

## SCHEDULES

### SCHEDULE 11

#### TRANSITIONAL PROVISIONS

#### PART II

##### SPECIFIC PROVISIONS: REPLICATION OF OLD TRANSITIONAL PROVISIONS

##### *Sections 37, 41, 46 and 79 and Schedules 2, 3 and 6: consent requirements*

- 4 (1) In relation to an offence committed before 1st October 1997—
- (a) section 37 of this Act shall have effect as if at the end of subsection (10) (but not as part of paragraph (c)) there were added the words “and the court shall not make the order unless he expresses his willingness to comply with its requirements”;
  - (b) section 41 of this Act shall have effect as if at the end of subsection (7) (but not as part of paragraph (c)) there were added the words “and the court shall not make the order unless he expresses his willingness to comply with its requirements”;
  - (c) section 46(4) of this Act shall have effect as if after the word “unless” there were inserted “the offender consents and”;
  - (d) section 79(3) of this Act shall have effect as if for the words from “he fails to” onwards there were substituted “he refuses to give his consent to a community sentence which is proposed by the court and requires that consent”; and
  - (e) Schedule 2 to this Act shall have effect as if there were omitted from each of paragraphs 5(4) and 6(5) paragraph (b) and the word “and” immediately preceding it.
- (2) In relation to an offence committed before 1st October 1997, Schedule 3 to this Act shall have effect as if—
- (a) for paragraph (b) of each of paragraphs 4(2) and 5(2) there were substituted the following paragraph—
    - “(b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.”;
  - (b) paragraph 19(2)(b)(i) were omitted; and
  - (c) at the end of paragraph 20(2)(b) there were inserted “, being treatment of a kind to which he could be required to submit in pursuance of a probation or combination order”.

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*Status: This is the original version (as it was originally enacted).*

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- (3) In relation to an offence committed before 1st October 1997, paragraph 3(4) of Schedule 6 to this Act shall have effect as if for paragraph (c) there were substituted the following paragraph—
- “(c) the offender or, if he is a child, his parent or guardian, consents to their inclusion.”