

## SCHEDULES

### SCHEDULE 8

#### Transfer of prisoners

##### *Crime (Sentences) Act 1997*

**15.** Amend Schedule 1 to the Crime (Sentences) Act 1997<sup>(1)</sup> (transfer of prisoners within the British Islands) as follows.

**16.**—(1) Amend paragraph 1 (transfer of prisoners: general) as follows.

(2) In sub-paragraph (2A)—

- (a) after “appears to” insert “the Department of Justice in Northern Ireland or”; and
- (b) for “the Secretary of State may” substitute “the Department of Justice in Northern Ireland or (as the case may be) the Secretary of State may”.

(3) After sub-paragraph (2A) insert—

“(2B) But the Secretary of State may make an order under sub-paragraph (2A) only if—

- (a) the Secretary of State is of the view that the transfer is in the interests of national security, or
- (b) the Secretary of State’s view that the person should be transferred is arrived at (wholly or partly) on the basis of protected information.

“Protected information” means information the disclosure of which may, in the view of the Secretary of State, be against the interests of national security.”

(4) After sub-paragraph (4) insert—

“(5) This paragraph has effect subject to the following modifications—

- (a) in relation to the transfer to another part of the United Kingdom of a person remanded in custody in Northern Ireland or serving a sentence of imprisonment in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) in determining the meaning of “appropriate institution” in relation to a person transferred to Northern Ireland from another part of the United Kingdom, any reference in sub-paragraph (4) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

**17.** In paragraph 2 (transfer of prisoners for trial), after sub-paragraph (4) insert—

“(5) This paragraph has effect subject to the following modifications—

- (a) in relation to the transfer to another part of the United Kingdom of a person remanded in custody in Northern Ireland or serving a sentence of imprisonment in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;

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(1) 1997 c. 43. Schedule 1 was amended by the Crime and Disorder Act 1998 (c. 37) Schedule 8, paragraph 135; S.I. 1999/1820; S.I. 2001/2565; section 13 of the Justice (Northern Ireland) Act 2004 (c. 4); and S.I. 2008/1241.

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

- (b) in relation to a person who has been transferred from Northern Ireland to another part of the United Kingdom, any reference in sub-paragraph (3) or (4) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

**18.** In paragraph 3 (transfer of prisoners for other judicial purposes), after sub-paragraph (3) insert—

“(4) This paragraph has effect subject to the following modifications—

- (a) in relation to the attendance at a place in Northern Ireland or any other part of the United Kingdom of a person who is remanded in custody in, serving a sentence of imprisonment in, or otherwise detained in a prison in, Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) in relation to a person who is directed by the Department of Justice in Northern Ireland to be taken to any place under this paragraph, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

**19.** In paragraph 4 (transfer of supervision of released prisoners), after sub-paragraph (2) insert—

“(3) In relation to the transfer to another part of the United Kingdom of the supervision of a person undergoing or about to undergo supervision in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

**20.** In paragraph 5 (conditions of transfers), after sub-paragraph (3) insert—

“(4) In relation to a transfer under this Part which is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

**21.**—(1) Amend paragraph 5A (conditions of transfer under paragraph 1(2A)) as follows.

(2) In sub-paragraph (1)(b) for “as the Secretary of State may think fit to impose” substitute “—

- (i) as the Department of Justice in Northern Ireland may think fit to impose, in the case of an order made by the Department, or
  - (ii) as the Secretary of State may think fit to impose, in the case of an order made by the Secretary of State”.
- (3) At the end of sub-paragraph (3) insert “by the person who imposed it”.

**22.**—(1) Amend paragraph 7 (restricted transfers: general) as follows.

(2) After sub-paragraph (1) insert—

“(1A) An order for the transfer of a person or a person’s supervision back to the country from which he or it was transferred shall be made by the Department of Justice in Northern Ireland if the transfer of the person or, as the case may be, the transfer of his supervision was the subject of an order or direction made by the Department of Justice.”

(3) After sub-paragraph (2) insert—

“(2A) Where a transfer under paragraph 1 or 2 is the subject of an order made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (2) to the Secretary of State must be read as a reference to the Department of Justice.”

**23.** In paragraph 12 (restricted transfers from Northern Ireland to England and Wales) after sub-paragraph (3) insert—

“(3A) Where a transfer under paragraph 1, 2 or 3 is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice.”

**24.** In paragraph 13 (restricted transfers from Northern Ireland to Scotland), after sub-paragraph (3) insert—

“(3A) Where a transfer under paragraph 1, 2 or 3 is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice.”

**25.** In paragraph 15 (unrestricted transfers: general) after sub-paragraph (4) insert—

“(4A) This paragraph has effect subject to the following modifications—

(a) in relation to a person transferred to Northern Ireland, any reference in sub-paragraph (3) above to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;

(b) in relation to a person whose supervision has been transferred to Northern Ireland, sub-paragraph (4)(b) above applies as if—

(i) after “Secretary of State” where it first occurs there were inserted “or the Department of Justice in Northern Ireland”, and

(ii) after “Secretary of State” where it occurs second there were inserted “or the Department of Justice (as the case may be)”.”

**26.** In paragraph 17 (prisoners unlawfully at large) after sub-paragraph (6) insert—

“(7) In relation to 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 England and Wales or Scotland and is sentenced to imprisonment by a court in Northern Ireland, any reference in sub-paragraph (5) above to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”