

Status: Point in time view as at 31/07/2014.

Changes to legislation: Criminal Justice Act 2003, SCHEDULE 9 is up to date with all changes known to be in force on or before 16 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 9

Section 180

TRANSFER OF COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

Modifications etc. (not altering text)

- C1** Sch. 9 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 180, 383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

PART 1

SCOTLAND

- 1 (1) Where the court considering the making of a community order is satisfied that the offender resides in Scotland, or will reside there when the order comes into force, the court may not make a community order in respect of the offender unless it appears to the court—
- (a) in the case of an order imposing a requirement mentioned in sub-paragraph (2), 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 when the order comes into force, 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 his supervision can be made by the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) in whose area he resides, or will be residing when the order comes into force.
- (2) The requirements referred to in sub-paragraph (1)(a) are—
- (a) an unpaid work requirement,
 - (b) an activity requirement,
 - (c) a programme requirement,
 - (d) a mental health treatment requirement,
 - (e) a drug rehabilitation requirement,
 - (f) an alcohol treatment requirement, and
 - (g) an electronic monitoring requirement.
- (3) Where—
- (a) the appropriate court for the purposes of paragraph 16 of Schedule 8 (amendment by reason of change of residence) is satisfied that an offender in respect of whom a community order is in force proposes to reside or is residing in Scotland, and

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- (b) it appears to the court that the conditions in sub-paragraph (1)(a) and (b) are satisfied,
- the power of the court to amend the order under Part 4 of Schedule 8 includes power to amend it by requiring it to be complied with in Scotland and the offender to be supervised in accordance with the arrangements referred to in sub-paragraph (1)(b).
- (4) For the purposes of sub-paragraph (3), any reference in sub-paragraph (1)(a) and (b) to the time when the order comes into force is to be treated as a reference to the time when the amendment comes into force.
- (5) The court may not by virtue of sub-paragraph (1) or (3) require [^{F1}an alcohol abstinence and monitoring requirement or] an attendance centre requirement to be complied with in Scotland.
- (6) A community order made or amended in accordance with this paragraph must—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force;
 - (b) specify as the corresponding order for the purposes of this Schedule an order that may be made by a court in Scotland;
 - (c) specify as the appropriate court for the purposes of [^{F2}sections 227A to 227ZK] of the Criminal Procedure (Scotland) Act 1995 (c. 46) a court of summary jurisdiction (which, in the case of an offender convicted on indictment, must be the sheriff court) having jurisdiction in the locality specified under paragraph (a);
- and section 216 ([^{F3}local justice area] to be specified) does not apply in relation to an order so made or amended.

Textual Amendments

- F1** Words in [Sch. 9 para. 1\(5\)](#) inserted (31.7.2014 only in relation to the South London local justice area for specified purposes until 31.3.2016) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 76\(9\)\(a\), 77, 151\(3\)](#); [S.I. 2014/1777, arts. 2, 3, 4\(1\)](#) (with [art. 4\(2\)](#)) (as amended (30.7.2015) by [S.I. 2015/1480, arts. 1, 2](#) and (30.1.2016) by [S.I. 2016/1, arts. 1, 2](#))
- F2** Words in [Sch. 9 para. 1\(6\)\(c\)](#) substituted (16.9.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2011 \(S.I. 2011/2298\), art. 1, Sch. para. 14\(2\)](#) (with [art. 4\(4\)](#))
- F3** Words in [Sch. 9 para. 1\(6\)](#) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 2, Sch. para. 107](#)

Commencement Information

- I1** [Sch. 9](#) wholly in force at 4.4.2009; [Sch. 9](#) not in force at Royal Assent, see s. 336(3); [Sch. 9](#) in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950, art. 2, Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391, art. 2](#))

- 2 (1) Where a court is considering the making or amendment of a community order by virtue of paragraph 1, 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 of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) responsible for the offender's supervision [^{F4}and for discharging in relation

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to him the functions of the responsible officer under sections 227A to 227ZK] of the Criminal Procedure (Scotland) Act 1995.

- (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 206 (residence requirement), and
 - (d) subsection (4) of section 218 (availability of arrangements in local area).
- (4) In section 207 (mental health treatment requirement), for subsection (2)(a) there is substituted—
- “(a) 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;”.
- (5) In section 215 (electronic monitoring requirement), in subsection (3), the words from “and” onwards are omitted.

Textual Amendments

- F4** Words in Sch. 9 para. 2(2) substituted (16.9.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2011 \(S.I. 2011/2298\)](#), art. 1, [Sch. para. 14\(3\)](#) (with art. 4(4))

Commencement Information

- I2** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

PART 2

NORTHERN IRELAND

- 3 (1) Where the court considering the making of a community order is satisfied that the offender resides in Northern Ireland, or will reside there when the order comes into force, the court may not make a community order in respect of the offender unless it appears to the court—
- (a) in the case of an order imposing a requirement mentioned in sub-paragraph (2), that arrangements exist for persons to comply with such a requirement in the petty sessions district in Northern Ireland in which the offender resides, or will be residing when the order comes into force, 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 his supervision can be made by the Probation Board for Northern Ireland.
- (2) The requirements referred to in sub-paragraph (1) are—
- (a) an unpaid work requirement,
 - (b) an activity requirement,
 - (c) a programme requirement,
 - (d) a mental health treatment requirement,

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- (e) a drug rehabilitation requirement,
- (f) an alcohol treatment requirement,
- (g) an attendance centre requirement, and
- (h) an electronic monitoring requirement.

(3) Where—

- (a) the appropriate court for the purposes of paragraph 16 of Schedule 8 (amendment by reason of change of residence) is satisfied that the offender to whom a community order relates proposes to reside or is residing in Northern Ireland, and
- (b) it appears to the court that the conditions in sub-paragraphs (1)(a) and (b) are satisfied,

the power of the court to amend the order under Part 4 of Schedule 8 includes power to amend it by requiring it to be complied with in Northern Ireland and the offender to be supervised in accordance with the arrangements referred to in sub-paragraph (1) (b).

(4) For the purposes of sub-paragraph (3), any reference in sub-paragraph (1)(a) and (b) to the time when the order comes into force is to be treated as a reference to the time when the amendment comes into force.

[^{F5}4A) The court may not by virtue of sub-paragraph (1) or (3) require an alcohol abstinence and monitoring requirement to be complied with in Northern Ireland.]

(5) A community order made or amended in accordance with this paragraph must specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force; and section 216 ([^{F6}local justice area] to be specified) does not apply in relation to an order so made or amended.

(6) A community order made or amended in accordance with this paragraph must also specify as the corresponding order for the purposes of this Schedule an order that may be made by a court in Northern Ireland.

Textual Amendments

- F5** Sch. 9 para. 3(4A) inserted (31.7.2014 only in relation to the South London local justice area for specified purposes until 31.3.2016) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [76\(9\)\(b\)](#), [77](#), [151\(3\)](#); S.I. 2014/1777, arts. 2, 3, 4(1) (with art. 4(2)) (as amended (30.7.2015) by S.I. 2015/1480, arts. 1, 2 and (30.1.2016) by S.I. 2016/1, arts. 1, 2)
- F6** Words in Sch. 9 para. 3(5) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 107](#)

Commencement Information

- I3** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by S.I. 2005/950, [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by S.I. 2007/391, [art. 2](#))

4 (1) Where a court is considering the making or amendment of a community order by virtue of paragraph 3, Chapter 4 of Part 12 of this Act has effect subject to the following modifications.

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- (2) Any reference to the responsible officer has effect as a reference to the probation officer responsible for the offender’s supervision or, as the case may be, discharging in relation to the offender the functions conferred by Part 2 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).
- (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 206 (residence requirement), and
 - (d) subsection (4) of section 218 (availability of arrangements in local area).
- (4) In section 207 (mental health treatment requirement), for subsection (2)(a) there is substituted—
- “(a) treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health, Social Services and Public Safety for the purposes of paragraph 4(3) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24));”.
- (5) In section 214 (attendance centre requirement), any reference to an attendance centre has effect as a reference to a day centre, as defined by paragraph 3(6) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).
- (6) In section 215 (electronic monitoring requirement), in subsection (3), the words from “and” onwards are omitted.

Commencement Information

- I4** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

PART 3

GENERAL PROVISIONS

- 5 In this Part of this Schedule—
- “corresponding order” means the order specified under paragraph 1(6)(b) or 3(6);
 - “home court” means—
 - (a) if the offender resides in Scotland, or will be residing there at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside, and
 - (b) if he resides in Northern Ireland, or will be residing there at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside;
 - “the local authority officer concerned”, in relation to an offender, means the officer of a council constituted under section 2 of the Local Government

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etc. (Scotland) Act 1994 (c. 39) responsible for his supervision [^{F7}and for discharging in relation to him the functions of the responsible officer under sections 227A to 227ZK] of the Criminal Procedure (Scotland) Act 1995 (c. 46);

“the probation officer concerned”, in relation to an offender, means the probation officer responsible for his supervision or, as the case may be, discharging in relation to him the functions conferred by Part 2 of the Criminal Justice (Northern Ireland) Order 1996;

“the relevant time” means the time when the order or the amendment to it comes into force.

Textual Amendments

- F7** Words in Sch. 9 para. 5 substituted (16.9.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2011 \(S.I. 2011/2298\)](#), art. 1, [Sch. para. 14\(4\)](#) (with [art. 4\(4\)](#))

Commencement Information

- I5** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 6 Where a community order is made or amended in accordance with paragraph 1 or 3, the court which makes or amends the order must provide the home court with a copy of the order as made or amended, together with such other documents and information relating to the case as it considers likely to be of assistance to that court; and paragraphs (b) to (d) of subsection (1) of section 219 (provision of copies of relevant orders) do not apply.

Commencement Information

- I6** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 7 In section 220 (duty of offender to keep in touch with responsible officer) the reference to the responsible officer is to be read in accordance with paragraph 2(2) or 4(2).

Commencement Information

- I7** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 8 Where a community order is made or amended in accordance with paragraph 1 or 3, then, subject to the following provisions of this Part of this Schedule—

- (a) the order is to be treated as if it were a corresponding order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time, and

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- (b) the legislation relating to such orders which has effect in that part of the United Kingdom applies accordingly.

Commencement Information

- 18** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 9 Before making or amending a community order in those circumstances the court must explain to the offender in ordinary language—
- (a) the requirements of the legislation relating to corresponding orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time,
 - (b) the powers of the home court under that legislation, as modified by this Part of this Schedule, and
 - (c) its own powers under this Part of this Schedule.

Commencement Information

- 19** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 10 The home court may exercise in relation to the community order any power which it could exercise in relation to the corresponding order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in that part, except the following—
- (a) any power to discharge or revoke the order (other than a power to revoke the order where the offender has been convicted of a further offence and the court has imposed a custodial sentence),
 - (b) any power to deal with the offender for the offence in respect of which the order was made,
 - (c) in the case of a community order imposing an unpaid work requirement, any power to vary the order by substituting for the number of hours of work specified in it any greater number than the court which made the order could have specified, and
 - (d) in the case of a community order imposing a curfew requirement, any power to vary the order by substituting for the period specified in it any longer period than the court which made the order could have specified.

Commencement Information

- 110** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

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- 11 If at any time while legislation relating to corresponding orders which has effect in Scotland or Northern Ireland applies by virtue of paragraph 7 to a community order made in England and Wales—
- (a) it appears to the home court—
 - (i) if that court is in Scotland, on information from the local authority officer concerned, or
 - (ii) if that court is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order,
 that the offender has failed to comply with any of the requirements of the order, or
 - (b) it appears to the home court—
 - (i) if that court is in Scotland, on the application of the offender or of the local authority officer concerned, or
 - (ii) if it is in Northern Ireland, on the application of the offender or of the probation officer concerned,
 that it would be in the interests of justice for a power conferred by paragraph 13 or 14 of Schedule 8 to be exercised,
- the home court may require the offender to appear before the court which made the order or the court which last amended the order in England and Wales.

Commencement Information

- I11** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 12 Where an offender is required by virtue of paragraph 11 to appear before a court in England and Wales that court—
- (a) may issue a warrant for his arrest, and
 - (b) may exercise any power which it could exercise in respect of the community order if the offender resided in England and Wales,
- and any enactment relating to the exercise of such powers has effect accordingly, and with any reference to the responsible officer being read as a reference to the local authority officer or probation officer concerned.

Commencement Information

- I12** Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 13 Paragraph 12(b) does not enable the court to amend the community order unless—
- (a) where the offender resides in Scotland, it appears to the court that the conditions in paragraph 1(1)(a) and (b) are satisfied in relation to any requirement to be imposed, or
 - (b) where the offender resides in Northern Ireland, it appears to the court that the conditions in paragraph 3(1)(a) and (b) are satisfied in relation to any requirement to be imposed.

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I13 Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)); (as amended by [S.I. 2007/391](#), [art. 2](#))

- 14 The preceding paragraphs of this Schedule have effect in relation to the amendment of a community order by virtue of paragraph 12(b) as they have effect in relation to the amendment of such an order by virtue of paragraph 1(3) or 3(3).

Commencement Information

I14 Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

- 15 Where an offender is required by virtue of paragraph (a) of paragraph 11 to appear before a court in England and Wales—
- (a) the home court must send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable, and
 - (b) a certificate purporting to be signed by the clerk of the home court is admissible as evidence of the failure before the court which made the order.

Commencement Information

I15 Sch. 9 wholly in force at 4.4.2009; Sch. 9 not in force at Royal Assent, see s. 336(3); Sch. 9 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 33](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

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