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SCHEDULES

SCHEDULE 11

TRANSFER OF CUSTODY PLUS ORDERS AND INTERMITTENT CUSTODY ORDERS TO SCOTLAND OR NORTHERN IRELAND

PART 2

SCOTLAND

- 2 (1) Where the court making a custody plus order is satisfied that the offender resides in Scotland, or will reside there during the licence period, the court may, subject to sub-paragraph (2), impose requirements that are to be complied with in Scotland and require the offender's compliance with the order to be supervised in accordance with arrangements made by the local authority in Scotland in whose area he resides or will reside.
- (2) The court may not make an order by virtue of this paragraph unless it appears to the court—
- (a) in the case of an order imposing a requirement mentioned in sub-paragraph (3), that arrangements exist for persons to comply with such a requirement in the locality in Scotland in which the offender resides, or will be residing during the licence period, and that provision can be made for him to comply with the requirement under those arrangements, and
 - (b) in any case, that suitable arrangements for supervising his compliance with the order can be made by the local authority in whose area he resides, or will be residing during the licence period.
- (3) The requirements referred to in sub-paragraph (2)(a) are—
- (a) an unpaid work requirement,
 - (b) an activity requirement,
 - (c) a programme requirement, and
 - (d) an electronic monitoring requirement.
- (4) If an order has been made in accordance with this paragraph in relation to an offender but—
- (a) the Secretary of State decides not to make an order under paragraph 1 or 4 of Schedule 1 to the 1997 Act in relation to him, and
 - (b) the offender has not applied under paragraph 22 of this Schedule for the amendment of the custody plus order or intermittent custody order,
- the Secretary of State must apply to the court under paragraph 22 of this Schedule for the amendment of the order.
- 3 Where—
- (a) the appropriate court for the purposes of paragraph 4 of Schedule 10 (amendment by reason of change of residence) is satisfied that the offender

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in respect of whom a custody plus order or intermittent custody order is in force is residing in Scotland, or proposes to reside there during the licence period,

- (b) the Secretary of State has made, or has indicated his willingness to make, an order under paragraph 1 or 4 of Schedule 1 to the 1997 Act in relation to the offender, and
- (c) it appears to the court that the conditions in paragraph 2(2)(a) and (b) are satisfied,

the power of the court to amend the order under Schedule 10 includes power to amend it by requiring the requirements included in the order to be complied with in Scotland and the offender's compliance with them to be supervised in accordance with the arrangements referred to in paragraph 2(2)(b).

4 A court may not by virtue of paragraph 2 or 3 require an attendance centre requirement to be complied with in Scotland.

5 A custody plus order made in accordance with paragraph 2 or a custody plus order or intermittent order amended in accordance with paragraph 3 must—

- (a) specify the local authority area in which the offender resides or will reside during the licence period, and
- (b) require the local authority for that area to appoint or assign an officer who will be responsible for discharging in relation to him the functions conferred on responsible officers by Part 12 of this Act;

and section 216 (petty sessions area to be specified) does not apply in relation to an order so made or amended.

6 (1) Where a court makes a custody plus order in accordance with paragraph 2 or amends a custody plus order or intermittent custody order in accordance with paragraph 3, the court must provide the relevant documents to—

- (a) the local authority for the area specified in the order, and
- (b) the sheriff court having jurisdiction in the locality in which the offender resides or proposes to reside;

and paragraphs (b) to (d) of subsection (1) of section 219 (which relate to the provision of copies) do not apply in relation to an order so made or amended.

(2) In this paragraph, “the relevant documents” means—

- (a) a copy of the order as made or amended, and
- (b) such other documents and information relating to the case as the court making or amending the order considers likely to be of assistance.

7 (1) In relation to the making of a custody plus order by virtue of paragraph 2, in relation to the amendment of a custody plus order or intermittent custody order by virtue of paragraph 3, and (except for the purposes of paragraph 22) in relation to an order so made or amended, Chapter 4 of Part 12 of this Act has effect subject to the following modifications.

(2) Any reference to the responsible officer has effect as a reference to the officer appointed or assigned under paragraph 5(b).

(3) The following provisions are omitted—

- (a) subsection (7) of section 201 (activity requirement);
- (b) subsection (7) of section 202 (programme requirement);
- (c) subsection (4) of section 218 (availability of arrangements in local area).

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(4) In section 215 (electronic monitoring requirement), in subsection (3), the words from “and” onwards are omitted.

8 In this Part of this Schedule “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39); and any reference to the area of such an authority is a reference to the local government area within the meaning of that Act.