COMMONS AMENDMENTS

[The page and line references are to Bill 88, the bill as first printed for the Commons.]

Clause 1
1 Leave out Clause 1

Clause 3
2 Page 3, line 2, leave out “an officer of a provider of probation services” and insert “a person”
3 Page 3, line 5, at end insert—
   “( ) In relation to a person subject to supervision requirements under this section following a sentence of detention under section 91 of the Sentencing Act, the supervisor must be—
   (a)  an officer of a provider of probation services, or
   (b)  a member of the youth offending team established by the local authority in whose area the offender resides for the time being.
   ( ) In relation to any other person, the supervisor must be an officer of a provider of probation services.”

Clause 5
4 Page 5, line 13, at end insert—
   “( ) In subsection (2)(c), omit “if the offender is under the age of 18 years at the date of release,”.”

Clause 6
5 Page 5, line 41, leave out “264A” and insert “264B”
6 Page 6, line 13, leave out “After that section” and insert “Before section 265 (and the italic heading before it)”
Page 6, line 14, leave out “264A” and insert “264B”

Page 6, line 31, at end insert—

“( ) In section 249(3) (duration of licence)—
   (a) for “sections” substitute “section”, and
   (b) for “and 264(3)” substitute “and sections 264(3C)(a) and 264B”.

( ) In section 250 (licence conditions), omit subsection (7).”

Clause 7

Page 7, leave out lines 44 and 45 and insert—

“(4) “The supervisor”, in relation to the offender, must be—”

Clause 10

Page 9, line 7, at end insert—

“( ) in subsection (4), for “that period” substitute “the automatic release period”,”

Clause 12

Page 10, line 14, leave out subsection (2) and insert—

“(2) In section 64 (release on licence: drug testing requirements)—
   (a) in subsection (1)(a), omit “for a trigger offence, and”,
   (b) in that subsection, at the end insert “, and
       (c) the Secretary of State is satisfied of the matters in subsection (1A).”,
   (c) after that subsection insert—

“(1A) Those matters are—
   (a) that the misuse by the person of a specified class A drug or a specified class B drug caused or contributed to an offence of which the person has been convicted or is likely to cause or contribute to the commission of further offences by the person, and
   (b) that the person is dependent on, or has a propensity to misuse, a specified class A drug or a specified class B drug.”,
   (d) in subsection (2), after “conditions” insert “mentioned in subsection (1)(b)”, and
   (e) in subsection (3), after “specified Class A drug” insert “or specified Class B drug”.,”

Page 10, line 21, leave out subsections (4) and (5)

Clause 13

Page 11, line 16, leave out “imposed on the offender’s release” and insert “mentioned in subsection (1)(b)”
After Clause 13

Insert the following new Clause—

“Drug testing and appointments: offenders transferred within the British Islands

(1) Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British Islands) is amended as follows.

(2) In paragraph 8 (restricted transfers from England and Wales to Scotland)—
   (a) in sub-paragraphs (2)(aa) and (4)(aa), for “and 64” substitute “, 64 and 64A”, and
   (b) at the end insert—

   “(7) Sections 64 and 64A of the Criminal Justice and Court Services Act 2000 (release on licence etc: drug appointments), as applied by sub-paragraph (2) or (4) above, have effect as if any reference to an officer of a provider of probation services were a reference to a relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.”

(3) In paragraph 9 (restricted transfers from England and Wales to Northern Ireland)—
   (a) in sub-paragraphs (2)(aa) and (4)(aa), for “and 64” substitute “, 64 and 64A”, and
   (b) after sub-paragraph (5) insert—

   “(5A) Sections 64 and 64A of the Criminal Justice and Court Services Act 2000 (release on licence etc: drug appointments), as applied by sub-paragraph (2) or (4) above, have effect as if any reference to an officer of a provider of probation services were a reference to a probation officer.”

Clause 15

Page 13, line 23, at end insert “, such as restorative justice activities.

(7A) For the purposes of subsection (7)(b) an activity is a restorative justice activity if —
   (a) the participants consist of, or include, the offender and one or more of the victims,
   (b) the aim of the activity is to maximise the offender’s awareness of the impact of the offending concerned on the victims, and
   (c) the activity gives a victim or victims an opportunity to talk about, or by other means express experience of, the offending and its impact.

(7B) In subsection (7A) “victim” means a victim of, or other person affected by, the offending concerned.”
Clause 23

16. Page 19, line 6, at end insert—

“( ) So far as sections 20, 21 and 22 confer power to make provision amending or otherwise relating to Schedule 1 to the Crime (Sentences) Act 1997, they also extend to the Channel Islands.”

17. Page 19, line 13, at end insert—

“( ) The power conferred by paragraph 19 of Schedule 1 to the Crime (Sentences) Act 1997 (power to extend to Isle of Man) is exercisable in relation to any amendment of that Act that is made by this Act.”

Clause 24

18. Page 19, line 25, leave out subsection (2)

Schedule 1

19. Page 21, line 26, leave out paragraph (a) and insert—

“(a) the Secretary of State is satisfied of the matters in subsection (2A),”

20. Page 21, line 30, at end insert—

“(2A) Those matters are—

(a) that the misuse by the offender of a specified class A drug or a specified class B drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender, and

(b) that the offender is dependent on, or has a propensity to misuse, a specified class A drug or a specified class B drug.”

Schedule 3

21. Page 27, line 23, at end insert—

“Crime (Sentences) Act 1997 (c. 43)

A1 Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British Islands) is amended as follows.

A2 (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;”.

A3 (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 (Drug testing and appointments: offenders transferred within the British Islands) of this Act) insert—

“(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—
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—

(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 paragraph 7(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.”

A4 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).

(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.”
(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>
<thead>
<tr>
<th>Reference</th>
<th>Substituted reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crown Court</td>
<td>County court</td>
</tr>
<tr>
<td>Justice of the peace</td>
<td>Lay magistrate</td>
</tr>
<tr>
<td>Information</td>
<td>Complaint</td>
</tr>
<tr>
<td>Local justice area</td>
<td>Petty sessions district</td>
</tr>
<tr>
<td>Magistrates’ court</td>
<td>Court of summary jurisdiction</td>
</tr>
<tr>
<td>Officer of a provider of probation services</td>
<td>Probation officer</td>
</tr>
<tr>
<td>Young offender institution</td>
<td>Young offender centre</td>
</tr>
</tbody>
</table>
(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


(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”.

A6 (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.”

A7 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).”

A8 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).”

22 Page 27, leave out lines 33 to 35 and insert—

“( ) 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;”

23 Page 29, line 20, leave out “264A(1)” and insert “264B(1)”

24 Page 29, line 23, at end insert—

“15A(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,”.”

Schedule 7

Page 37, line 25, leave out “and 13” and insert “, 13 and (Drug testing and appointments: offenders transferred within the British Islands)”