

SCHEDULE 3

Article 4(2)

FUNCTIONS EXERCISABLE IN OR AS REGARDS SCOTLAND: PRISONERS ETC. – FUNCTIONS UNDER THE 1989 ACT AND THE 1993 ACT

PART I

TRANSFERRED PRISONERS WHO ARE SENTENCED ON OR AFTER 1ST OCTOBER 1993

Restricted transfers from Scotland to England and Wales

1.—(1) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act (transfer of prisoners: general, for trial and for other judicial purposes) from Scotland to England and Wales is a restricted transfer, the functions of the Secretary of State under the following provisions of the 1993 Act but only to the extent it is applied by paragraph 10(2) of Schedule 1 to the 1997 Act⁽¹⁾—

sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 and Schedules 2 and 6 or, as the case may require, sections 1(4), 2, 3, 6(1)(b)(i) and (iii), 11 to 13 and 17⁽²⁾.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act (transfer of supervision of released prisoners) of a person's supervision from Scotland to England and Wales is a restricted transfer, the functions of the Secretary of State under the following provisions of the 1993 Act but only to the extent it is applied by paragraph 10(5) of Schedule 1 to the 1997 Act⁽³⁾—

sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 and Schedules 2 and 6, or, as the case may require, sections 2(4), 11 to 13 and 17.

Commencement Information

II Sch. 3 para. 1 in force at 30.6.1999, see [art. 1](#)

Restricted transfers from Scotland to Northern Ireland

2.—(1) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act from Scotland to Northern Ireland is a restricted transfer, the functions of the Secretary of State under the following provisions of the 1993 Act but only to the extent it is applied by paragraph 11(2) of Schedule 1 to the 1997 Act⁽⁴⁾—

sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26 and 27 and Schedules 2 and 6 or, as the case may require, sections 1(4), 2, 3, 6(1)(b)(i) and (iii), 11 to 13 and 17.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act of a person's supervision from Scotland to Northern Ireland is a restricted transfer, the functions of the Secretary of State under the following provisions of the 1993 Act but only to the extent it is applied by paragraph 11(4) of Schedule 1 to the 1997 Act⁽⁵⁾—

sections 1A, 3A, 11 to 13, 15 to 21, 26A and 27 and Schedules 2 and 6 or, as the case may require, sections 2(4), 11 to 13 and 17.

(1) Paragraph 10(2) was amended by the Crime and Disorder Act 1998 (c. 37), Schedule 8, paragraph 135(5).

(2) Sections 1A, 3A and 26A were inserted by the Crime and Disorder Act 1998, sections 111, 88 and 87 respectively.

(3) Paragraph 10(5) was amended by the Crime and Disorder Act 1998, Schedule 8, paragraph 135(5).

(4) Paragraph 11(2) was amended by the Crime and Disorder Act 1998, Schedule 8, paragraph 135(6).

(5) Paragraph 11(4) was amended by the Crime and Disorder Act 1998, Schedule 8, paragraph 135(6).

Changes to legislation: There are currently no known outstanding effects for the The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, SCHEDULE 3. (See end of Document for details)

Commencement Information

I2 Sch. 3 para. 2 in force at 30.6.1999, see [art. 1](#)

Restricted transfers from Scotland to Guernsey or Jersey

3.—(1) Where a person's transfer under paragraph 1(1)(b) of 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act from Scotland to Guernsey or Jersey is a restricted transfer, the functions of the Secretary of State under the 1993 Act but only to the extent it is applied by paragraphs 5(2)(a) and 7(2)(a) of Schedule 1 to the 1998 Order—

sections 1, 1A, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15, 16 (but not subsections (3) and (4) of that section), 17 to 21, 26A and 27 and Schedules 2 and 6 or, as the case may require, sections 1(4), 2, 3, 6(1)(b)(i) and (iii), 11 to 13 and 17.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act of a person's supervision from Scotland to Guernsey or Jersey is a restricted transfer, the functions of the Secretary of State under the following provisions of the 1993 Act but only to the extent it is applied by paragraph 5(4) and 7(4) of Schedule 1 to the 1998 Order—

sections 1A, 3A, 11 to 13, 15, 16 (but not subsections (3) and (4) of that section), 17 to 21, 26A and 27 and Schedules 2 and 6 or, as the case may require, sections 2(4), 11 to 13 and 17.

Commencement Information

I3 Sch. 3 para. 3 in force at 30.6.1999, see [art. 1](#)

Restricted transfers from Scotland to the Isle of Man

4.—(1) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act from Scotland to the Isle of Man⁽⁶⁾ is a restricted transfer, the functions of the Secretary of State under the following provisions of the 1993 Act but only to the extent it is applied by paragraph 6(2) of Schedule 1 to the 1998 Order—

sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15, 17 to 21, 26A and 27 and Schedules 2 and 6, or as the case may require, sections 1(4), 2, 3, 6(1)(b)(i) and (iii), 11 to 13 and 17.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act of a person's supervision from Scotland to the Isle of Man⁽⁷⁾ is a restricted transfer, the functions of the Secretary of State under the following provisions of the 1993 Act but only to the extent that is applied by paragraph 6(4) of Schedule 1 to the 1998 Order—

sections 1A, 3A, 11 to 13, 15, 17 to 21, 26A and 27 and Schedules 2 and 6 or, as the case may require, sections 2(4), 11 to 13 and 17.

Commencement Information

I4 Sch. 3 para. 4 in force at 30.6.1999, see [art. 1](#)

⁽⁶⁾ Paragraph 1(1)(b), 2(1)(b) and 3(1)(b) were extended to the Isle of Man by S.I.1997/1775.

⁽⁷⁾ Paragraph 4(1) was extended to the Isle of Man by S.I. 1997/1775.

PART II

TRANSFERRED PRISONERS WHO ARE SENTENCED BEFORE 1ST OCTOBER 1993

Restricted transfers from Scotland to England and Wales

5.—(1) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act from Scotland to England and Wales is a restricted transfer and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the provisions of the 1989 and 1993 Acts specified below but only to the extent they are applied by paragraph 10(2)(a) of Schedule 1 to the 1997 Act (as read with paragraph 11(2)(a) of Schedule 5 to the 1997 Act)(8)–

- (a) in the 1989 Act, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 and Schedule 1 to the 1989 Act and any rules made under section 18 or 39; and
- (b) in the 1993 Act, Schedule 6.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act of a person's supervision from Scotland to England and Wales is a restricted transfer and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the following provisions of the 1989 Act and 1993 Act but only to the extent they are applied by paragraph 10(5) of Schedule 1 to the 1997 Act (as read with paragraph 11(2)(b) and (c) of Schedule 5 to the 1997 Act)–

- (a) in the 1989 Act, sections 18, 22, 28, 30, 32 and 43; and
- (b) in the 1993 Act, Schedule 6.

Commencement Information

I5 Sch. 3 para. 5 in force at 30.6.1999, see [art. 1](#)

Restricted transfers from Scotland to Northern Ireland

6.—(1) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act from Scotland to Northern Ireland is a restricted transfer and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the following provisions of the 1989 and 1993 Acts specified below but only to the extent they are applied by paragraph 11(2) of Schedule 1 to the 1997 Act (as read with paragraph 12(2)(a) of Schedule 5 to the 1997 Act)(9)–

- (a) in the 1989 Act, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 and Schedule 1 and any rules made under section 18 or 39 of that Act; and
- (b) in the 1993 Act, Schedule 6.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act of a person's supervision from Scotland to Northern Ireland is a restricted transfer and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the following provisions of the 1989 Act and 1993 Act specified below but only to the extent they are applied by paragraph 11(4) of Schedule 1 to the 1997 Act (as read with paragraph 12(2)(b) of Schedule 5 to the 1997 Act)–

- (a) in the 1989 Act, sections 18, 22, 28, 30, 32 and 43; and

(8) Paragraph 11(2) was amended by the Crime and Disorder Act 1998, Schedule 8, paragraph 138(2).

(9) Paragraph 12 of Schedule 5 was amended by the Crime and Disorder Act 1998, Schedule 8, paragraph 138(3).

Changes to legislation: There are currently no known outstanding effects for the The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, SCHEDULE 3. (See end of Document for details)

(b) in the 1993 Act, Schedule 6.

Commencement Information

I6 Sch. 3 para. 6 in force at 30.6.1999, see [art. 1](#)

Restricted transfers from Scotland to Guernsey or Jersey

7.—(1) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act from Scotland to Guernsey or Jersey is a restricted transfer and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the 1989 and 1993 Acts specified below but only to the extent they are applied by paragraph 5(2) of Schedule 1 to the 1998 Order (as read with paragraphs 6(1)(a) and 8(1)(a) of Schedule 2 to the 1998 Order)–

- (a) in the 1989 Act, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 and Schedule 1 and any rules made under section 18 or 39 of that Act; and
- (b) in the 1993 Act, Schedule 6.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act of a person's supervision from Scotland to Guernsey or Jersey is a restricted transfer and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the following provisions of the 1989 Act and 1993 Act but only to the extent they are applied by paragraph 5(4) of Schedule 1 to the 1998 Order (as read with paragraphs 6(1)(b) and 8(1)(b) of Schedule 2 to the 1998 Order)–

- (a) in the 1989 Act, sections 18, 22, 28, 30, 32 and 43; and
- (b) in the 1993 Act, Schedule 6.

Commencement Information

I7 Sch. 3 para. 7 in force at 30.6.1999, see [art. 1](#)

Restricted transfers from Scotland to the Isle of Man

8.—(1) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) of Schedule 1 to the 1997 Act from Scotland to the Isle of Man⁽¹⁰⁾ and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the following provisions of the 1989 Act but only to the extent it is applied by paragraph 6(2) of Schedule 1 to the 1998 Order (as read with paragraph 7(1)(a) of Schedule 2 to the 1998 Order)–

sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 and Schedule 1 and any rules made under section 18 or 39.

(2) Where a transfer under paragraph 4(1) of Schedule 1 to the 1997 Act⁽¹¹⁾ of a person's supervision from Scotland to the Isle of Man is a restricted transfer and he is a person to whom the existing provisions apply when the transfer is made, the functions of the Secretary of State under the following provisions of the 1989 Act and 1993 Act but only to the extent they are applied by paragraph 6(4) of Schedule 1 to the 1998 Order (as read with paragraph 7(1)(b) of Schedule 2 to the 1998 Order)–

- (a) in the 1989 Act, sections 18, 22, 28, 30, 32 and 43; and

⁽¹⁰⁾ Paragraphs 1(1)(b), 2(1)(b) and 3(1)(b) were extended to the Isle of Man by S.I. 1997/1775.

⁽¹¹⁾ Paragraph 4(1) was extended to the Isle of Man by S.I. 1997/1775.

(b) in the 1993 Act, Schedule 6.

Commencement Information

I8 Sch. 3 para. 8 in force at 30.6.1999, see [art. 1](#)

PART III

PRISONERS SUPERVISED BY PROBATION OFFICERS UNDER THE 1989 AND 1993 ACTS

Prisons (Scotland) Act 1989

9. Where a person's licence under section 22 of the 1989 Act (release on licence, etc.) includes a condition requiring that the person subject to it shall be under the supervision of a probation officer appointed for or assigned to such [^{F1}local justice area] as may be specified in the licence, the functions of the Secretary of State under the following provisions of the 1989 Act—

sections 18, 22, 28, 30, 32 and 43.

Textual Amendments

F1 Words in [Sch. 3 para. 9](#) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) \(No. 2\) Order 2005 \(S.I. 2005/617\)](#), [art. 1](#), [Sch. para. 178](#)

Commencement Information

I9 Sch. 3 para. 9 in force at 30.6.1999, see [art. 1](#)

Prisoners and Criminal Proceedings (Scotland) Act 1993

10.—(1) The functions of the Secretary of State under the following provisions of the 1993 Act.

(2) Where a person's licence under section 12 of the 1993 Act (conditions in licence) includes a condition requiring that the person subject to it shall be under the supervision of a probation officer appointed for or assigned to such [^{F2}local justice area] as may be specified in the licence, the functions of the Secretary of State under the following provisions of the 1993 Act—

sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 and Schedules 2 and 6 or, as the case may require, sections 2(4), 11 to 13 and 17.

(3) Where a person's licence under section 22 of the 1989 Act (release on licence etc.) includes a condition requiring that the person subject to it shall be under the supervision of a probation officer appointed for or assigned to such [^{F2}local justice area] as may be specified in the licence, the functions of the Secretary of State under the following provisions of the 1993 Act—

Schedule 6.

Textual Amendments

F2 Words in [Sch. 3 para. 10\(2\)\(3\)](#) substituted (1.4.2005) by virtue of [The Courts Act 2003 \(Consequential Provisions\) \(No. 2\) Order 2005 \(S.I. 2005/617\)](#), [art. 1](#), [Sch. para. 178](#)

Changes to legislation: There are currently no known outstanding effects for the The Scotland Act 1998
(Functions Exercisable in or as Regards Scotland) Order 1999, SCHEDULE 3. (See end of Document for details)

Commencement Information

I10 Sch. 3 para. 10 in force at 30.6.1999, see [art. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999, SCHEDULE 3.