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## STATUTORY INSTRUMENTS

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# 1998 No. 1504

## The Criminal Justice (Children) (Northern Ireland) Order 1998

### PART VI

#### SENTENCING AND OTHER POWERS

##### *Preliminary*

##### **Remission by other courts of offenders to youth courts**

**32.**—(1) Any court by or before which a child is found guilty of an offence other than homicide,—

- (a) if it is a magistrates' court other than a youth court shall; and
- (b) if it is a court other than a magistrates' court may,

remit the case to a youth court acting for the place where the child was committed for trial, or, if he was not committed for trial, to a youth court acting either for the same place as the remitting court or for the place where the child resides.

(2) Where any case is remitted under paragraph (1), the child shall be brought before a youth court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court.

(3) Where any case is remitted under paragraph (1)—

- (a) the child shall have the same right of appeal against any order of the court to which the case is remitted as if he had been found guilty by that court, but shall have no right of appeal against the order of remission; and
- (b) any appeal against the finding of guilt shall, if the finding was made by a youth court or other court of summary jurisdiction, be made to the county court having jurisdiction to hear an appeal under sub-paragraph (a).

(4) A court by which an order remitting a case to a youth court is made under paragraph (1)—

- (a) may give such directions as appear to be necessary with respect to the custody of the child or for his release on bail until he can be brought before the youth court; and
- (b) shall cause to be transmitted to the clerk of the youth court a certificate stating—
  - (i) the nature of the offence;
  - (ii) that the child has been found guilty of the offence; and
  - (iii) that the case has been remitted for the purpose of being dealt with under this Article.

##### **Power to notify appropriate authority if child's welfare requires it**

**33.** Where a child is charged with an offence<sup>[F1]</sup> the court before which he is charged may, if it] considers that his welfare requires it, notify the appropriate authority of such matters as the court thinks fit.

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*Status: Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI. (See end of Document for details)*

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**F1** Words in [art. 33](#) substituted (8.6.2008) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(3)(a), **99(2)**

## *[<sup>F2</sup>Youth conferences*

**F2** [2002 c. 26](#)

### **[<sup>F3</sup>Court-ordered youth conferences**

**33A.**—(1) Subject to Articles 33B and 33C, a court must refer the case of a child who has been found guilty of an offence by or before the court to a youth conference co-ordinator for him to convene a court-ordered youth conference with respect to the child and the offence, unless the offence falls within paragraph (2).

(2) The offences falling within this paragraph are—

- (a) offences the sentence for which is, in the case of an adult, fixed by law as imprisonment for life;
- (b) offences which are, in the case of an adult, triable only on indictment; and
- (c) offences which are scheduled offences for the purposes of Part 7 of the Terrorism Act 2000 (c. 11).

(3) If a child has been found guilty by or before a court of an offence which—

- (a) falls within sub-paragraph (b) or (c) of paragraph (2); but
- (b) does not fall within sub-paragraph (a) of that paragraph,

the court may, where it considers it appropriate to do so, refer the case to a youth conference co-ordinator for him to convene a court-ordered youth conference with respect to the child and the offence.

(4) Where a child—

- (a) is in breach of a community order or youth conference order and falls to be dealt with by a court for the offence in respect of which the order was made as if he had just been found guilty of the offence; or
- (b) appeals to a court against any sentence or order imposed on him in respect of an offence,

the court may, where it considers it appropriate to do so, refer the case to a youth conference co-ordinator for him to convene a court-ordered youth conference with respect to the child and the offence.

(5) A court-ordered youth conference is a youth conference convened with a view to the making to the court by a youth conference co-ordinator of one of the following recommendations—

- (a) that the court exercise its powers (apart from Article 36J) to deal with the child for the offence;
- (b) that the child be subject to a youth conference plan in respect of the offence; or
- (c) that the court exercise its powers to deal with the child for the offence by imposing a custodial sentence and that the child be subject to a youth conference plan in respect of the offence.

(6) A court must not make a reference under this Article unless the child agrees that he will participate in a court-ordered youth conference with respect to the offence.

(7) And if the child withdraws his agreement before the court-ordered youth conference is completed, the court-ordered youth conference is terminated (or, if not yet started, does not take place).

(8) If a court makes a reference under this Article, the court may not deal with the child for the offence until the court has received a report under Article 33E(3) or (7) following the completion of the court-ordered youth conference (or the court-ordered youth conference is terminated before completion or does not take place).

(9) If a recommendation is made to a court under paragraph (5), the court must consider it before dealing with the child for the offence.

(10) The Secretary of State may by order amend paragraphs (1) to (3); and an order under this paragraph may include any incidental, consequential, transitional or supplementary provision (including the amendment, or repeal or revocation, of any statutory provision whenever passed or made, including any provision of this Order) which appears to the Secretary of State to be appropriate.

(11) An order under paragraph (10) is subject to [<sup>F4</sup>negative resolution].]

**F3** 2002 c. 26

**F4** Words in art. 33A(11) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### [<sup>F5</sup>Associated offences

**33B.**—(1) This Article applies where a child has been found guilty by or before a court of associated offences.

(2) If one or more of the offences is an offence which falls within sub-paragraph (a) of paragraph (2) of Article 33A, the court must not make a reference under that Article with respect to any of the offences.

(3) Subject to that, if—

- (a) one or more of the offences is an offence which falls within sub-paragraph (b) or (c) of that paragraph; but
- (b) the remaining offence, or (where more than one) each of the remaining offences, is not an offence which falls within either of those sub-paragraphs,

the court is not required to make a reference under Article 33A with respect to any of the offences but may make such a reference with respect to any or all of them.]

**F5** 2002 c. 26

#### [<sup>F6</sup>References: supplementary

**33C.**—(1) A court must not make a reference under Article 33A unless—

- (a) the Secretary of State has given the clerk of the court notice that provision for youth conferences has been made for the area in which it appears to the court that the child resides or will reside, and
- (b) the notice has not been withdrawn.

(2) Paragraph (1) of Article 33A does not require the court by or before which a child is found guilty of an offence to make a reference under that Article if—

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- (a) a diversionary youth conference has been completed with respect to the child and the offence; and
- (b) the youth conference co-ordinator made a recommendation under Article 10A(2)(c) or 10C(2);

but in such circumstances the court may make such a reference if it considers it appropriate to do so.

(3) Where a court does not make a reference under Article 33A in reliance on paragraph (2), the recommendation made under Article 10A(2)(c) or 10C(2) is to be regarded as having been made to the court under Article 33A(5).

(4) If a court does not refer a case to a youth conference co-ordinator where it has power to do so—

- (a) it must give its reasons in open court; and
- (b) if it is a magistrates' court, it must cause the reason to be entered in the Order Book.

(5) A court must not make a reference under Article 33A with respect to a child and an offence if it proposes to deal with the child for the offence by making an order discharging him absolutely or conditionally.

(6) But if a child falls to be dealt with by a court for an offence under Article 5(6), (7) or (8) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) (offences committed during period of conditional discharge), Article 33A applies as if he had been found guilty of the offence by or before the court.

(7) Where a court defers passing sentence on a child for an offence under Article 3 of the Criminal Justice (Northern Ireland) Order 1996, any duty imposed on the court by Article 33A(1) must be complied with before the passing of sentence.

(8) Where the case of a child found guilty of an offence is remitted to a youth court under Article 32(1), the youth court (and not the court remitting the case) is to be treated for the purposes of the provisions about court-ordered youth conferences as the court by or before which the child is found guilty of the offence.]

**F6** 2002 c. 26

#### [<sup>F7</sup>Termination of youth conference

**33D.**—(1) This Article applies where a court has referred a case to a youth conference co-ordinator for him to convene a court-ordered youth conference.

(2) The court may, on the application of a youth conference co-ordinator, order that the youth conference be terminated (or, if not yet started, is not to take place).

(3) The court may so order only if satisfied that the court-ordered youth conference would serve no useful purpose.

(4) Before making an application under paragraph (2), the youth conference co-ordinator must consult the other persons specified in Article 3A(2).]

**F7** 2002 c. 26

#### [<sup>F8</sup>Recommendations: supplementary

**33E.**—(1) A youth conference co-ordinator may not make a recommendation under Article 33A(5)(b) unless—

- (a) any person, other than the child, by whom any action falls to be taken under the youth conference plan agrees to take the action; and

- (b) any person in relation to whom the child is required by the youth conference plan to take any action agrees to the taking of the action by the child.
- (2) A youth conference co-ordinator may not make a recommendation under Article 33A(5)(c) unless—
  - (a) any person, other than the child, by whom any action falls to be taken under the youth conference plan agrees to take the action; and
  - (b) any person in relation to whom the child is required by the youth conference plan to take any action agrees to the taking of the action by the child.
- (3) A recommendation to the court by a youth conference co-ordinator under Article 33A(5) must be made in the form of a written report.
- (4) If the recommendation is made under Article 33A(5)(a), the report—
  - (a) where recommending that the court should exercise its powers by imposing a custodial sentence, must not specify what sort of custodial sentence the court should impose or for what period; and
  - (b) where recommending that the court should exercise its powers otherwise than by imposing a custodial sentence, may include details of how it is recommended that the court should exercise its powers.
- (5) If the recommendation is made under Article 33A(5)(b), the report must include details of the youth conference plan.
- (6) If the recommendation is made under Article 33A(5)(c), the report—
  - (a) must not specify what sort of custodial sentence the court should impose or for what period; but
  - (b) must include details of the youth conference plan.
- (7) If, after the completion of a court-ordered youth conference, a youth conference co-ordinator is unable to make any recommendation under Article 33A(5), he must make a written report of that fact to the court giving the reasons why he is unable to do so.
- (8) A report under this Article must be accompanied by copies of any reports obtained for the purposes of the court-ordered youth conference.]]

**F8** 2002 c. 26

### *Fines and recognizances*

#### **Fines**

**34.** Notwithstanding anything contained in any statutory provision (including a provision of this Order), it shall not be lawful for a court of summary jurisdiction to impose a fine exceeding—

- (a) in the case of a child under the age of 14, level 1 on the standard scale; or
- (b) in the case of any other child, level 3 on the standard scale.

#### **Parent or guardian to pay fine, etc., instead of child**

**35.—**(1) Where a child is found guilty of any offence for the commission of which a fine may be imposed or costs, damages or payment of compensation may be awarded, if the court is of the opinion that the case would be best met by the imposition of a fine or by an award of costs, damages or compensation, whether with or without any other punishment, the court—

- (a) shall if the child is under the age of 16, and

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(b) may in any other case,

order that the fine, costs, damages or compensation be paid by the parent or guardian of the child instead of by the child, unless the court is satisfied that there is good reason for not so doing.

(2) Any sums ordered under this Article to be paid by a parent or guardian may be recovered from him by distress, or he may be imprisoned in default of payment, in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child was charged.

(3) A parent or guardian may appeal against an order under this Article or Article 36—

(a) if made by a magistrates' court, to the county court; and

(b) if made by the Crown Court, to the Court of Appeal in accordance with section 9 of the Criminal Appeal (Northern Ireland) Act 1980.

(4) In this Article “compensation” means any compensation for loss under Article 14 of the Criminal Justice (Northern Ireland) Order 1994.

**Parent or guardian to enter into recognizance**

**36.**—(1) In the case of a child found guilty of any offence, the court, either in addition to or in lieu of any other order which the court has power to make, may order his parent or guardian to enter into a recognizance as security for his good behaviour.

(2) Where the court makes an attendance centre order in respect of any child, it may order his parent or guardian to enter into a recognizance as security for his compliance with that order.

(3) An order under this Article may be made against a parent or guardian who, having been required to attend, has failed to do so, but, except in the circumstances mentioned, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(4) The Magistrates' Courts (Northern Ireland) Order 1981 shall apply in relation to recognizances under paragraph (1) or (2) as it applies in relation to recognizances to be of good behaviour, and where such a recognizance is ordered to be estreated, the court, instead of ordering the person bound thereby to pay the sum in which he is bound or part of that sum, may remit payment of it.

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**F9** prosp. insertion by 2005 c. 15

**PROSPECTIVE**

**[F10] Parental compensation orders**

**36ZA.**—(1) A magistrates' court may make an order under this Article (a “parental compensation order”) if on the application of a person of a description specified for the purpose in an order made by the Secretary of State (referred to in this Article and in Articles 36ZB and 36ZC as the “applicant”) the court is satisfied, on the civil standard of proof—

(a) that the condition mentioned in paragraph (2) is fulfilled with respect to a child under the age of 10; and

(b) that it would be desirable to make the order in the interests of preventing a repetition of the behaviour in question.

(2) The condition is that the child has taken, or caused loss of or damage to, property in the course of—

- (a) committing an act which, if he had been aged 10 or over, would have constituted an offence; or
- (b) acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.

(3) A parental compensation order is an order which requires any person specified in the order who is a parent or guardian of the child to pay compensation of an amount specified in the order to any person or persons specified in the order who is, or are, affected by the taking of the property or its loss or damage.

(4) The amount of compensation specified may not exceed £5,000 in all.

(5) The Secretary of State may by order amend paragraph (4) so as to substitute a different amount.

(6) For the purposes of collection and enforcement, a parental compensation order is to be treated as if it were a sum adjudged to be paid on the conviction by the magistrates' court which made the order of the person or persons specified in the order as liable to pay the compensation.

(7) An order under paragraph (1) or (5) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such an order.

**F10** Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 144, 178\(8\), Sch. 10 para. 8](#) (with [Sch. 10 para. 10](#))

PROSPECTIVE

### **Parental compensation orders: the compensation**

**36ZB.**—(1) When specifying the amount of compensation for the purposes of Article 36ZA(3), the magistrates' court shall take into account—

- (a) the value of the property taken or damaged, or whose loss was caused, by the child;
  - (b) any further loss which flowed from the taking of or damage to the property, or from its loss;
  - (c) whether the child, or any parent or guardian of his, has already paid any compensation for the property (and if so, how much);
  - (d) whether the child, or any parent or guardian of his, has already made any reparation (and if so, what it consisted of);
  - (e) the means of those to be specified in the order as liable to pay the compensation, so far as the court can ascertain them;
  - (f) whether there was any lack of care on the part of the person affected by the taking of the property or its loss or damage which made it easier for the child to take or damage the property or to cause its loss.
- (2) If property taken is recovered before compensation is ordered to be paid in respect of it—
- (a) the court shall not order any such compensation to be payable in respect of it if it is not damaged;

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(b) if it is damaged, the damage shall be treated for the purposes of making a parental compensation order as having been caused by the child, regardless of how it was caused and who caused it.

(3) The court shall specify in the order how and by when the compensation is to be paid (for example, it may specify that the compensation is to be paid by instalments, and specify the date by which each instalment must be paid).

(4) For the purpose of ascertaining the means of the parent or guardian, the court may, before specifying the amount of compensation, order him to provide the court, within such period as it may specify in the order, such a statement of his financial circumstances as the court may require.

(5) A person who without reasonable excuse fails to comply with an order under paragraph (4) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) If, in providing a statement of his financial circumstances pursuant to an order under paragraph (4), a person—

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly provides a statement which is false in a material particular; or
- (c) knowingly fails to disclose any material fact,

he is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) Proceedings in respect of an offence under paragraph (6) may, despite anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time), be commenced at any time within two years from the date of the commission of the offence or within six months of its first discovery by the applicant, whichever period expires earlier.

(8) Paragraphs (1)(e) and (4) to (7) do not apply in the case of an order specifying an authority as liable to pay the compensation.

**F10** Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 144, 178\(8\), Sch. 10 para. 8](#) (with [Sch. 10 para. 10](#))

PROSPECTIVE

### Parental compensation orders: supplemental

**36ZC.**—(1) Before deciding whether or not to make a parental compensation order in favour of any person, the magistrates' court shall take into account the views of that person about whether a parental compensation order should be made in his favour.

(2) Before making a parental compensation order, the magistrates' court shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.

(3) Before making a parental compensation order, a magistrates' court shall explain to the parent or guardian of the child in ordinary language—

- (a) the effect of the order and of the requirements proposed to be included in it;
- (b) the consequences which may follow (under paragraph (4)(b)) as a result of failure to comply with any of those requirements;
- (c) that the court has power (under paragraph (4)(a)) to review the order on the application either of the parent or guardian or of the applicant.

- (4) A magistrates' court <sup>F11</sup>... may make an order under paragraph (5) if while the order is in force—
- (a) it appears to the court, on the application of the applicant, or the parent or guardian subject to the order, that it is appropriate to make an order under paragraph (5); or
  - (b) it is proved to the satisfaction of the court, on the application of the applicant, that the parent or guardian subject to it has failed to comply with any requirement included in the order.
- (5) An order under this paragraph is an order discharging the parental compensation order or varying it—
- (a) by cancelling any provision included in it; or
  - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (6) Where an application under paragraph (4) for the discharge of a parental compensation order is dismissed, no further application for its discharge shall be made under that paragraph by any person except with the consent of the court which made the order.
- <sup>F12</sup>(7) .....

**F10** Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), **Sch. 10 para. 8** (with [Sch. 10 para. 10](#))

**F11** Words in [art. 36ZC\(4\)](#) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 1 para. 115\(4\)\(a\)](#), **Sch. 9 Pt. 1** (with [Sch. 8 para. 1](#)); S.R. 2016/387, [art. 2\(k\)\(m\)](#) (with [art. 3](#)) This amendment cannot take effect until [art. 36ZC](#) comes into operation.

**F12** [Art. 36ZC\(7\)](#) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 1 para. 115\(4\)\(b\)](#), **Sch. 9 Pt. 1** (with [Sch. 8 para. 1](#)); S.R. 2016/387, [art. 2\(k\)\(m\)](#) (with [art. 3](#)) This amendment cannot take effect until [art. 36ZC](#) comes into operation.

PROSPECTIVE

### Parental compensation orders: appeal

**36ZD.**—(1) If a magistrates' court makes a parental compensation order, the parent or guardian may appeal against the making of the order, or against the amount of compensation specified in the order.

- (2) The appeal lies to the county court.
- (3) On the appeal the county court—
  - (a) may make such orders as may be necessary to give effect to its determination of the appeal;
  - (b) may also make such incidental or consequential orders as appear to it to be just.

(4) Any order of the county court made on an appeal under this Article (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of [Article 36ZC](#), be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the county court.

(5) A person in whose favour a parental compensation order is made shall not be entitled to receive any compensation under it until (disregarding any power of a court to grant leave to appeal

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out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

**F10** Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 8](#) (with [Sch. 10 para. 10](#))

PROSPECTIVE

### Effect of parental compensation order on subsequent award of damages in civil proceedings

**36ZE.**—(1) This Article has effect where—

- (a) a parental compensation order has been made in favour of any person in respect of any taking or loss of property or damage to it; and
- (b) a claim by him in civil proceedings for damages in respect of the taking, loss or damage is then to be determined.

(2) The damages in the civil proceedings shall be assessed without regard to the parental compensation order, but the claimant may recover only an amount equal to the aggregate of the following—

- (a) any amount by which they exceed the compensation; and
- (b) a sum equal to any portion of the compensation which he fails to recover.

(3) The claimant may not enforce the judgment, so far as it relates to such a sum as is mentioned in paragraph (2)(b), without the leave of the court.]

**F10** Arts. 36ZA-36ZE inserted (prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 144, 178(8), [Sch. 10 para. 8](#) (with [Sch. 10 para. 10](#))

### <sup>F13</sup>Reparation orders

**F13** [2002 c. 26](#)

### <sup>F14</sup>Reparation orders

**36A.**—(1) Where a child is found guilty by or before any court of an offence, other than an offence the sentence for which is (in the case of an adult) fixed by law as imprisonment for life, the court (subject to Article 32(1)) may make a reparation order.

(2) A reparation order is an order requiring the offender to make such reparation for the offence, otherwise than by the payment of compensation, as is specified in the order—

- (a) to a person or persons so specified; or
  - (b) to the community at large.
- (3) Any person so specified must be a person identified by the court as—
- (a) a victim of the offence; or
  - (b) a person otherwise affected by it.

(4) Before making a reparation order, the court must obtain and consider a written report by—

- (a) a probation officer;
  - (b) a social worker of the appropriate authority; or
  - (c) such other person as the Secretary of State may designate.
- (5) The report must indicate—
- (a) the type of requirements that it would be appropriate to impose on the offender; and
  - (b) the attitude of the victim or victims of the offence to the requirements proposed to be included in the order.]

**F14** 2002 c. 26

### [<sup>F15</sup>Restrictions on reparation orders

**36B.**—(1) The court must not make a reparation order in respect of the offender unless he consents.

- (2) The court must not make a reparation order in respect of the offender if it proposes—
- (a) to pass on him a custodial sentence; or
  - (b) to make in respect of him a community service order, a community responsibility order or a combination order.

<sup>F16</sup>(3) .....

(4) Before making a reparation order, the court must state in open court that it is of the opinion that Article 8(1) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) (restrictions on imposing community sentences) applies and why it is of that opinion.

- (5) It must also explain to the offender in ordinary language—
- (a) why it is making the order;
  - (b) the effect of the order and of the requirements proposed to be included in it;
  - (c) the consequences which may follow under Schedule 1A if he fails to comply with any of those requirements; and
  - (d) that the court has power under that Schedule to review the order on the application either of the offender or of the responsible officer.]

**F15** 2002 c. 26

**F16** Art. 36B(3) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(3), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### [<sup>F17</sup>Requirements of reparation orders

**36C.**—(1) A reparation order must not require the offender—

- (a) to make reparation for more than 24 hours; or
  - (b) to make reparation to any person without the consent of that person.
- (2) Requirements specified in a reparation order must, as far as practicable, be such as to avoid—
- (a) any conflict with the offender's religious beliefs or with the requirements of any order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

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- (3) The reparation required by a reparation order must be made—
  - (a) under the supervision of the responsible officer; and
  - (b) within the period of six months beginning with the date on which the order is made.
- (4) But, unless revoked, the order remains in force until the offender has made the reparation required by the order.
- (5) The Secretary of State may make rules for regulating the making of reparation by persons subject to reparation orders.
- (6) Such rules may, in particular, make provision—
  - (a) regulating the functions of responsible officers;
  - (b) limiting the number of hours of making reparation on any one day;
  - (c) as to the reckoning of hours spent in complying with the requirements imposed by a reparation order;
  - (d) as to the keeping of records of such hours; and
  - (e) for the payment of travelling and other expenses incurred in connection with complying with such requirements.
- (7) Rules under this Article are subject to [<sup>F18</sup>negative resolution].]

**F17** 2002 c. 26  
**F18** Words in art. 36C(7) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(5)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**[<sup>F19</sup>Supplementary provisions about reparation orders**

- 36D.**—<sup>F20</sup>(1) .....
- (2) In this Order “responsible officer”, in relation to an offender subject to a reparation order, means one of the following who is specified in the order—
    - (a) a probation officer;
    - (b) a social worker of the appropriate authority; and
    - (c) such other person as the Secretary of State may designate.
  - <sup>F21</sup>(3) .....
  - (4) The court by which a reparation order is made must [<sup>F22</sup> as soon as is practicable] give copies of the order to—
    - (a) the offender subject to the order;
    - (b) his parent or guardian; and
    - (c) the responsible officer.
  - <sup>F23</sup>(5) .....
  - (6) A magistrates' court must cause a reason stated by it under Article 36B(4) or (5)(a) to be entered in the Order Book.
  - (7) The Secretary of State may pay any expenses of a person designated by him which are incurred under Article 36A or in performing any functions as the responsible officer of an offender subject to a reparation order.

(8) Schedule 1A (which makes provision for dealing with failures to comply with reparation orders and for their revocation and amendment) shall have effect.]]

**F19** 2002 c. 26

**F20** Art. 36D(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(5)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F21** Art. 36D(3) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(5)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F22** 2005 NI 15

**F23** Art. 36D(5) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(5)(c), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

#### *[<sup>F24</sup>Community responsibility orders*

**F24** 2002 c. 26

#### **[<sup>F25</sup>Community responsibility orders**

**36E.**—(1) Where a child is found guilty by or before any court of an offence, other than an offence the sentence for which is (in the case of an adult) fixed by law as imprisonment for life, the court (subject to Article 32(1)) may make a community responsibility order.

(2) A community responsibility order is an order requiring the offender—

- (a) to attend at a place specified in the order for the number of hours so specified for relevant instruction in citizenship; and
- (b) to carry out for the number of hours specified in the order such practical activities as the responsible officer considers appropriate in the light of that instruction.

(3) “Relevant instruction in citizenship”, in relation to an offender, means instruction dealing with—

- (a) citizenship (including, in particular, the responsibilities a person owes to the community);
- (b) the impact of crime on victims; and
- (c) any factors relating to the offender which may cause him to commit offences.

(4) In this Order “responsible officer”, in relation to an offender subject to a community responsibility order, means one of the following who is specified in the order—

- (a) a probation officer;
- (b) a social worker of the appropriate authority; and
- (c) such other person as the Secretary of State may designate.

(5) The number of hours specified under paragraph (2)(a) must be not less than one half of the aggregate number of hours specified in the order.

(6) The aggregate number of hours specified in the order must be—

- (a) not less than 20; and
- (b) not more than 40.

(7) Where a court makes community responsibility orders in respect of two or more offences of which the offender has been found guilty by or before the court, it may direct that the hours specified in any of those orders be—

- (a) concurrent with those specified in any other of those orders; or

*Status: Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI. (See end of Document for details)*

- (b) additional to those so specified.
- (8) But the total number of hours which are not concurrent must not exceed the maximum specified in paragraph (6)(b).
- (9) The Secretary of State may by order amend paragraph (6)(a) or (b) (or both).
- (10) An order under paragraph (9) is subject to [<sup>F26</sup>negative resolution].]

**F25** 2002 c. 26

**F26** Words in art. 36E(10) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(6)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

### [<sup>F27</sup>Restrictions on community responsibility orders

**36F.**—(1) The court must not make a community responsibility order in respect of the offender unless he consents.

(2) The court must not make a community responsibility order in respect of the offender if it proposes to deal with him for the offence in any other way.

<sup>F28</sup>(3) .....

(4) Before making a community responsibility order, the court must state in open court that it is of the opinion that Article 8(1) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) (restrictions on imposing community sentences) applies and why it is of that opinion.

(5) It must also explain to the offender in ordinary language—

- (a) why it is making the order;
- (b) the effect of the order and of the requirements proposed to be included in it;
- (c) the consequences which may follow under Schedule 1A if he fails to comply with any of those requirements; and
- (d) that the court has power under that Schedule to review the order on the application either of the offender or of the responsible officer.]

**F27** 2002 c. 26

**F28** Art. 36F(3) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(6), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### [<sup>F29</sup>Requirements of community responsibility orders

**36G.**—(1) An offender in respect of whom a community responsibility order is in force must—

- (a) attend the place specified in the order at such times as he may be instructed by the responsible officer; and
- (b) carry out such activities as he may be instructed by the responsible officer to carry out at such times as he may be so instructed to carry them out.

(2) Such an offender must—

- (a) keep in touch with the responsible officer in accordance with such instructions as he may be given by that officer; and
- (b) give notice to him of any change of address.

(3) The instructions given by the responsible officer must, as far as practicable, be such as to avoid—

- (a) any conflict with the offender's religious beliefs or with the requirements of any order to which he may be subject; and
- (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(4) The obligations imposed by a community responsibility order must be performed within the period of six months beginning with the date on which the order is made.

(5) But, unless revoked, the order remains in force until the offender has performed the obligations contained in the order.]

**F29** 2002 c. 26

**[<sup>F30</sup>Rules relating to community responsibility orders**

**36H.**—(1) The Secretary of State may make rules for regulating—

- (a) the attendance by persons subject to community responsibility orders at places for the purposes of those orders; and
- (b) the carrying out by such persons of practical activities for those purposes.

(2) Such rules may, in particular, make provision—

- (a) regulating the functions of responsible officers;
- (b) limiting the number of hours of attendance or of carrying out activities on any one day;
- (c) as to the reckoning of hours spent in complying with the requirements imposed by a community responsibility order;
- (d) as to the keeping of records of such hours; and
- (e) for the payment of travelling and other expenses incurred in connection with complying with such requirements.

(3) Rules under this Article are subject to [<sup>F31</sup>negative resolution].]

**F30** 2002 c. 26  
**F31** Words in art. 36H(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(7)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**[<sup>F32</sup>Supplementary provisions about community responsibility orders**

**36I.**—<sup>F33</sup>(1) .....

<sup>F34</sup>(2) .....

(3) The court by which a community responsibility order is made must<sup>F35</sup> as soon as is practicable] give copies of the order to—

- (a) the offender subject to the order;
- (b) his parent or guardian; and
- (c) the responsible officer.

<sup>F36</sup>(4) .....

*Status: Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI. (See end of Document for details)*

(5) A magistrates' court must cause a reason stated by it under Article 36F(4) or (5)(a) to be entered in the Order Book.

(6) The Secretary of State may pay any expenses of a person designated by him which are incurred in performing any functions as the responsible officer of an offender subject to a community responsibility order.

(7) Schedule 1A (which makes provision for dealing with failures to comply with community responsibility orders and for their revocation and amendment) shall have effect.]]

**F32** 2002 c. 26

**F33** Art. 36I(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(7)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F34** Art. 36I(2) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(7)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F35** 2005 NI 15

**F36** Art. 36I(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(7)(c), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### *[<sup>F37</sup>Youth conference orders*

**F37** 2002 c. 26

### **[<sup>F38</sup>Youth conference orders**

**36J.**—(1) Where a recommendation is made to a court under Article 33A(5)(b) or (c), the court may make a youth conference order in relation to the offender to whom the recommendation relates.

(2) A youth conference order is an order requiring the offender—

- (a) to comply with the requirements specified in the youth conference plan; or
- (b) to comply with those requirements as varied by the order;

and the order must specify as the date when the offender must begin so to comply either the date specified in the youth conference plan under Article 3C(6) or such other date as the court may, with the consent of the youth conference co-ordinator, determine.

[  
<sup>F39</sup>(2A) Unless revoked, a youth conference order remains in force until the offender has complied with the requirements mentioned in paragraph (2)(a) or (as the case may be) (b).]

(3) A court must not make a youth conference order unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant it.

(4) In forming any such opinion the court must take into account all information about the circumstances of the offence, or of the offence and the offence or offences associated with it, (including any aggravating or mitigating factors) which is available to it.

(5) The court must not make a youth conference order unless the offender consents.

(6) The court must not make a youth conference order under paragraph (2)(b) unless it has consulted the youth conference co-ordinator.

(7) If the court does not make a youth conference order under paragraph (2)(a) in a case where it has power to do so, it must give its reasons in open court.

(8) Where the court makes a youth conference order, it may not exercise any other power it has to deal with the offender for the offence.

(9) But if the recommendation to the court was made under Article 33A(5)(c) the court may, if the offender consents, also impose any custodial sentence which the court has power to impose for the offence.]

**F38** 2002 c. 26

**F39** Art. 36J(2A) inserted (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **98(2)**

### [<sup>F40</sup>Supplementary provisions about youth conference orders

**36K.**—(1) Before making a youth conference order, the court must state in open court that it is of the opinion that Article 36J(3) applies and why it is of that opinion.

(2) Before making a youth conference order, the court must explain to the offender in ordinary language—

- (a) why it is making the order;
- (b) the effect of the order and of the requirements proposed to be included in it;
- (c) the consequences which may follow under Schedule 1A if he fails to comply with those requirements; and
- (d) that the court has power under that Schedule to review the order on the application either of the offender or of the responsible officer.

(3) In this Order “responsible officer”, in relation to an offender subject to a youth conference order, means the youth conference co-ordinator, or other person designated by the Secretary of State, who is specified in the order.

(4) If the court is a magistrates' court, it must cause any reasons given under Article 36J(7) or paragraph (1) or (2)(a) to be entered in the Order Book.

<sup>F41</sup>(5) .....

(6) The court by which a youth conference order is made must [<sup>F42</sup> as soon as is practicable] give copies of the order to—

- (a) the offender subject to the order;
- (b) his parent or guardian; and
- (c) the responsible officer.

<sup>F43</sup>(7) .....

(8) Schedule 1A (which makes provision for dealing with failures to comply with youth conference orders and for their revocation and amendment) shall have effect.]

**F40** 2002 c. 26

**F41** Art. 36K(5) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(8)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F42** 2005 NI 15

**F43** Art. 36K(7) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(8)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**[<sup>F44</sup>Monitoring compliance with youth conference orders**

**36L.**—(1) The responsible officer must monitor compliance by the offender with the youth conference order.

(2) The Secretary of State may make rules regulating the monitoring by the responsible officer of an offender subject to a youth conference order.

(3) Rules under paragraph (2) are subject to [<sup>F45</sup>negative resolution].

(4) The Secretary of State may pay the expenses incurred by a person who is not a youth conference co-ordinator in performing functions as the responsible officer.]]

**F44** 2002 c. 26

**F45** Words in art. 36L(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(8)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

*Attendance centre orders***Attendance centre orders**

**37.**—(1) Where any court has power, or would but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968 or Article 47 have power, to impose imprisonment on a child or to deal with a child under Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996 for failure to comply with any of the requirements of a community order, the court (subject to Articles 32(1) and 45(1)) may, if the clerk of the court has been notified by the Secretary of State that an attendance centre is available for the reception of children from that court, order the child to attend at such a centre, to be specified in the order, for such number of hours as may be so specified.

(2) The aggregate number of hours for which a child may be required to attend at an attendance centre by virtue of an attendance centre order—

- (a) shall not be less than 12 except where he is under the age of 14 and the court is of the opinion, having regard to his age or any other circumstances, that 12 hours would be excessive; and
- (b) shall not exceed 12 except where the court is of the opinion, having regard to all the circumstances, that 12 hours would be inadequate, and in that case shall not exceed 24 hours.

(3) A court shall not make an attendance centre order unless it is satisfied that the attendance centre to be specified in the order is reasonably accessible to the child concerned, having regard to his age, the means of access available to him and any other circumstances.

(4) The times at which a child is required to attend at an attendance centre under this Article shall [<sup>F46</sup>, so far as practicable, be such as to avoid any conflict with the child's religious beliefs and any interference with the times, if any, at which he normally works or attends a school or other educational establishment.]

(5) The first time at which a child is required to attend shall be specified in the order (being a time at which the centre is available for the attendance of the child in accordance with the notification of the Secretary of State) and the subsequent times shall be fixed by the officer in charge of the centre, having regard to the child's circumstances.

(6) A child shall not be required under this Article to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.

(7) A court may make an attendance centre order in respect of a child before a previous attendance centre order in respect of him has ceased to have effect, and may determine the number of hours to be specified in the order without regard—

- (a) to the number specified in the previous order; or
- (b) to the fact that that order is still in effect.

(8) Where a court makes an attendance centre order, the clerk of the court shall serve a copy of the order on—

- (a) the officer in charge of the attendance centre specified in the order; and
- (b) the child; and
- (c) his parent or guardian.

(9) Where a child has been ordered to attend at an attendance centre in default of the payment of any sum of money, then—

- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
- (b) on the payment of a part of the sum to any such person, the total number of hours for which the child is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.

F46 2002 c. 26

### **Discharge, revocation or variation of attendance centre orders**

**38.**—(1) A court of summary jurisdiction may, on an application made by complaint by the child or by the officer in charge of the attendance centre specified in an attendance centre order—

- (a) discharge the order; or
- (b) vary the day or hour specified in the order for the child's first attendance at the centre;

and where the application is made by the officer in charge of the attendance centre, the court may deal with it without summoning the child.

(2) Where an attendance centre order has been made and it appears upon a complaint made to a justice of the peace that the child—

- (a) has failed to attend in accordance with the order; or
- (b) while attending at the centre has committed a breach of the rules made under Article 50(3) which cannot be adequately dealt with under those rules;

the justice may—

- (i) issue a summons directed to that child requiring him to appear before a youth court<sup>F47</sup> ...; or
- (ii) if the complaint is in writing and on oath, issue a warrant for that child's arrest requiring him to be brought before such a court.

(3) If it appears to the satisfaction of the court before which the child appears or is brought under paragraph (2) that—

- (a) he has failed without reasonable excuse to attend as mentioned in paragraph (2)(a); or
- (b) he has committed such a breach of rules as is mentioned in paragraph (2)(b),

that court may revoke the order and deal with him in any manner in which he could have been dealt with by the court which made the order, if the order had not been made.

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*Status: Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI. (See end of Document for details)*

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(4) Where a child in respect of whom an attendance centre order is in effect is convicted by a court of an offence, the court may—

- (a) revoke the order; and
- (b) in passing sentence for the offence take into account the number of hours which, but for the revocation, the child would have had to attend at an attendance centre to comply with the order.

(5) The discharge, variation or revocation under this Article of an attendance centre order shall be by order of the court, and where a court makes an order under this Article the clerk of the court shall serve a copy of the order on—

- (a) the officer in charge of the attendance centre specified in the attendance centre order which is discharged, varied or revoked; and
- (b) the child; and
- (c) his parent or guardian.

**F47** Words in art. 38(2)(i) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(9), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### *Juvenile justice centre orders*

#### **Juvenile justice centre orders**

**39.**—(1) Where a child is found guilty by or before any court of an offence punishable in the case of an adult with imprisonment (other than an offence<sup>F48</sup> the sentence for which is, in the case of an adult, fixed by law as imprisonment for life)], the court (subject to Article 32(1)) shall have power to make a juvenile justice centre order, that is to say, an order that the child shall be sent to a juvenile justice centre and be subject to a period of detention in a juvenile justice centre followed by a period of supervision.

(2) A juvenile justice centre order shall be for a period of six months unless the court specifies in the order a longer period not exceeding two years.

(3) A court shall not make a juvenile justice centre order unless, after taking into account any matters which it is required to take into account by Article 37 of the Criminal Justice (Northern Ireland) Order 1996 (previous convictions, etc.), it has formed the opinion under Articles 19 and 20 of that Order that a custodial sentence would be justified for the offence.

<sup>F49</sup>(3A) A court shall only make a juvenile justice centre order in the case of a child who has attained the age of 17 if either paragraph (3B) or (3C) applies in relation to the child.

(3B) This paragraph applies in relation to a child if—

- (a) the child will not become an adult during the period of the order;
- (b) the child has not had a custodial sentence imposed on him within the last two years; and
- (c) the court, after considering a report made by a probation officer, considers that it is in the child's best interests to make such an order.

(3C) This paragraph applies in relation to a child if the court has been notified by the Secretary of State that no suitable accommodation for that child is available in a young offenders centre.]

(4) Where a court makes a juvenile justice centre order for a period longer than six months, it shall state in open court its reasons for doing so.

(5) Subject to paragraph (6), the period of detention which the child is liable to serve under a juvenile justice centre order shall be one half of the period of the order.

(6) The length of the period of detention shall be treated as reduced by any period which is a relevant period within the meaning of section 26(2) and (2A) of the Treatment of Offenders Act (Northern Ireland) 1968 (reduction of sentence).

(7) Any reference in any statutory provision to the length of the period of a juvenile justice centre order shall, unless the context otherwise requires, be construed as a reference to the length of the period imposed by or under paragraph (2) and not the length of the period as reduced by paragraph (6).

[<sup>F50</sup>(8) Where a court makes a juvenile justice centre order in respect of a child, it may, subject to Chapter 5 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008, impose a curfew requirement or an electronic monitoring requirement (within the meaning of that Chapter) during all or part of the period of supervision to which the child is subject under the order.]

**F48** 2002 c. 26

**F49** Art. 39(3A)(3B)(3C) substituted (8.6.2008) for art. 39(3A) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **96(4)**

**F50** Art. 39(8) added (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(2)**; S.R. 2009/120, **art. 2(1)**

### Supervision under a juvenile justice centre order

**40.**—(1) During the period of supervision under a juvenile justice centre order, the offender shall be under the supervision of a probation officer or such other person as the Secretary of State may designate.

(2) Before the commencement of the period of supervision—

(a) the managers of the juvenile justice centre where he is detained shall give him a notice specifying—

(i) the period of supervision; and

(ii) the person under whose supervision he will be;

[<sup>F51</sup>(b) the person under whose supervision he will be shall give him a notice specifying—

(i) any requirements imposed by the court under Article 39(8); and

(ii) any other requirements with which he must comply.]

(3) During the period of supervision the person under whose supervision the offender is or another person designated by the Secretary of State may give the offender a notice specifying any alteration to the matters mentioned in paragraph (2)(a)(ii) [<sup>F52</sup>or (b)(ii)].

(4) The Secretary of State may make rules regulating the supervision of an offender subject to a juvenile justice centre order [<sup>F53</sup>, but such rules may not regulate any matter which may be regulated by rules under Article 44 of the Criminal Justice (Northern Ireland) Order 2008].

(5) Rules under paragraph (4) shall be subject to [<sup>F54</sup> negative resolution].

(6) The Secretary of State may pay the expenses incurred by any person designated under paragraph (1) arising from the supervision of an offender under this Article.

**F51** Art. 40(2)(b) substituted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(3)**; S.R. 2009/120, **art. 2(1)**

**F52** Words in art. 40(3) substituted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(4)**; S.R. 2009/120, **art. 2(1)**

**F53** Words in art. 40(4) added (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(5)**; S.R. 2009/120, **art. 2(1)**

**F54** Words in art. 40(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(9)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

### **Breach of supervision requirements**

**41.**—(1) Where a juvenile justice centre order has been made and it appears upon a complaint made to a justice of the peace that the offender has failed to comply with any requirements under [<sup>F55</sup>Article 39(8) or] Article 40(2) or (3), the justice may—

- (a) issue a summons directed to the offender requiring him to appear before a youth court specified in the summons; or
- (b) if the complaint is in writing and on oath, issue a warrant for the offender's arrest requiring him to be brought before a youth court specified in the warrant.

(2) If it is proved to the satisfaction of the court before which the offender appears or is brought under this Article that he has failed without reasonable excuse to comply with requirements under [<sup>F56</sup>Article 39(8) or] Article 40(2) or (3), the court may deal with him in respect of the failure in any of the following ways, namely—

- (a) it may impose on him a fine not exceeding—
  - (i) £200 if he is under the age of 14; or
  - (ii) £1,000 in any other case;
- (b) it may order him to be detained for a period not exceeding 30 days—
  - [<sup>F57</sup>(i) in a juvenile justice centre if he has not attained the age of 17 or falls within paragraph (2A); or
  - (ii) in a young offenders centre in any other case.]

[<sup>F57</sup>(2A) The offender falls within this paragraph if he—

- (a) has attained the age of 17;
- (b) has not attained the age of 18 and will not attain that age within the next 30 days; and
- (c) has not had a custodial sentence (other than the juvenile justice centre order in question) imposed on him within the last two years,

and the court, after considering a report made by a probation officer, considers that it is in his best interests to order him to be detained in a juvenile justice centre (and not in a young offenders centre).

(2B) Where the court imposes a fine on the offender under paragraph (2)(a)—

- (a) if he has not attained the age of 16, it shall order that the fine be paid by the parent or guardian of the child instead of by the child, unless it is satisfied that there is good reason for not so doing; and
- (b) if he has attained that age but has not attained the age of 18, it may so order.

(2C) A fine ordered under paragraph (2B) to be paid by a parent or guardian may be recovered from him by distress, or he may be imprisoned in default of payment, in like manner as if the order had been made on the conviction of the parent or guardian of the offence for which the juvenile justice centre order was made.

(2D) A parent or guardian may appeal to a county court against an order under paragraph (2B).]

(3) Any period of supervision shall not be reduced by any period during which the offender is detained under paragraph (2).

- F55** Words in art. 41(1) inserted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(6)**; S.R. 2009/120, art. **2(1)**
- F56** Words in art. 41(2) inserted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(6)**; S.R. 2009/120, art. **2(1)**
- F57** 2002 c. 26

### **Taking of children to juvenile justice centre**

**42.**—(1) The court which makes a juvenile justice centre order shall cause it to be delivered to the constable or other person responsible for taking the child to the centre, and the person who takes him to the centre shall deliver the order to the person for the time being in charge of the centre.

(2) The court by which a juvenile justice centre order is made shall cause a record, containing such information in the possession of the court with respect to the child as is in the opinion of the court likely to be of assistance to the managers of the centre, to be sent to the managers or to the person for the time being in charge of the centre.

(3) Where a child has been ordered to be sent to a juvenile justice centre, any person who harbours or conceals him after the time has come for him to go to the centre shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months, or to both.

(4) Where a constable or other person authorised to take a child to a juvenile justice centre is, when the time has come for him to go to the centre, unable to find him or unable to obtain possession of him, a justice of the peace, if satisfied by complaint on oath that there is a reasonable ground for believing that some person named in the complaint can produce the child, may issue a summons requiring the person so named to attend at a court of summary jurisdiction on such day as may be specified in the summons and produce the child.

(5) If the person required by the summons to produce the child fails without reasonable excuse to do so, he shall, in addition to any other liability to which he may be subject under the provisions of this Order, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Effect of juvenile justice centre order where care order is in force**

**43.** <sup>F58</sup> .....

- F58** Art. 43 repealed (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3), 99(3), 102(2), **Sch. 6 Pt. 2**

### **Effect of subsequent conviction where juvenile justice centre order is in effect**

**44.**—(1) Where a person in respect of whom a juvenile justice centre order is in effect is convicted by or before a court of an offence<sup>F59</sup> and the court imposes a custodial sentence on the child for the offence], the court shall—

- (a) revoke the order; and
- (b) in passing sentence for the offence take into account the period for which, but for the revocation, the order would have continued in effect.

(2) Where in such a case the court decides to make a juvenile justice centre order, Article 39 shall have effect as if—

*Status: Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI. (See end of Document for details)*

- (a) in paragraph (2) for the words from “a period of six months” to “two years” there were substituted the words “such period not exceeding two years as the court specifies in the order”;
- (b) in paragraph (5) for the words “one half of the period of the order” there were substituted “such part of the period of the order as the court specifies in the order”.

**F59** 2002 c. 26

.....<sup>F60</sup>

**F60** prosp. insertion by 2002 c. 26

PROSPECTIVE

### <sup>F61</sup>*Custody care orders*

**F61** Arts. 44A-44G and preceding cross-heading inserted (prosp.) by [Justice \(Northern Ireland\) Act 2002](#) (c. 26), ss. 56, 87(1)

#### **Custody care orders**

**44A.**—(1) Where a child who has not attained the age of 14 is found guilty by or before any court of an offence punishable, in the case of an adult, with imprisonment, other than an offence the sentence for which is (in the case of an adult) fixed by law as imprisonment for life, the court (subject to Article 32(1)) may make a custody care order.

(2) A custody care order is an order that the child shall be placed in secure accommodation by the appropriate authority and be subject to a period of being kept in secure accommodation by the appropriate authority followed by a period of supervision.

(3) A custody care order shall be for a period of six months unless the court specifies in the order a longer period not exceeding two years.

(4) A court shall not make a custody care order unless, after taking into account any matters which it is required to take into account by Article 37 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) (previous convictions etc.), it has formed the opinion under Articles 19 and 20 of that Order that a custodial sentence would be justified for the offence.

(5) Where a court makes a custody care order for a period longer than six months, it shall state in open court its reasons for doing so.

(6) Subject to paragraph (7), the period for which a child is to be kept in secure accommodation under a custody care order shall be one half of the period of the order; but the appropriate authority may, with the consent of the [<sup>F62</sup>Department of Justice], at any time discharge a child who is being so kept.

(7) The length of the period for which the child is to be kept in secure accommodation shall be treated as reduced by any period which is a relevant period within the meaning of section 26(2) and (2A) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.)) (reduction of sentence).

(8) Where a court makes a custody care order in the case of a child who will attain the age of 14 at a time during the period for which he is to be kept in secure accommodation under the order, the court may provide that he shall be detained in a juvenile justice centre for the whole or any part of the period following that time.

(9) Any reference in any statutory provision to the length of the period of a custody care order shall, unless the context otherwise requires, be construed as a reference to the length of the period imposed by or under paragraph (3) and not the length of the period as reduced by paragraph (7).

**F62** Words in [art. 44A](#) substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 11, [Sch. 13 para. 11\(2\)](#) (with arts. 28-31)); [S.I. 2010/977](#), [art. 1\(2\)](#) (but this amendment cannot take effect until the commencement of [S.I. 1998/1504](#), [art. 44A](#))

### **Period in secure accommodation under custody care order**

**44B.**—(1) This Article makes provision about the application of the Children (Northern Ireland) Order 1995 (N.I. 2) in relation to a child during any period for which he is kept in secure accommodation by the appropriate authority under a custody care order (or under any other order under this Order or as a place of safety).

(2) Of the provisions about a child looked after by an authority (within the meaning of Article 25) those specified in paragraph (3) (and no others) apply.

(3) Those provisions are—

- (a) Article 26 (duty to safeguard and promote welfare);
- (b) Article 27(1), (2)(b), (e) and (f), (8) and (9) and Article 28(2) (accommodation and maintenance);
- (c) Article 29(1), (2) and (4) to (6) (promotion and maintenance of contact with family);
- (d) Articles 30 and 31 (visits);
- (e) Article 34 (death);
- (f) Article 35(1) and Article 36(1) and (4) (advice, assistance and befriending);
- (g) Article 45 (reviews and representations); and
- (h) Articles 72 and 73 (provision of homes).

(4) In their application by virtue of paragraph (2)—

- (a) Article 29(4) has effect with the omission of sub-paragraph (a); and
- (b) Article 34(1)(a) has effect as if the reference to the Department were to the Department and the [<sup>F63</sup>Department of Justice].

(5) The following provisions—

- (a) Article 5(7) (person having parental responsibility not to act inconsistently with order);
- (b) Article 52(3) to (6), (7)(a) and (9) (effect of care order); and
- (c) Article 53(1) to (9) (parental contact),

apply as if the custody care order (or the other order or the placing of the child in a place of safety) were a care order and the appropriate authority were the authority designated by it and in whose care the child is.

(6) Articles 8 to 14 (residence, contact etc. orders) and Articles 17 to 24 (children in need) do not apply.

(7) No care order or supervision order under Part 5 may be made or, if such an order has already been made, it does not have effect.

**F63** Words in art. 44B substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, Sch. 13 para. 11(2) (with arts. 28-31)); S.I. 2010/977, art. 1(2) (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44B)

### Escape from secure accommodation

**44C.**—(1) If a child who has been ordered to be kept in secure accommodation under a custody care order—

- (a) escapes from secure accommodation in which he is being kept or from any hospital or institution in which he is receiving medical treatment;
- (b) being absent from secure accommodation on temporary leave of absence or under supervision, runs away from the person in whose charge he is or fails to return to the secure accommodation at the end of his leave; or
- (c) being absent from secure accommodation under supervision, fails to return to the secure accommodation on being recalled,

he may be arrested without warrant by a constable or any person authorised by the appropriate authority and taken to any secure accommodation, or (if he has attained the age of 14) to any juvenile justice centre, or returned to any hospital or institution from which he escaped or to any person in whose charge he was.

(2) A child arrested under paragraph (1) may at any time be brought with the authority of the [<sup>F64</sup>Department of Justice] before a court of summary jurisdiction having jurisdiction where the child is found or where the secure accommodation, hospital or institution is situated.

(3) Where a child is brought before a court under paragraph (2), the court—

- (a) may order the period for which he is to be detained under the custody care order to be increased by a further period not exceeding 30 days; but
- (b) if it does not do that, shall revoke the custody care order and deal with the child in any manner in which the court could deal with him if he had just been found guilty of the offence by the court.

(4) In dealing with a child under paragraph (3)(b) the court shall take into account the period for which the custody care order would, but for its revocation, have continued in effect.

(5) If any person—

- (a) knowingly assists a child who escapes, runs away or fails to return as mentioned in paragraph (1) or knowingly induces any child to so escape, run away or fail to return;
- (b) without lawful authority takes a child away from any accommodation, hospital, institution or person as is mentioned in that paragraph; or
- (c) knowingly harbours or conceals a child who escapes, runs away or fails to return as mentioned in paragraph (1), or prevents him from returning,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, or to imprisonment for a term not exceeding six months, or to both.

**F64** Words in art. 44C substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts.

1(2), 11, **Sch. 13 para. 11(2)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44C)

### **Taking of children to secure accommodation**

**44D.**—(1) The court which makes a custody care order shall cause it to be delivered to the constable or other person responsible for taking the child to the secure accommodation in which he is to be placed, and the person who takes him there shall deliver the order to the appropriate authority.

(2) The court by which a custody care order is made shall cause a record, containing such information in the possession of the court with respect to the child as is in the opinion of the court likely to be of assistance to the appropriate authority, to be sent to that authority.

(3) Where a child is taken to a juvenile justice centre by virtue of Article 44A(8), the appropriate authority shall send a copy of the record sent to it under paragraph (2) to the managers or person for the time being in charge of the juvenile justice centre.

(4) Where a child has been ordered to be placed in secure accommodation, any person who harbours or conceals him after the time has come for him to go there shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months, or to both.

(5) Where a constable or other person authorised to take a child to secure accommodation is, when the time has come for him to go there, unable to find him or unable to obtain possession of him, a lay magistrate, if satisfied by complaint on oath that there is a reasonable ground for believing that some person named in the complaint can produce the child, may issue a summons requiring the person so named to attend at a court of summary jurisdiction on such day as may be specified in the summons and produce the child.

(6) If the person required by the summons to produce the child fails without reasonable excuse to do so, he shall, in addition to any other liability to which he may be subject under the provisions of this Order, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Supervision under custody care order**

**44E.**—(1) During the period of supervision under a custody care order, the child shall be under the supervision of a probation officer or such other person as the [<sup>F65</sup>Department of Justice] may designate.

(2) Before the commencement of the period of supervision—

(a) the appropriate authority shall give him a notice specifying—

(i) the period of supervision; and

(ii) the person under whose supervision he will be; and

(b) the person under whose supervision he will be shall give him a notice specifying any requirements with which he must comply.

(3) During the period of supervision the person under whose supervision the offender is or another person designated by the [<sup>F65</sup>Department of Justice] may give the child a notice specifying any alteration to the matters mentioned in paragraph (2)(a)(ii) or (b).

(4) The [<sup>F65</sup>Department of Justice] may make rules regulating the supervision of a child subject to a custody care order.

(5) Rules under paragraph (4) are subject to [<sup>F66</sup>negative resolution].

(6) The [<sup>F65</sup>Department of Justice] may pay the expenses incurred by any person designated under paragraph (1) arising from the supervision of a child under this Article.

**F65** Words in art. 44E substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(2)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44E)

**F66** Words in art. 44E(5) substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(3)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44E)

### Breach of supervision requirements

**44F.**—(1) Where a custody care order has been made in respect of a child and it appears, on a complaint made to a lay magistrate, that the child has failed to comply with any requirements under Article 44E(2) or (3), the lay magistrate may—

- (a) issue a summons directed to the child requiring him to appear before a youth court specified in the summons; or
- (b) if the complaint is in writing and on oath, issue a warrant for the child's arrest requiring him to be brought before a youth court specified in the warrant.

(2) If it is proved to the satisfaction of the court before which the child appears or is brought under this Article that he has failed without reasonable excuse to comply with requirements under Article 44E(2) or (3), the court may—

- (a) if he has not attained the age of 14, deal with him as specified in paragraph (3); and
- (b) if he has attained that age, deal with him as specified in paragraph (4).

(3) If the child has not attained the age of 14, the court may either—

- (a) impose on him a fine not exceeding £200; or
- (b) order him to be placed in secure accommodation by the appropriate authority and kept there by the appropriate authority for a period not exceeding 30 days;

but the appropriate authority may, with the consent of the [<sup>F67</sup>Department of Justice], at any time discharge a child who is being so kept.

(4) If the child has attained the age of 14, the court may either—

- (a) impose on him a fine not exceeding £1,000; or
- (b) order him to be detained in a juvenile justice centre for a period not exceeding 30 days.

(5) Where the court imposes a fine on the child under paragraph (3)(a) or (4)(a), it shall order that the fine be paid by the parent or guardian of the child instead of by the child, unless it is satisfied that there is good reason for not so doing.

(6) A fine ordered under paragraph (5) to be paid by a parent or guardian may be recovered from him by distress, or he may be imprisoned in default of payment, in like manner as if the order had been made on the conviction of the parent or guardian of the offence for which the custody care order was made.

(7) A parent or guardian may appeal to a county court against an order under paragraph (5).

(8) Any period of supervision shall not be reduced by any period during which the child is detained under this Article.

**F67** Words in [art. 44F](#) substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 11, [Sch. 13 para. 11\(2\)](#) (with arts. 28-31)); [S.I. 2010/977](#), [art. 1\(2\)](#) (but this amendment cannot take effect until the commencement of [S.I. 1998/1504](#), [art. 44F](#))

### **Effect of subsequent conviction where custody care order is in effect**

**44G.**—(1) Where a child in respect of whom a custody care order is (or but for Article 44A(8) would be) in effect is convicted by or before a court of an offence and the court imposes a custodial sentence on the child for the offence, the court shall—

- (a) revoke the order; and
- (b) in dealing with the child for the offence take into account the period for which, but for the revocation, the order would have continued in effect.

(2) Where in such a case the court decides to make a custody care order, Article 44A shall have effect as if—

- (a) in paragraph (3) for the words from “a period of six months” to “two years” there were substituted “such period not exceeding two years as the court specifies in the order”; and
- (b) in paragraph (6) for the words “one half of the period of the order” there were substituted “such part of the period of the order as the court specifies in the order”.

(3) Where in such a case the court decides to make a juvenile justice centre order, Article 39 shall have effect as if—

- (a) in paragraph (2) for the words from “a period of six months” to “two years” there were substituted “such period not exceeding two years as the court specifies in the order”; and
- (b) in paragraph (5) for the words “one half of the period of the order” there were substituted “:such part of the period of the order as the court specifies in the order”.]

### *Grave crimes*

#### **Punishment of certain grave crimes**

**45.**—(1) A person convicted of an offence who appears to the court to have been<sup>[F68]</sup> a child] at the time the offence was committed shall not be sentenced to imprisonment for life nor shall a sentence of death be passed on him but the court shall instead (notwithstanding any other statutory provisions) sentence him to be detained during the pleasure of the <sup>[F69]</sup>Minister of Justice] in such place and under such conditions as the <sup>[F69]</sup>Minister of Justice] may direct.

(2) Where—

- (a) a child is convicted on indictment of any offence punishable in the case of an adult with imprisonment for fourteen years or more, not being an offence the sentence for which is fixed by law; and
- (b) the court is of the opinion that none of the other methods in which the case may be dealt with is suitable,

the court may sentence the child to be detained for such period as may be specified in the sentence; and where such a sentence has been passed the child shall, during that period, <sup>[F70]</sup>subject to Articles 46 to 46B], be liable to be detained in such place and under such conditions as the <sup>[F69]</sup>Minister of Justice] may direct.

*Status: Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI. (See end of Document for details)*

[<sup>F71</sup>(2A) Where a court passes a sentence under paragraph (2), the court shall specify such part of the sentence as the court considers appropriate as the relevant part of the sentence for the purposes of Article 46 (release on licence).]

(3) A person detained pursuant to the directions of the [<sup>F69</sup>Minister of Justice] under this Article shall, while so detained, be deemed to be in legal custody.

(4) The [<sup>F69</sup>Minister of Justice] may by order direct that a [<sup>F68</sup> child] in respect of whom the [<sup>F69</sup>Minister of Justice] is authorised to give directions under paragraph (2) shall be transferred and detained in a juvenile justice centre specified in the order.

(5) An order under paragraph (4) shall be an authority for the detention in that centre or in such other centre as the [<sup>F69</sup>Minister of Justice] may determine of the [<sup>F68</sup> child] to whom it relates until such date as may be specified in the order.

(6) The date to be specified under paragraph (5) shall not be later than—

- (a) the date on which the [<sup>F68</sup> child will, in the opinion of the [<sup>F69</sup>Minister of Justice], become an adult]; or
- (b) the date on which his detention under paragraph (2) would have expired.

(7) Nothing in paragraphs (4) to (6) shall prejudice the power of the [<sup>F69</sup>Minister of Justice] to give directions under paragraph (2).

[<sup>F72</sup>(8) In this Article and Article 46 “ the Minister of Justice ” means the Minister in charge of the Department of Justice. ]

**F68** 2002 c. 26

**F69** Words in art. 45 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 40(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F70** Words in art. 45(2) substituted (26.4.2013) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), **ss. 10(1), 15(1)** (with s. 10(5)-(9))

**F71** Art. 45(2A) inserted (26.4.2013) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), **ss. 10(2), 15(1)** (with s. 10(5)-(9))

**F72** Art. 45(8) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 40(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### **Modifications etc. (not altering text)**

**C1** mod. (temp.) 2000 c. 11

### **Release on licence**

[<sup>F73</sup>46.—(1) In this Article—

- (a) “ P ” means a person detained under Article 45(2);
- (b) “ the Commissioners ” means the Parole Commissioners for Northern Ireland;
- (c) “ the Department ” means the Department of Justice; and
- (d) references to the relevant part of P's sentence are references to the part of P's sentence specified as such under Article 45(2A).

(2) As soon as—

- (a) P has served the relevant part of P's sentence, and
- (b) the Commissioners have directed P's release under this Article,

the Department shall release P on licence.

(3) The Commissioners shall not give a direction under paragraph (2) with respect to P unless—

- (a) the Department has referred P's case to the Commissioners; and
- (b) the Commissioners are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be detained.

(4) P may require the Department to refer P's case to the Commissioners at any time—

- (a) after P has served the relevant part of P's sentence; and
- (b) where there has been a previous reference of P's case to the Commissioners under paragraph (3) or Article 46B(4), after the end of the period of 12 months beginning with the disposal of that reference.

(5) In determining for the purposes of this Article whether P has served the relevant part of P's sentence, no account shall be taken of any time during which P was unlawfully at large, unless the Department otherwise directs.

(6) The Department may at any time release P on licence if it is satisfied that exceptional circumstances exist which justify P's release on compassionate grounds.

(7) Before releasing P under paragraph (6), the Department shall consult the Commissioners, unless the circumstances are such as to render such consultation impracticable.

(8) Nothing in this Article requires the Department to release a person in respect of a sentence under Article 45(2) at any time when that person is liable to be detained in respect of any other sentence.]

**F73** Arts. 46-46B substituted for art. 46 (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), ss. [10\(3\)](#), [15\(1\)](#) (with s. [10\(5\)-\(9\)](#))

#### [<sup>F74</sup>**Duration and conditions of licences under Article 46**

**46A.**—(1) Where a person is released on licence under Article 46, the licence shall, unless previously revoked under Article 46B, remain in force until the expiry of the period for which the person was sentenced to be detained.

(2) A person released on licence under Article 46 shall comply with such conditions as may for the time being be specified in the licence (which may include on release conditions as to supervision by a probation officer).

(3) The Department of Justice shall not, except in accordance with recommendations of the Parole Commissioners for Northern Ireland—

- (a) include a condition in a licence on release,
- (b) subsequently insert a condition in a licence, or
- (c) vary or cancel any condition in a licence.

**F74** Arts. 46-46B substituted for art. 46 (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), ss. [10\(3\)](#), [15\(1\)](#) (with s. [10\(5\)-\(9\)](#))

#### **Recall of licensees**

**46B.**—(1) In this Article —

“P” means a person who has been released on licence under Article 46;

“the Commissioners” and “the Department” have the meanings given in Article 46(1).

*Status: Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI. (See end of Document for details)*

- (2) The Department may revoke P's licence and recall P to detention—
- (a) if recommended to do so by the Commissioners, or
  - (b) without such a recommendation, if it appears to the Department that it is expedient in the public interest to recall P before such a recommendation is practicable.
- (3) P—
- (a) shall, on P's return to detention, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); and
  - (b) may make representations in writing to the Department with respect to the recall.
- (4) The Department shall refer P's case to the Commissioners.
- (5) Where on a reference under paragraph (4) the Commissioners direct P's immediate release on licence under Article 46, the Department shall give effect to the direction.
- (6) The Commissioners shall not give a direction under paragraph (5) unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be detained.
- (7) On the revocation of P's licence, P shall be liable to be detained in pursuance of P's sentence and, if at large, shall be treated as being unlawfully at large.]

**F74** Arts. 46-46B substituted for art. 46 (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 10\(3\), 15\(1\)](#) (with [s.10\(5\)-\(9\)](#))

### *Miscellaneous*

#### **Limitation on punishment for contempt of court or default of payment of fine, etc.**

- 47.—**(1) A child shall not be ordered to be detained in custody—
- (a) for contempt of court; or
  - (b) in default of payment of a fine, costs, damages or compensation.
- (2) Paragraph (1) shall not apply in the case of a child who has attained the age of 16 if the court certifies that his behaviour is such that no other method of dealing with him is appropriate.

#### **Power of courts on committal of offender**

- 48.—**(1) Where a child would, if he were an adult, be liable to be committed to prison for any default, the court shall, in addition to any other powers exercisable by virtue of any other statutory provision (including a provision of this Order), have power to commit him to custody in a young offenders centre if he has attained the age of 16 and the court considers that no other method of dealing with him is suitable.
- (2) The term for which a child may be committed to custody in a young offenders centre under this Article shall not exceed the maximum term for which he could (or could if he were an adult) have been committed to prison and shall not on any occasion exceed one month.
- (3) This Article applies in relation to the fixing of a custodial sentence to be served in the event of default of payment of a fine or other sum of money as it applies in relation to committal to prison in default of such payment.
- (4) Where a court commits a child to custody in a young offenders centre under this Article and at the time the warrant issued by the court for that committal falls to be executed the child is detained in any other place pursuant to the directions of the Secretary of State under Article 45, that committal shall have effect as if it were a committal to that other place in which he is detained.

(5) In this Article “default” means failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money, or failure to do or abstain from doing anything required to be done or left undone.

#### **Duty of parent or guardian to notify change of address**

**49.**—(1) The parent or guardian of a child who is subject to an attendance centre order shall keep the officer in charge of the centre informed of the parent or guardian's address.

(2) The parent or guardian of a child who is subject to a juvenile justice centre order shall keep the managers of the centre informed of the parent or guardian's address.

(3) Where a child is transferred from one juvenile justice centre to another, the managers of the centre from which he is transferred shall, where possible, inform his parent or guardian of the transfer; and until his parent or guardian has been so informed, the parent's or guardian's duty under paragraph (2) shall be deemed to be duly discharged if he keeps the managers of the first-mentioned centre informed of his address.

(4) A parent or guardian of a child who, knowing that that child is subject to an attendance centre order or a juvenile justice centre order, contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) In any proceedings under paragraph (4) it shall be a defence for a parent to prove that he was residing at the same address as the other parent and had reasonable cause to believe that the other parent had kept the officer in charge of the attendance centre or the managers of the juvenile justice centre informed of the address of both.

**Status:**

Point in time view as at 31/10/2016. This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, PART VI.