 73 above, that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Scotland, transfer responsibility for the patient to that Minister.

- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Scotland; and
  - (b) as if he were subject to a restriction order under the corresponding enactment in force in Scotland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.”

*Transfers from England and Wales to Northern Ireland*

2 After section 81 of the 1983 Act there shall be inserted the following section—

**“81A Transfer of responsibility for patients to Northern Ireland**

- (1) If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
  - (b) has been conditionally discharged under section 42 or 73 above, that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
  - (b) as if he were subject to a restriction order or restriction direction under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.”

*Transfers from Northern Ireland to England and Wales*

3 After section 82 of the 1983 Act there shall be inserted the following section—

**“82A Transfer of responsibility for patients to England and Wales from Northern Ireland**

- (1) If it appears to the relevant Minister, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under Article 47(1) or 55(1) of the Mental Health (Northern Ireland) Order 1986; and
  - (b) has been conditionally discharged under Article 48(2) or 78(2) of that Order,
- that a transfer under this section would be in the interests of the patient, that Minister may, with the consent of the Secretary of State, transfer responsibility for the patient to the Secretary of State.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
  - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.
- (4) In this section “the relevant Minister” means the Minister exercising in Northern Ireland functions corresponding to those of the Secretary of State.”

*Transfers from England and Wales to the Islands*

4 After section 83 of the 1983 Act there shall be inserted the following section—

**“83A Transfer of responsibility for patients to Channel Islands or Isle of Man.**

- If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
  - (b) has been conditionally discharged under section 42 or 73 above,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.”

*Transfers from the Islands to England and Wales*

5 After section 85 of the 1983 Act there shall be inserted the following section—

**“85A Responsibility for patients transferred from Channel Islands or Isle of Man**

- (1) This section applies to any patient responsibility for whom is transferred to the Secretary of State by the authority exercising corresponding functions in any of the Channel Islands or the Isle of Man under a provision corresponding to section 83A above.
- (2) The patient shall be treated—
  - (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
  - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where the patient was immediately before the transfer subject to an order or direction restricting his discharge, being an order or direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.”

**PART II**

AMENDMENTS OF THE 1984 ACT

*Transfers from Scotland to England and Wales*

6 After section 77 of the 1984 Act there shall be inserted the following section—

**“77A Transfer of responsibility for patients to England and Wales**

- (1) If it appears to the Secretary of State, in the case of a patient who—
  - (a) is subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995; and
  - (b) has been conditionally discharged under section 64 or 68 of this Act, that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in England and Wales, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
  - (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in England and Wales; and
  - (b) as if he were subject to a restriction order under the corresponding enactment in force in England and Wales.”

*Transfers from Scotland to Northern Ireland*

7 After section 80 of the 1984 Act there shall be inserted the following section—

**“80A Transfer of responsibility for patients to Northern Ireland**

- (1) If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995; and
  - (b) has been conditionally discharged under section 64 or 68 of this Act,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
  - (b) as if he were subject to a restriction order under the corresponding enactment in force in Northern Ireland.”

*Transfers from Northern Ireland to Scotland*

8 After section 81 of the 1984 Act there shall be inserted the following section—

**“81A Transfer of responsibility for patients to Scotland from Northern Ireland.**

- (1) If it appears to the relevant Minister, in the case of a patient who—
- (a) is subject to a restriction order under Article 47(1) of the Mental Health (Northern Ireland) Order 1986; and
  - (b) has been conditionally discharged under Article 48(2) or 78(2) of that Order,
- that a transfer under this section would be in the interests of the patient, that Minister may, with the consent of the Secretary of State, transfer responsibility for the patient to the Secretary of State.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under section 64 or 68 of this Act; and
  - (b) as if he were subject to a restriction order within the meaning of this Act.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.
- (4) In this section “the relevant Minister” means the Minister exercising in Northern Ireland functions corresponding to those of the Secretary of State.”

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

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*Transfers from the Islands to Scotland*

9 After section 82 of the 1984 Act there shall be inserted the following section—

**“82A Responsibility for patients transferred from Channel Islands or Isle of Man to Scotland**

- (1) This section applies to any patient responsibility for whom is transferred to the Secretary of State by the authority exercising corresponding functions in any of the Channel Islands or the Isle of Man under a provision corresponding to section 82B of this Act.
- (2) The patient shall be treated—
  - (a) as if on the date of the transfer he had been conditionally discharged under section 64 or 68 of this Act; and
  - (b) as if he were subject to a restriction order within the meaning of this Act.
- (3) Where the patient was immediately before the transfer subject to an order restricting his discharge, being an order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.”

*Transfers from Scotland to the Islands*

10 After section 82A of the 1984 Act there shall be inserted the following section—

**“82B Transfer of responsibility for patients to Channel Islands or Isle of Man.**

If it appears to the Secretary of State, in the case of a patient who—

- (a) is subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995; and
- (b) has been conditionally discharged under section 64 or 68 of this Act,

that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.”

SCHEDULE 4

Section 55.

MINOR AND CONSEQUENTIAL AMENDMENTS

*Army Act 1955 (c. 18)*

1 (1) After subsection (3) of section 70 of the Army Act 1955 (civil offences) there shall be inserted the following subsection—

“(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the



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

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sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”

- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—

“(1A) Where—

- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”

- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.
- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “or falls to be imposed under section 70(3A) above”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.

*Air Force Act 1955 (c. 19)*

- 2 (1) After subsection (3) of section 70 of the Air Force Act 1955 (civil offences) there shall be inserted the following subsection—

“(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”

- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—

“(1A) Where—

- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”

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

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- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.
- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “or falls to be imposed under section 70(3A) above”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.

*Naval Discipline Act 1957 (c. 53)*

- 3 (1) After subsection (1) of section 42 of the Naval Discipline Act 1957 (civil offences) there shall be inserted the following subsection—
  - “(1A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”
- (2) For subsection (1A) of section 43A of that Act (juveniles) there shall be substituted the following subsection—
  - “(1A) Where—
    - (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
    - (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,
 the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”
- (3) In subsection (6A) of section 43AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.
- (4) In paragraph 3(1) of Schedule 4A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “or falls to be imposed under section 42(1A) above”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.

*Children and Young Persons Act 1963 (c. 37)*

- 4 After subsection (2) of section 16 of the Children and Young Persons Act 1963 (offences committed by children under 14 to be disregarded for purposes of

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evidence relating to previous convictions) there shall be inserted the following subsection—

“(3) Nothing in subsection (2) of this section shall be taken to prevent the adduction of evidence of previous convictions for the purpose of establishing the application of any provision of Part I of the Crime (Sentences) Act 1997 (mandatory and minimum custodial sentences).”

*Criminal Justice Act 1967 (c. 80)*

- 5 (1) In subsection (2) of section 56 of the Criminal Justice Act 1967 (committal for sentence for offences tried summarily)—
- (a) for the words “sections 37 and 38” there shall be substituted the words “sections 37, 38 and 38A”; and
  - (b) for the words “and section 62(6) of this Act” there shall be substituted the words “, section 17(3) of the Crime (Sentences) Act 1997 (committal for breach of conditions of release supervision order).”
- (2) In subsection (4) of section 72 of that Act (power of magistrates to issue warrants for escaped prisoners and mental patients), after the words “restricting his discharge” there shall be inserted the words “or in pursuance of a hospital direction and a limitation direction”.

*Criminal Appeal Act 1968 (c. 19)*

- 6 (1) In subsection (1) of section 50 of the Criminal Appeal Act 1968 (meaning of sentence)—
- (a) after paragraph (b) there shall be inserted the following paragraph—
    - “(bb) a hospital direction and a limitation direction under that Part;”
  - (b) after paragraph (c) there shall be inserted the following paragraph—
    - “(cc) a direction under section 20(3) or 21(3) of the Crime (Sentences) Act 1997 (extended supervision for sexual or violent offenders);”
- (2) In sub-paragraph (4) of paragraph 2 of Schedule 2 to that Act (procedural and other provisions applicable on order for retrial), for the words “Section 67 of the Criminal Justice Act 1967 (deduction from certain sentences of time spent in custody before sentence)” there shall be substituted the words “Section 9 of the Crime (Sentences) Act 1997 (crediting of periods of remand in custody)”.

*Immigration Act 1971 (c. 77)*

- 7 In subsection (4) of section 7 of the Immigration Act 1971 (exemption from deportation for certain existing residents), for the words “section 67 of the Criminal Justice Act 1967” there shall be substituted the words “section 9 of the Crime (Sentences) Act 1997”.

*Powers of Criminal Courts Act 1973 (c. 62)*

- 8 (1) In section 1A(1) of the 1973 Act (absolute and conditional discharge), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.

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- (2) In section 2(1) of that Act (probation orders), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (3) In section 30(1) of that Act (general power to fine offender), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (4) In subsection (1) of section 42 of that Act (power of Crown Court on committal for sentence), after the words “section 38” there shall be inserted the words “or 38A”.

*Rehabilitation of Offenders Act 1974 (c. 53)*

- 9 (1) In subsection (2) of section 1 of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions), after paragraph (c) there shall be inserted the following paragraph—
  - “(d) breach of any condition of a release supervision order made under section 16 of the Crime (Sentences) Act 1997.”
- (2) In subsection (6) of section 6 of that Act (the rehabilitation period applicable to a conviction), at the end of paragraph (a) there shall be inserted the words “or of an offence under section 17 of the Crime (Sentences) Act 1997 (breach of conditions of release supervision order)”.

*Magistrates' Courts Act 1980 (c. 43)*

- 10 (1) In subsection (4A) of section 82 of the 1980 Act (restriction on power to impose imprisonment for default), in paragraph (e) for the words “under the age of 21” there shall be substituted the words “under the age of 25”.
- (2) For subsection (3) of section 85 of that Act (power to remit fine) there shall be substituted the following subsections—
  - “(2A) Where the court remits the whole or part of the fine after an order has been made under section 35(2)(a) or (b) of the Crime (Sentences) Act 1997, it shall also reduce the total number of hours or days to which the order relates by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.
  - (3) In calculating any reduction required by subsection (2) or (2A) above any fraction of a day or hour shall be left out of account.”

*Criminal Justice Act 1982 (c. 48)*

- 11 (4) In subsection (4) of section 1A of the 1982 Act (detention in a young offender institution), for the words “section 65(6) of the Criminal Justice Act 1991” there shall be substituted the words “section 17(1) of the Crime (Sentences) Act 1997 as it has effect by virtue of section 19 of that Act”.

*Mental Health Act 1983 (c. 20)*

- 12 (1) In subsection (1) of section 37 of the 1983 Act (powers of courts to order hospital admission or guardianship), after the words “is fixed by law” there shall be inserted

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the words “or falls to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.

- (2) After that subsection there shall be inserted the following subsection—
- “(1A) In the case of an offence the sentence for which would otherwise fall to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act 1997, nothing in that subsection shall prevent a court from making an order under subsection (1) above for the admission of the offender to a hospital.”
- (3) In subsection (4) of that section, the words “in the event of such an order being made by the court” shall cease to have effect.
- (4) After subsection (3) of section 50 of that Act (further provisions as to prisoners under sentence) there shall be inserted the following subsection—
- “(3A) In applying subsection (3) above account shall be taken of any early release days awarded to the person under section 11 of the Crime (Sentences) Act 1997 (read with section 22 of that Act).”
- (5) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) The preceding provisions of this section shall have effect as if—
- (a) the reference in subsection (1) to a transfer direction and a restriction direction having been given in respect of a person serving a sentence of imprisonment included a reference to a hospital direction and a limitation direction having been given in respect of a person sentenced to imprisonment;
  - (b) the reference in subsection (2) to a restriction direction included a reference to a limitation direction; and
  - (c) references in subsections (3) and (4) to a transfer direction included references to a hospital direction.”
- (6) In section 54 of that Act (requirements as to medical evidence), after the words “38(1)” there shall be inserted the words “45A(2)”.
- (7) In subsection (2) of section 61 of that Act (review of treatment)—
- (a) after the words “restriction order” there shall be inserted the words “, limitation direction”; and
  - (b) in paragraph (b), after the words “section 41(6)” there shall be inserted the words “, 45B(3)”.
- (8) In subsection (2)(b) of section 69 of that Act (applications to tribunals concerning patients subject to hospital and guardianship orders), after the word “section” there shall be inserted “45B(2),”.
- (9) In section 70(a) of that Act (applications to tribunals concerning restricted patients), after the words “hospital order” there shall be inserted the words “, hospital direction”.
- (10) In subsection (1) of section 74 of that Act (restricted patients), after the words “who is subject to” there shall be inserted the words “a limitation direction or”.
- (11) In subsection (5) of that section, after the word “above” there shall be inserted the words “the relevant hospital direction and the limitation direction or, as the case may be,”.

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- (12) In subsection (6) of that section, after the words “references to”, in the second place where they occur, there shall be inserted the words “the hospital direction and the limitation direction or, as the case may be, to”.
- (13) In section 75(1)(b) of that Act (applications and references concerning conditionally discharged restricted patients), after the words “hospital order” there shall be inserted the words “, hospital direction”.
- (14) In subsection (1) of section 79 of that Act (interpretation of Part V), after the words “restriction order” there shall be inserted the words “, limitation direction”.
- (15) In subsection (2) of that section—
- (a) after the words ““the relevant hospital order”” there shall be inserted the words “, “the relevant hospital direction””; and
  - (b) after the words “the hospital order” there shall be inserted the words “, the hospital direction”.
- (16) After subsection (3) of section 92 of that Act (interpretation of Part VI) there shall be inserted the following subsections—
- “(4) Sections 80 to 85A above shall have effect as if—
- (a) any hospital direction under section 45A above were a transfer direction under section 47 above; and
  - (b) any limitation direction under section 45A above were a restriction direction under section 49 above.
- (5) Sections 80(5), 81(6) and 85(4) above shall have effect as if any reference to a transfer direction given while a patient was serving a sentence of imprisonment imposed by a court included a reference to a hospital direction given by a court after imposing a sentence of imprisonment on a patient.”
- (17) In subsection (1) of section 117 of that Act (after-care), after the words “transferred to a hospital in pursuance of” there shall be inserted the words “a hospital direction made under section 45A above or”.
- (18) In subsection (3) of section 143 of that Act (general provisions as to regulations, orders and rules), after the word “section” there shall be inserted the word “45A(10),”.
- (19) In subsection (1) of section 145 of that Act (interpretation)—
- (a) after the definition of “hospital” there shall be inserted the following definition—
 

““hospital direction” has the meaning given in section 45A(3)(a) above;”;
  - (b) after the definition of “interim hospital order” there shall be inserted the following definition—
 

““limitation direction” has the meaning given in section 45A(3)(b) above;”.

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*Criminal Justice Act 1988 (c. 33)*

- 13 At the end of subsection (2) of section 36 of the Criminal Justice Act 1988 (review of sentencing) there shall be inserted the words “or failed to impose a sentence required by section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.

*Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)*

- 14 In sub-paragraph (5) of paragraph 9 of Schedule 2 to the Prevention of Terrorism (Temporary Provisions) Act 1989 (exemption from exclusion orders), for the words “section 67 of the Criminal Justice Act 1967” there shall be substituted the words “section 9 of the Crime (Sentences) Act 1997”.

*Criminal Justice Act 1991 (c. 53)*

- 15 (1) In subsection (1) of section 1 of the 1991 Act (restrictions on imposing custodial sentences), after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (2) For subsection (3) of that section there shall be substituted the following subsection—
- “(3) Nothing in subsection (2) above shall prevent the court from passing a custodial sentence on the offender if he fails to express his willingness to comply with a requirement which is proposed by the court to be included in a probation order or supervision order and which requires an expression of such willingness.”
- (3) In subsection (1) of section 2 of that Act (length of custodial sentences), after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (4) At the beginning of subsection (2) of that section there shall be inserted the words “Subject to sections 3(2) and 4(2) of that Act,”.
- (5) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) Subsection (3) above shall not apply in any case where the court passes a custodial sentence falling to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act 1997 which is for the minimum term specified in that subsection.”
- (6) In subsection (1) of section 4 of that Act (additional requirements in the case of mentally disordered offenders)—
- (a) the words “section 3(1) above applies and” shall cease to have effect; and
- (b) after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (7) In subsection (3) of that section, after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (8) In subsection (1) of section 11 of that Act (orders combining probation and community service), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.

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- (9) In subsection (1) of section 12 of that Act (curfew orders), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (10) In section 32 of that Act (the Parole Board)—
- (a) in subsection (1), for the words from “be constituted” to the end there shall be substituted the following paragraphs—
    - “(a) be constituted in accordance with this Part; and
    - (b) have the functions conferred by Part II of the Crime (Sentences) Act 1997 (“Part II”).”; and
  - (b) in subsections (3), (4) and (6), for the words “this Part” there shall be substituted the words “Part II”.
- (11) In sub-paragraph (2) of each of paragraphs 3 and 4 of Schedule 2 to that Act (powers of magistrates' court and Crown Court), for paragraph (b) there shall be substituted the following paragraph—
- “(b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in section 1(2) of this Act.”
- (12) In sub-paragraph (2)(a)(ii) of paragraph 13 of that Schedule (amendment of requirements of probation or curfew order), after the word “unless” there shall be inserted the words “the offender has expressed his willingness to comply with such a requirement and”.
- (13) In sub-paragraph (2)(b) of paragraph 14 of that Schedule (amendment of certain requirements of probation order), the words from “being treatment” to the end shall cease to have effect.

*Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)*

- 16 (1) In section 10(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (meaning of transferred life prisoner), for the words “section 26 of the Criminal Justice Act 1961” there shall be substituted the words “paragraph 1 of Schedule 1 to the Crime (Sentences) Act 1997”.
- (2) In Schedule 6 to that Act, in paragraph 1, in the definition of “new provisions”, after the word “Act” where it last occurs, there shall be inserted the words “and the Repatriation of Prisoners Act 1984 as it has effect by virtue of paragraphs 6 and 7 of Schedule 2 to the Crime (Sentences) Act 1997”.

*Criminal Justice and Public Order Act 1994 (c. 33)*

- 17 After subsection (2) of section 48 of the Criminal Justice and Public Order Act 1994 (reduction in sentences for guilty pleas) there shall be inserted the following subsection—
- “(3) In the case of an offence the sentence for which falls to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act 1997, nothing in that subsection shall prevent the court, after taking into account any matter referred to in subsection (1) above, from imposing any sentence which is not less than 80 per cent of that specified in that subsection.”



SCHEDULE 5

Section 56(1).

TRANSITIONAL PROVISIONS AND SAVINGS

*Sentences for offences committed before the commencement of Chapter I of Part II*

- 1 Notwithstanding their repeal by this Act, sections 33, 35 to 47, 49 to 51 and 65 of the 1991 Act shall, so far as applicable and subject to the following provisions of this Schedule, continue to have effect in relation to persons sentenced to determinate sentences of imprisonment for offences committed before the commencement of Chapter I of Part II of this Act.

*Consecutive sentences for offences committed before and after that commencement*

- 2 (1) This paragraph applies where consecutive terms of imprisonment include—
- (a) the term of a sentence imposed on an offender for an offence committed after the commencement of Chapter I of Part II of this Act; and
  - (b) the term of a sentence imposed on him for an offence committed before that commencement.
- (2) Subject to sub-paragraphs (3) and (4) below, the time to be served by the offender shall be determined separately in respect of each sentence under whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to that sentence.
- (3) Where the offender was remanded in custody in connection with—
- (a) an offence falling within sub-paragraph (1)(a) above; and
  - (b) an offence falling within sub-paragraph (1)(b) above,
- any additional days which have been both conditionally and provisionally awarded to him shall be taken into account for the purposes of Chapter I of Part II of this Act and not for the purposes of Part II of the 1991 Act.
- (4) The time to be served by the offender in respect of a sentence falling within sub-paragraph (1)(b) above which—
- (a) is for a term of four years or more; and
  - (b) is not the final sentence,
- shall be determined as if section 35(1) of the 1991 Act were omitted.
- (5) The offender shall be released when he has served the time required to be served in respect of the final sentence.
- (6) Subject to sub-paragraph (7) below, whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to the final sentence shall apply in relation to the offender after his release.
- (7) Notwithstanding anything in Part II of the 1991 Act, the offender’s supervision shall be for the period which would be applicable if each of his terms of imprisonment had been imposed in respect of offences committed after the commencement of Chapter I of Part II of this Act.
- (8) In this paragraph “the final sentence”, in relation to any time, means the sentence which at that time falls to be served after the other or others.
- (9) In this paragraph and paragraph 3 below—

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“conditionally awarded” means conditionally awarded under prison rules made by virtue of section 42(1) of the 1991 Act;

“provisionally awarded” means provisionally awarded under prison rules having effect by virtue of section 15(2) of this Act;

and any reference to Part II of the 1991 Act includes, unless the context otherwise requires, a reference to section 65 of that Act.

*Concurrent sentences for offences committed before and after that commencement*

- 3 (1) This paragraph applies where terms of imprisonment which are wholly or partly concurrent include—
- (a) the term of a sentence imposed on an offender for an offence committed after the commencement of Chapter I of Part II of this Act; and
  - (b) the term of a sentence imposed on him for an offence committed before that commencement.
- (2) Subject to sub-paragraph (3) below, the time to be served by the offender in respect of the final sentence shall be determined under whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to that sentence.
- (3) Where the offender was remanded in custody in connection with—
- (a) an offence falling within sub-paragraph (1)(a) above; and
  - (b) an offence falling within sub-paragraph (1)(b) above,
- any additional days which have been both conditionally and provisionally awarded to him shall be taken into account only for the purposes of whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to the final sentence.
- (4) The offender shall be released when he has served the time required to be served in respect of the final sentence.
- (5) Subject to sub-paragraph (6) below, whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to the final sentence shall apply in relation to the offender after his release.
- (6) Notwithstanding anything in Part II of the 1991 Act, the offender’s supervision shall be for the period which would be applicable if each of his terms of imprisonment had been imposed in respect of offences committed after the commencement of Chapter I of Part II of this Act.
- (7) Where at any time a sentence falling within sub-paragraph (1)(a) above (“sentence A”) becomes the final sentence in place of a sentence falling within sub-paragraph (1)(b) above (“sentence B”) either—
- (a) because the term of sentence A is increased on appeal; or
  - (b) because sentence B is set aside, or its term is reduced, on appeal,
- then, for each assessment period for the purposes of section 11 of this Act beginning before that time, the prescribed person or, as the case may be, the Secretary of State shall assume, for the purposes of subsection (2) or (3) of that section, that the prisoner’s behaviour was such as to entitle him to the maximum number of early release days available under that subsection.
- (8) In this paragraph “the final sentence”, in relation to any time, means the sentence which at that time will have the later or latest release date on the following assumptions, namely—

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- (a) that the time to be served in respect of a sentence falling within sub-paragraph (1)(a) above is equal to the term imposed by the court less the number of days (if any) directed by the court to count as time served as part of the sentence; and
  - (b) that the time to be served in respect of a sentence falling within sub-paragraph (1)(b) above is equal to the appropriate proportion of the term imposed by the court less any period by which the sentence falls to be reduced under section 67 of the Criminal Justice Act 1967.
- (9) In sub-paragraph (8) above “the appropriate proportion” means one-half in the case of a term of less than four years and two thirds in the case of a term of four years or more.

*Crediting of periods of remand in custody*

- 4 In relation to any time between the commencement of section 9 of this Act and the commencement of Chapter I of Part II of this Act, sections 34, 41 and 47 of the 1991 Act shall have effect as if any reference (however expressed) to a relevant period by which a sentence falls to be reduced under section 67 of the 1967 Act were a reference to a number of days directed under section 9 of this Act to count as time served as part of a sentence.

*Duty to release certain life prisoners*

- 5 (1) In relation to any time before the commencement of section 9 of this Act, section 28 of this Act shall have effect as if, in paragraph (b) of subsection (3), for the words “of any direction it would have given under section 9 above” there were substituted the words “which section 67 of the Criminal Justice Act 1967 would have had”.
- (2) In relation to any time before the commencement of Chapter I of Part II of this Act, section 28 of this Act shall have effect as if—
- (a) after paragraph (b) of subsection (3), there were inserted the words “and
  - (c) the provisions of this section as compared with those of sections 33(2) and 35(1) of the 1991 Act”; and
  - (b) in paragraph (c) of subsection (7), for the words from “the time when” to the end there were substituted the words “he has served one-half of that sentence”.
- (3) Section 28(7) of this Act shall have effect as if—
- (a) any reference of a prisoner’s case made to the Parole Board under section 32(2) or 34(4) of the 1991 Act had been made under section 28(6) of this Act; and
  - (b) any such reference made under section 39(4) of that Act had been made under section 32(4) of this Act.

*Life prisoners transferred to England and Wales*

- 6 In relation to any time before the commencement of Schedule 1 to this Act, section 33 of this Act shall have effect as if, in paragraph (b)(i) of subsection (4), for the words “paragraph 1 of Schedule 1 to this Act” there were substituted the words “section 26 of the Criminal Justice Act 1961”.

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

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*Recall of life prisoners while on licence*

- 7 (1) Section 32(3) and (4) of this Act shall have effect as if any life prisoner recalled to prison under subsection (1) or (2) of section 39 of the 1991 Act had been recalled to prison under the corresponding subsection of section 32 of this Act.
- (2) Section 32(4) of this Act shall have effect as if any representations made by a life prisoner under section 39(3) of the 1991 Act had been made under section 32(3) of this Act.

*Transfers of prisoners: general*

- 8 In relation to any person serving a determinate custodial sentence in respect of an offence committed before the commencement of Chapter I of Part II of this Act, paragraph 6 of Schedule 1 to this Act shall have effect as if, in sub-paragraph (3)(b) of that paragraph, for the words “recalled to prison under the licence” there were substituted the words “recalled or returned to prison”.

*Transfers of prisoners from England and Wales to Scotland*

- 9 (1) In relation to any person serving a determinate custodial sentence imposed in respect of an offence committed before the commencement of Chapter I of Part II of this Act, paragraph 8 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 33, 35 to 39, 41 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as relating to short-term or long-term prisoners;
  - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37 to 39, 43 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as so relating;
  - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act; and
  - (d) section 67 of the Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) or, as the case may require, section 9 of this Act extended to Scotland.
- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 8 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;
  - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
  - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

*Transfers of prisoners from England and Wales to Northern Ireland*

- 10 (1) In relation to any person serving a determinate custodial sentence imposed in respect of an offence committed before the commencement of Chapter I of Part II of this Act, paragraph 9 of Schedule 1 to this Act shall have effect as if—

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

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- (a) in sub-paragraph (1), paragraph (a) and, in paragraph (b), the words “to that and” were omitted;
  - (b) references in sub-paragraph (2) to provisions of that Chapter were references to sections 33, 35 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as relating to short-term or long-term prisoners;
  - (c) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37 to 40, 43 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as so relating;
  - (d) the reference in sub-paragraph (6) to any provision of Part II of this Act were a reference to any provision of Part II of that Act; and
  - (e) section 67 of the Criminal Justice Act 1967 or, as the case may require, section 9 of this Act extended to Northern Ireland.
- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 9 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;
  - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
  - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

*Transfers of prisoners from Scotland to England and Wales*

- 11 (1) In relation to any prisoner sentenced on or after 1st October 1993 in respect of an offence committed before the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997 (“the 1997 Act”), paragraph 10 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to sections 15, 18 and 19 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) and to sections 33(5), 34, 37 and 39 of the 1997 Act were references to sections 1 to 3, 5, 6(1)(a) and (b)(i) and (iii), 9, 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
  - (b) references in sub-paragraph (5) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5) and 37 of the 1997 Act were references to sections 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
  - (c) references in that sub-paragraph to sections 2(4), 11 to 13 and 17 of the 1993 Act were references to sections 26 and 28 of the Prisons (Scotland) Act 1989 (“the 1989 Act”); and
  - (d) the reference in sub-paragraph (7) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the 1993 Act.
- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 10 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5), 34, 37 and 39 of the 1997 Act were references to Schedule 6 to the 1993 Act and to the following existing provisions, namely, sections

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- 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 of, and Schedule 1 to, the 1989 Act and any rules made under section 18 or 39 of that Act;
- (b) references in sub-paragraph (5) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5) and 37 of the 1997 Act were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and
- (c) the reference in sub-paragraph (7) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the said Schedule 6 or the 1989 Act.
- (3) In sub-paragraph (1) above the reference to section 6(1)(b)(i) of the 1993 Act is a reference to that provision so far as it relates to a person sentenced under section 205(3) of the Criminal Procedure (Scotland) Act 1995; and in sub-paragraph (2) above—
- (a) the reference to section 19(4) of the 1989 Act is a reference to that provision so far as it applies section 24 of that Act in relation to persons detained in young offenders institutions; and
- (b) any reference to the existing provisions is a reference to the existing provisions within the meaning of Schedule 6 to the 1993 Act.

*Transfers of prisoners from Scotland to Northern Ireland*

- 12 (1) In relation to any prisoner sentenced on or after 1st October 1993 for an offence committed before the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997 (“the 1997 Act”), paragraph 11 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to 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 1997 Act were references to sections 1, 2, 3, 5, 6(1)(a) and (b)(i) and (iii), 9, 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
- (b) references in sub-paragraph (4) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5) and 37 of the 1997 Act were references to sections 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
- (c) references in that sub-paragraph to sections 2(4), 11 to 13 and 17 of the 1993 Act were references to sections 26 and 28 of the Prisons (Scotland) Act 1989 (“the 1989 Act”); and
- (d) the reference in sub-paragraph (5) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the 1993 Act, and the Table set out in that sub-paragraph contained the following entry—

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“Probation officer appointed for or assigned to such petty sessions area	Probation Officer appointed by the Probation Board for Northern Ireland”
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- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 11 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5), 34, 37 and 39 of the 1997 Act were references to Schedule 6 to the 1993 Act and to the following existing provisions, namely, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43, and Schedule 1 to, the 1989 Act and any rules made under section 18 or 39 of that Act;

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- (b) references in sub-paragraph (4) to sections 15, 18 and 19 of the 1993 Act and sections 33(5) and 37 of the 1997 Act were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and
  - (c) the reference in sub-paragraph (6) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the said Schedule 6 or the 1989 Act.
- (3) Sub-paragraph (3) of paragraph 11 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

### *Interpretation*

13 In this Schedule—

“life prisoner” has the same meaning as in Chapter II of Part II of this Act;  
“term of imprisonment” includes a sentence of detention in a young offender institution or under section 53 of the 1933 Act.

## SCHEDULE 6

Section 56(2).

### REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
<a href="#">9 &amp; 10 Eliz. 2 c.39.</a>	Criminal Justice Act 1961.	Part III.  In section 36(1), the words “or under Part III”.  In section 38, in subsection (3), the words “of Part III and” and, in subsection (6), the words “and of any enactment referred to in Part III of this Act”.  In section 39, in subsection (1), the definitions of “appropriate institution” and “responsible Minister”, and subsection (1A).  In section 42, in subsection (1), the words “Part III except section thirty-three” and, in subsection (2), the words “Part III”.
<a href="#">1967 c. 80.</a>	Criminal Justice Act 1967.	Section 67.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1973 c. 62.	Powers of Criminal Courts Act 1973.	<p>In section 2(3), the words from “and the court” to the end.</p> <p>In section 14(2), the words “the offender consents and”.</p> <p>In section 42(1), the words “or section 62 of the Criminal Justice Act 1967”.</p>
1983 c. 20.	Mental Health Act 1983.	<p>In section 37(4), the words “in the event of such an order being made by the court”.</p> <p>In section 47(1), the words “(not being a mental nursing home)”.</p> <p>In Schedule 1, in Part II, in paragraph 5, the word “and” immediately following sub-paragraph (a).</p>
1991 c. 53.	Criminal Justice Act 1991.	<p>In section 4(1), the words “section 3(1) above applies and”.</p> <p>In section 12, in subsection (1), the words “of or over the age of sixteen years” and, in subsection (5), the words from “and the court” to the end.</p> <p>Sections 33 to 51.</p> <p>Section 65.</p> <p>In Schedule 2, in paragraph 14, in sub-paragraph (2) (b), the words from “being treatment” to the end.</p>

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