

SCHEDULES

SCHEDULE 3

Section 7

RELEASE AND SUPERVISION: MINOR AND CONSEQUENTIAL PROVISION

Crime (Sentences) Act 1997 (c. 43)

- 1 Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British Islands) is amended as follows.
- 2 (1) Paragraph 6 (effect of transfers: preliminary) is amended as follows.
 - (2) In sub-paragraph (2)(b), for “and possible recall following his release” substitute “, possible recall following release and any supervision default order”.
 - (3) In sub-paragraph (2)(c), for “and possible recall” substitute “, possible recall and any supervision default order”.
 - (4) In sub-paragraph (3), at the end insert—
 - “(c) in relation to a person who is supervised under section 256AA of the 2003 Act, being ordered to be committed to prison or detention for failure to comply with a requirement imposed under that section or by a supervision default order;
 - (d) in relation to a person who is supervised under section 256B of the 2003 Act, being ordered to be detained for failure to comply with a supervision requirement imposed under that section.”
 - (5) In sub-paragraph (4), at the appropriate place insert—

““supervision default order” has the meaning given in section 268(1) of the 2003 Act;”.
- 3 (1) Paragraph 8 (restricted transfers from England and Wales to Scotland) is amended as follows.
 - (2) In sub-paragraph (2)(a)—
 - (a) for “264A” substitute “264B”,
 - (b) after “267B of” insert “, and Schedules 19A, 20A and 20B to,” and
 - (c) after “104” insert “and 106B”.
 - (3) In sub-paragraph (4)(a)—
 - (a) for “264A” substitute “264B”,
 - (b) after “267B of” insert “, and Schedules 19A, 20A and 20B to,” and
 - (c) after “104” insert “and 106B”.
 - (4) In sub-paragraph (6)(f), for “paragraphs (b) and (c)” substitute “paragraph (c)”.
 - (5) At the end (after the sub-paragraph (7) inserted by section 13 of this Act) insert—

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- “(8) The supervision provisions, as applied by sub-paragraph (2) or (4), have effect—
- (a) as if any reference to something listed in the first column of the Table in sub-paragraph (10) were a reference to whatever is opposite it in the second column of that Table,
 - (b) with the modifications in sub-paragraph (11), and
 - (c) in a case falling within section 106B of the Powers of Criminal Courts (Sentencing) Act 2000, with the further modifications in sub-paragraph (12),
- (and see also paragraphs 8A, 19A and 19B).
- (9) In this paragraph “the supervision provisions” means—
- (a) sections 256AA to 256E of, and Schedule 19A to, the 2003 Act,
 - (b) the provisions of the 2003 Act mentioned in section 256AC of, and Schedule 19A to, that Act, as applied by that section and that Schedule, and
 - (c) section 106B of the Powers of Criminal Courts (Sentencing) Act 2000.
- (10) The references mentioned in sub-paragraph (8)(a) are—

TABLE

<i>Reference</i>	<i>Substituted reference</i>
Crown Court	High Court of Justiciary
Justice of the peace	Sheriff court
Local justice area	Local government area within the meaning of the Local Government etc (Scotland) Act 1994
Magistrates’ court	Sheriff court
Officer of a provider of probation services	Relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993
Summons	Citation
Young offender institution	Young offenders institution provided under section 19(1)(b) of the Prisons (Scotland) Act 1989

- (11) The modifications mentioned in sub-paragraph (8)(b) are—
- (a) section 256AA(2)(b) of the 2003 Act has effect as if it also referred to a licence under the Prisons (Scotland) Act 1989 or the Prisoners and Criminal Proceedings (Scotland) Act 1993,
 - (b) section 256AC(7)(b) of the 2003 Act has effect as if for “the Secretary of State” there were substituted “the Scottish Ministers”,
 - (c) paragraph 2 of Schedule 19A to the 2003 Act has effect as if—

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- (i) sub-paragraph (d) referred only to section 215(1) and (2) of the 2003 Act, and
 - (ii) sub-paragraph (e) were omitted,
 - (d) paragraph 3 of Schedule 19A to the 2003 Act has effect as if, after sub-paragraph (7), there were inserted—
 - “(7A) Section 218(4)(a) applies as if for the words “has been notified by the Secretary of State” there were substituted “is satisfied”,
 - (e) paragraph 7 of Schedule 19A to the 2003 Act has effect as if—
 - (i) in sub-paragraph (1), for “the supervisor must refer the matter to the enforcement officer” there were substituted “the supervisor may cause an information to be laid before a sheriff court in respect of the person’s failure to comply with the requirement”, and
 - (ii) sub-paragraphs (2) to (5) were omitted, and
 - (f) paragraph 12(3) of Schedule 19A to the 2003 Act has effect as if for “makes a community order or suspended sentence order” there were substituted “imposes any other sentence”.
- (12) The further modifications mentioned in sub-paragraph (8)(c) are that section 106B of the Powers of Criminal Courts (Sentencing) Act 2000 has effect as if—
- (a) in subsection (4), for paragraph (b) there were substituted a reference to an officer of a local authority constituted under the Local Government etc (Scotland) Act 1994 for the local government area in which the offender resides for the time being, and
 - (b) after subsection (3) there were inserted—
 - “(3A) Sections 256AA(3) and (6), 256AB(1) and 256E(2) have effect as if the references to the Secretary of State were references to the Scottish Ministers.””

4 After paragraph 8 insert—

“Restricted transfers between England and Wales and Scotland: further provision about supervision default orders

- 8A (1) This paragraph applies if—
- (a) a person’s supervision is transferred to Scotland under paragraph 4 of this Schedule by means of a restricted transfer or transferred back to England and Wales under paragraph 7 of this Schedule, and
 - (b) at the time of the transfer, or transfer back, a supervision default order is in force in respect of the person.
- (2) The supervision default order has effect as if, at the time of the transfer or transfer back, it specified the relevant area in which the person resides or proposes to reside in the new jurisdiction (rather than a relevant area in the jurisdiction from which the person is transferring).

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- (3) The court acting for that relevant area in the new jurisdiction may amend the supervision default order to specify that area.
- (4) In this paragraph—
“relevant area” means—
(a) in England and Wales, a local justice area, and
(b) in Scotland, a local government area within the meaning of the Local Government etc (Scotland) Act 1994;
“supervision default order” has the meaning given in section 268(1) of the 2003 Act.”
- 5 (1) Paragraph 9 (restricted transfers from England and Wales to Northern Ireland) is amended as follows.
- (2) In sub-paragraph (2)(a)—
(a) for “264A” substitute “264B”,
(b) after “267B of” insert “, and Schedules 20A and 20B to,” and
(c) after “104” insert “and 106B”.
- (3) In sub-paragraph (4)(a)—
(a) for “264A” substitute “264B”,
(b) after “267B of” insert “, and Schedules 20A and 20B to,” and
(c) after “104” insert “and 106B”.
- (4) Omit sub-paragraph (8).
- (5) At the end insert—
“(9) The supervision provisions, as applied by sub-paragraph (2) or (4), have effect—
(a) as if any reference to something listed in the first column of the Table in sub-paragraph (11) were a reference to whatever is opposite it in the second column of that Table, and
(b) with the other modifications in sub-paragraph (12).
- (10) In this paragraph “the supervision provisions” means—
(a) sections 256AA to 256AC, 256D and 256E of the 2003 Act, and
(b) section 106B of the Powers of Criminal Courts (Sentencing) Act 2000.
- (11) The references mentioned in sub-paragraph (9)(a) are—

TABLE

<i>Reference</i>	<i>Substituted reference</i>
Crown Court	County court
Justice of the peace	Lay magistrate
Information	Complaint
Local justice area	Petty sessions district
Magistrates’ court	Court of summary jurisdiction

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<i>Reference</i>	<i>Substituted reference</i>
Officer of a provider of probation services	Probation officer
Young offender institution	Young offender centre

- (12) The other modifications mentioned in sub-paragraph (9)(b) are—
- (a) section 256AA(2)(b) of the 2003 Act has effect as if it also referred to—
 - (i) a custody probation order or licence under Part 2 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)), and
 - (ii) a licence under the Northern Ireland (Sentences) Act 1998, Part 3 of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)),
 - (b) section 256AC of the 2003 Act has effect as if subsections (4) (c), (5) and (10) (provision for supervision default orders) were omitted, and
 - (c) subsection (7)(b) of that section has effect as if for “the Secretary of State” there were substituted “the Department of Justice in Northern Ireland”.

- 6 (1) Paragraph 15 (unrestricted transfers: general) is amended as follows.
- (2) In sub-paragraph (4A), for “This paragraph has” substitute “Sub-paragraphs (3) and (4) have”.
- (3) After sub-paragraph (4A) insert—

“(4B) A person who is subject to a period of supervision of a type or length which could not have been imposed on an offender in the place to which the person has been transferred is to be treated for the relevant purposes as the receiving authority may direct.

- (4C) In sub-paragraph (4B), “the receiving authority” means—
- (a) in relation to a person transferred to Scotland, the Scottish Ministers,
 - (b) in relation to a person transferred to Northern Ireland, the Department of Justice in Northern Ireland, and
 - (c) in relation to any other person, the Secretary of State.”

- 7 After paragraph 19 insert—

“Service of process issued in Scotland

- 19A (1) Section 4 of the Summary Jurisdiction (Process) Act 1881 (service in England and Wales of Scottish process etc) applies to any process issued by a court in Scotland under the supervision provisions.
- (2) “The supervision provisions” means the provisions listed in paragraph 8(9), as they are applied by paragraph 8(2) or (4).

Electronic monitoring in Scotland

- 19B (1) Section 245C of the Criminal Procedure (Scotland) Act 1995 (remote monitoring), and regulations under that section, apply in relation to the electronic monitoring of compliance with a curfew requirement in a supervision default order imposed under the supervision provisions as they apply in relation to the remote monitoring of compliance with a restriction of liberty order.
- (2) “The supervision provisions” means the provisions listed in paragraph 8(9), as they are applied by paragraph 8(2) or (4).”
- 8 In paragraph 20(1) (interpretation), for the definition of “supervision” substitute—
 ““supervision” means—
- (a) supervision under an order made for the purpose,
 - (b) supervision under a detention and training order,
 - (c) in the case of a person released from prison on licence, supervision under a condition contained in the licence,
 - (d) supervision under section 256AA of the Criminal Justice Act 2003 (supervision after end of sentence), including supervision under that section as applied by section 106B of the Powers of Criminal Courts (Sentencing) Act 2000, or
 - (e) supervision under section 256B of the Criminal Justice Act 2003 (supervision after release of certain young offenders serving less than 12 months).”

Crime and Disorder Act 1998 (c. 37)

- 9 (1) Section 38(4) of the Crime and Disorder Act 1998 (meaning of “youth justice services”) is amended as follows.
- (2) After paragraph (h) (supervision as part of detention and training order) insert—
 “(ha) supervision after the end of the term of such an order under section 256AA of the Criminal Justice Act 2003 (as applied by section 106B of the Powers of Criminal Courts (Sentencing) Act 2000);”.
- (3) For paragraph (i) substitute—
 “(i) post-release supervision in accordance with a licence under section 31 of the Crime (Sentences) Act 1997 or section 250 of the Criminal Justice Act 2003 of a person sentenced to detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000, section 226, 226B or 228 of the Criminal Justice Act 2003 or section 209, 218, 221, 221A or 222 of the Armed Forces Act 2006;
- (ia) post-release supervision under section 256B of the Criminal Justice Act 2003;
 - (ib) supervision under section 256AA of the Criminal Justice Act 2003 of a person sentenced to detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 209 of the Armed Forces Act 2006;”.

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 10 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 11 (1) Section 103 (period of supervision for detention and training order) is amended as follows.
- (2) In subsection (3), omit paragraph (b) (but not the “or” at the end).
- (3) In subsection (5)—
- (a) omit paragraph (a) (and the “or” at the end), and
- (b) in the words following paragraph (b), omit the words “social worker or” and “a social worker of, or”.
- 12 In section 107 (detention and training orders: interpretation)—
- (a) in subsection (2), after “105” insert “and 106B”, and
- (b) after that subsection insert—
- “(3) For the purposes of sections 103(2A) and 106B(1), where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken to have been committed on the last of those days.”

Criminal Justice and Court Services Act 2000 (c. 43)

- 13 In section 64(4) of the Criminal Justice and Court Services Act 2000 (release on licence: regulation of provision of samples given pursuant to drug testing condition), for “regulations” substitute “rules”.

Criminal Justice Act 2003 (c. 44)

- 14 The Criminal Justice Act 2003 is amended as follows.
- 15 In the heading of Chapter 6 of Part 12, after “licences” insert “, supervision”.
- 16 In the heading of section 243A, after “release” insert “certain”.
- 17 In section 243A(3)(a) (duty to release prisoners serving less than 12 months unconditionally: definition of requisite custodial period), for the words from “in relation to” to “such a term” substitute “in relation to a person serving one sentence”.
- 18 In section 244(3)(a) (duty to release prisoners on licence: definition of requisite custodial period), for the words from “in relation to” to “such a term” substitute “in relation to a prisoner serving one sentence”.
- 19 Omit the italic heading before section 256B.
- 20 For the heading of that section substitute “Supervision after release of certain young offenders serving less than 12 months”.
- 21 In section 256C(4)(b) (breach of supervision requirements), for “impose on the offender” substitute “order the offender to pay”.
- 22 In the heading of that section, at the end insert “imposed under section 256B”.
- 23 (1) Section 268 (interpretation of Chapter 6) is amended as follows.
- (2) The existing text is re-numbered as subsection (1).

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- (3) In subsection (1), in the definition of “fixed-term prisoner”, for ““fixed-term prisoner” has” substitute ““fixed-term prisoner” and “fixed-term sentence” have”.
- (4) In subsection (1), at the appropriate places insert—
- ““offender subject to supervision under this Chapter” means a person who is subject to supervision requirements under section 256AA or 256B;”;
- ““supervision default order” means an order described in section 256AC(4)(c), whether made under that provision or under paragraph 9 of Schedule 19A;”;
- ““the supervision period”, in relation to an offender subject to supervision under this Chapter, has the meaning given in section 256AA or 256B (as appropriate);”;
- ““the supervisor”—
- (a) in relation to an offender subject to supervision requirements under section 256AA, has the meaning given in that section, and
- (b) in relation to an offender subject to supervision requirements under section 256B, means the person who provides supervision under that section;”.
- (5) At the end insert—
- “(2) For the purposes of sections 243A(1A), 256AA(1), 256B(1A) and 264B(1), where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken to have been committed on the last of those days.”
- 24 (1) Section 302 (execution of process between England and Wales and Scotland) is amended as follows.
- (2) After “under—” insert—
- “section 256AC(1) or (3),
section 256C(1) or (3),”.
- (3) Omit the “or” before “paragraph 6(2) or (4)”.
- (4) After “Schedule 12” insert “or
paragraph 8(1) or 10(5) of Schedule 19A,”.
- 25 In section 330(5)(a) (orders subject to affirmative procedure) at the appropriate place insert—
- “section 256AB(4),”;
- “paragraph 6 of Schedule 19A,”.