

SCHEDULES

SCHEDULE 11

TRANSFER OF COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

PART 1

SCOTLAND

Making of community order where offender will reside in Scotland

- 1 (1) This paragraph applies where—
 - (a) a community order is available to a court dealing with an offender, and
 - (b) the court is satisfied that the offender—
 - (i) resides in Scotland, or
 - (ii) if a community order is made, will reside there when the order comes into force.
- (2) The court may make a community order only if—
 - (a) it appears to the court that suitable arrangements for the offender's supervision can be made by the local council in Scotland, and
 - (b) the order will satisfy paragraphs 4 and 5.

Amendment of community order where offender will reside in Scotland

- 2 (1) This paragraph applies where—
 - (a) a community order is in force,
 - (b) the appropriate court (within the meaning of Schedule 10) is satisfied that the offender—
 - (i) resides in Scotland, or
 - (ii) proposes to reside there, and
 - (c) it appears to the court that suitable arrangements for the offender's supervision can be made by the local council in Scotland.
- (2) The power of the appropriate court to amend the order under Part 4 of Schedule 10 (“the amendment power”) includes power to amend the order by requiring—
 - (a) the order to be complied with in Scotland, and
 - (b) the offender to be supervised in accordance with the arrangements referred to in sub-paragraph (1)(c).
- (3) But the appropriate court may exercise the amendment power in that way only if the order (as amended) will satisfy paragraphs 4 and 5.

Status: This is the original version (as it was originally enacted).

Requirements: availability and restrictions

- 3 Paragraphs 4 and 5 apply where a court makes or amends a community order in accordance with this Part of this Schedule.
- 4 The order must not impose—
- (a) an alcohol abstinence and monitoring requirement,
 - (b) an attendance centre requirement, or
 - (c) an electronic whereabouts monitoring requirement.
- 5 (1) The order must not impose a locally based requirement unless it appears to the court that—
- (a) arrangements exist for persons to comply with such a requirement in the locality in Scotland in which the offender resides, or will be residing at the relevant time, and
 - (b) provision can be made for the offender to comply with the requirement under those arrangements.
- (2) For the purposes of this paragraph, “locally based requirement” means any of the following—
- (a) an unpaid work requirement;
 - (b) a rehabilitation activity requirement;
 - (c) a programme requirement;
 - (d) a mental health treatment requirement;
 - (e) a drug rehabilitation requirement;
 - (f) an alcohol treatment requirement;
 - (g) an electronic compliance monitoring requirement.

Modifications of requirements etc where court exercises powers by virtue of this Part of this Schedule

- 6 Where a court makes or amends a community order in accordance with this Part of this Schedule, Schedule 9 (requirements) has effect as if—
- (a) any reference to the responsible officer were a reference to the local authority officer concerned;
 - (b) the following provisions were omitted—
 - (i) paragraph 13(3) (residence requirement: hostel or institution not to be specified except on recommendation);
 - (ii) paragraph 31(2) (responsible person to be of prescribed description);
 - (iii) paragraph 34 (requirement not to be imposed unless Secretary of State has notified arrangements);
 - (c) in paragraph 16 (mental health treatment requirement), in subparagraph (2), for the definition of “in-patient treatment” there were substituted—

““in-patient treatment” means treatment as a resident patient in a hospital within the meaning of the Mental Health (Care and Treatment) (Scotland) Act 2003, not being a State hospital within the meaning of that Act;”.