



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 2

SENTENCING

Enforcement of sentences

38 Imposition of unpaid work requirement for breach of community order

(1) Part 2 of Schedule 8 to the Criminal Justice Act 2003 (c. 44) (breach of community order) is amended as follows.

(2) In paragraph 9 (powers of magistrates' court) after sub-paragraph (3) insert—

“(3A) Where—

- (a) the court is dealing with the offender under sub-paragraph (1)(a),
and
- (b) the community order does not contain an unpaid work requirement,
section 199(2)(a) applies in relation to the inclusion of such a requirement
as if for “40” there were substituted “20”.

(3) In paragraph 10 (powers of Crown Court) after sub-paragraph (3) insert—

“(3A) Where—

- (a) the court is dealing with the offender under sub-paragraph (1)(a),
and
- (b) the community order does not contain an unpaid work requirement,
section 199(2)(a) applies in relation to the inclusion of such a requirement
as if for “40” there were substituted “20”.

39 Youth default orders

- (1) Subsection (2) applies in any case where, in respect of a person aged under 18, a magistrates' court would, but for section 89 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (restrictions on custodial sentences), have power to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)).
- (2) The magistrates' court may, instead of proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offender), order the person in default to comply with—
 - (a) in the case of a person aged 16 or 17, an unpaid work requirement (see paragraph 10 of Schedule 1),
 - (b) an attendance centre requirement (see paragraph 12 of that Schedule), or
 - (c) a curfew requirement (see paragraph 14 of that Schedule).
- (3) In this section (and Schedule 7) “youth default order” means an order under subsection (2).
- (4) Section 1(2) and paragraph 2 of Schedule 1 (power or requirement to impose electronic monitoring requirement) have effect in relation to a youth default order as they have effect in relation to a youth rehabilitation order.
- (5) Where a magistrates' court has power to make a youth default order, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions (if any) as it thinks just.
- (6) The following provisions have effect in relation to youth default orders as they have effect in relation to youth rehabilitation orders, but subject to the modifications contained in Schedule 7—
 - (a) sections 4, 5 and 7,
 - (b) paragraphs 1, 10, 12, 14, 26, 27, 29, 33 and 34 of Schedule 1 (youth rehabilitation orders: further provisions),
 - (c) Schedule 2 (breach, revocation or amendment of youth rehabilitation orders), and
 - (d) Schedule 3 (transfer of youth rehabilitation orders to Northern Ireland).
- (7) Where a youth default order has been made for default in paying any sum—
 - (a) on payment of the whole sum to any person authorised to receive it, the order ceases to have effect, and
 - (b) on payment of a part of the sum to any such person, the total number of hours or days to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (8) In calculating any reduction required by subsection (7)(b), any fraction of a day or hour is to be disregarded.

40 Power to impose attendance centre requirement on fine defaulter

- (1) Section 300 of the Criminal Justice Act 2003 (c. 44) (power to impose unpaid work requirement or curfew requirement on fine defaulter) is amended as follows.

- (2) In the heading for “or curfew requirement” substitute “curfew requirement or attendance centre requirement”.
- (3) In subsection (2), at the end of paragraph (b) insert “, or
 - (c) in a case where the person is aged under 25, an attendance centre requirement (as defined by section 214)”.

41 Disclosure of information for enforcing fines

- (1) Part 3 of Schedule 5 to the Courts Act 2003 (c. 39) (attachment of earnings orders and applications for benefit deductions) is amended as follows.
- (2) After paragraph 9 insert—

“Disclosure of information in connection with application for benefit deductions

- 9A
- (1) The designated officer for a magistrates' court may make an information request to the Secretary of State for the purpose of facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.
 - (2) An information request is a request for the disclosure of some or all of the following information—
 - (a) P's full name;
 - (b) P's address (or any of P's addresses);
 - (c) P's date of birth;
 - (d) P's national insurance number;
 - (e) P's benefit status.
 - (3) On receiving an information request, the Secretary of State may disclose the information requested to—
 - (a) the officer who made the request, or
 - (b) a justices' clerk specified in the request.

Restrictions on disclosure

- 9B
- (1) A person to whom information is disclosed under paragraph 9A(3), or this sub-paragraph, may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.
 - (2) A person to whom such information is disclosed commits an offence if the person—
 - (a) discloses or uses the information, and
 - (b) the disclosure is not authorised by sub-paragraph (1) or (as the case may be) the use is not for the purpose of facilitating the making of such a decision as is mentioned in that sub-paragraph.
 - (3) But it is not an offence under sub-paragraph (2)—

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

- (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
 - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (4) It is a defence for a person charged with an offence under sub-paragraph (2) to prove that the person reasonably believed that the disclosure or use was lawful.
- (5) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Paragraphs 9A and 9B: supplementary

- 9C (1) This paragraph applies for the purposes of paragraphs 9A and 9B.
- (2) “Benefit status”, in relation to P, means whether or not P is in receipt of any prescribed benefit or benefits and, if so (in the case of each benefit)—
- (a) which benefit it is,
 - (b) where it is already subject to deductions under any enactment, the nature of the deductions concerned, and
 - (c) the amount received by P by way of the benefit, after allowing for any such deductions.
- (3) “Information” means information held in any form.
- (4) “Prescribed” means prescribed by regulations made by the Lord Chancellor.
- (5) Nothing in paragraph 9A or 9B authorises the making of a disclosure which contravenes the Data Protection Act 1998.”